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Revised Civil Statutes (1274 to 4413)



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Texas Civil Statutes

Articles 1274 to 4413

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*As Amended through the
1983 Regular and First
Called Sessions of the
68th Legislature*

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ST. PAUL, MINNESOTA

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PREFACE

This Pamphlet contains the text of the Civil Statutes, Articles 1274 to 4413, as amended through the 1983 Regular and First Called Sessions of the 68th Legislature.

The Civil Statutes are followed by a descriptive word Index to facilitate the search for specific textual provisions.

Comprehensive coverage of the judicial construction and interpretations of the Civil Statutes, together with cross references, references to law review commentaries discussing particular provisions, and other editorial features, is provided in the volumes of Vernon's Texas Statutes and Codes Annotated.

THE PUBLISHER

August, 1984

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EFFECTIVE DATES

The following table shows the date of adjournment and the effective date of ninety day bills enacted at sessions of the legislature beginning with the year 1945:

Year	Leg.	Session	Adjournment Date	Effective Date
1945	49	Regular	June 5, 1945	September 4, 1945
1947	50	Regular	June 6, 1947	September 5, 1947
1949	51	Regular	June 6, 1949	September 5, 1949
1951	52	Regular	June 8, 1951	September 7, 1951
1953	53	Regular	May 27, 1953	August 26, 1953
1954	53	1st C.S.	May 13, 1954	August 12, 1954
1955	54	Regular	June 7, 1955	September 6, 1955
1957	55	Regular	May 23, 1957	August 22, 1957
1957	55	1st C.S.	November 12, 1957	February 11, 1958
1957	55	2nd C.S.	December 3, 1957	March 4, 1958
1959	56	Regular	May 12, 1959	August 11, 1959
1959	56	1st C.S.	June 16, 1959	September 15, 1959
1959	56	2nd C.S.	July 16, 1959	October 15, 1959
1959	56	3rd C.S.	August 6, 1959	November 5, 1959
1961	57	Regular	May 29, 1961	August 28, 1961
1961	57	1st C.S.	August 8, 1961	November 7, 1961
1961	57	2nd C.S.	August 14, 1961	November 13, 1961
1962	57	3rd C.S.	February 1, 1962	May 3, 1962
1963	58	Regular	May 24, 1963	August 23, 1963
1965	59	Regular	May 31, 1965	August 30, 1965
1966	59	1st C.S.	February 23, 1966	*
1967	60	Regular	May 29, 1967	August 28, 1967
1968	60	1st C.S.	July 3, 1968	*
1969	61	Regular	June 2, 1969	September 1, 1969
1969	61	1st C.S.	August 26, 1969	*
1969	61	2nd C.S.	September 9, 1969	December 9, 1969
1971	62	Regular	May 31, 1971	August 30, 1971
1971	62	1st C.S.	June 4, 1971	September 3, 1971
1972	62	2nd C.S.	March 30, 1972	June 29, 1972
1972	62	3rd C.S.	July 7, 1972	*
1972	62	4th C.S.	October 17, 1972	January 16, 1973
1973	63	Regular	May 28, 1973	August 27, 1973
1973	63	1st C.S.	December 20, 1973	*
1975	64	Regular	June 2, 1975	September 1, 1975
1977	65	Regular	May 30, 1977	August 29, 1977
1977	65	1st C.S.	July 21, 1977	*
1978	65	2nd C.S.	August 8, 1978	November 7, 1978
1979	66	Regular	May 28, 1979	August 27, 1979
1981	67	Regular	June 1, 1981	August 31, 1981
1981	67	1st C.S.	August 11, 1981	November 10, 1981
1982	67	2nd C.S.	May 28, 1982	*
1982	67	3rd C.S.	September 9, 1982	*
1983	68	Regular	May 30, 1983	August 29, 1983
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* No legislation for which the ninety day effective date is applicable.

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COMMISSION MERCHANTS

1. COMMISSION MERCHANTS

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2. LIVE STOCK COMMISSION MERCHANTS

1281 to 1287a. Repealed.

3. AGRICULTURAL COMMODITIES, COMMISSION MERCHANTS, DEALERS, AND BROKERS

1287-1 to 1287-3. Repealed.

1. COMMISSION MERCHANTS

Art. 1274. "Commission Merchant" Defined

Any person, firm or corporation pursuing, or who shall pursue the business of selling produce, or goods, wares or merchandise of any kind upon consignment for a commission, shall be held to be a commission merchant.

[Acts 1925, S.B. 84.]

Art. 1275. Bond of

Every commission merchant shall make bond in the sum of three thousand dollars, with a solvent surety company doing business in this State or with two or more good and sufficient sureties, who are residents of this State, and who shall make affidavit that they in their own right, over and above all exemptions, are worth the full amount of the bond they sign as sureties, payable to the county judge of each county in which such commission merchant maintains an office, and to the successors in office of such county judge as trustees for all persons who may become entitled to the benefits of this subdivision; conditioned that such commission merchant will faithfully and truly perform all agreements and contracts entered into with consignors for said produce, goods, wares or merchandise, will promptly receive and sell such produce, goods, wares or merchandise, and will on receipt of such produce, goods, wares or merchandise class the same, and if such class as made by such commission merchant is not as high as that made and sent to him by the consignor, he (the commission merchant) will immediately notify the consignor of such fact and of the class made by him; and as soon as sold will send to the consignor a full and complete account of sales of same, giving an itemized account thereof, and the

price received, the dates of sales, and shall, within five days after said produce, goods, wares or merchandise are sold, send to the consignor the full amount received for the same, less the commission due said commission merchant under the contract of assignment, such bond to be approved by the county judge of the county in which said commission merchant maintains an office, and by said judge filed for record in the county clerk's office as chattel mortgages are now authorized to be filed by law.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1275a. Penalty

Whoever shall pursue the business of selling produce or goods, wares or merchandise of any kind upon consignment for commission, without first making and filing the bond required by the laws regulating commission merchants, shall be fined not less than one hundred nor more than five hundred dollars.

[1925 P.C.]

Art. 1276. Suits on Bond

Such bond shall be made and filed for record in each county in which such commission merchant maintains an office, and in which county suits may be maintained upon such bond by any person claiming to have been damaged by a breach of its condition. Said bond shall not become void upon the first recovery thereon, but may be sued upon until the amount thereof is exhausted. When said bond by suits of recovery has been reduced to the sum of fifteen hundred dollars, said commission merchant shall be required to enter into a new bond in the sum of three thousand dollars as required in the first instance. Said new bond shall be liable for all future contracts, agreements or consignments thereafter entered into by said commission merchant and consignor of such produce, cotton, sugar, goods, wares or merchandise, and upon failure of said commission merchant to give said new bond as

above required, he shall cease doing business in this State.

[Acts 1925, S.B. 84.]

Art. 1277. Unlawful Interest in Sales

No factor or commission merchant to whom any cotton, sugar, produce or merchandise of any kind is consigned for sale on commission or otherwise, shall purchase the same or reserve any interest whatever therein upon the sale of same, either directly or indirectly, in his own name or in the name or through the instrumentality of another, for his own benefit or for the benefit of another, or as a factor or agent of any other person, without express written license from the owner or consignor of such cotton, sugar, produce or other merchandise, or some person authorized by him, under a penalty of forfeiture of one-half the value of cotton, sugar, produce or other merchandise so purchased or sold, to be recovered by the owner of the same by suit in the county where the sale took place, or wherein the offending party resides.

[Acts 1925, S.B. 84.]

Art. 1278. Account of Sales

Upon the shipment of any produce, cotton, sugar, goods, wares or merchandise, consigned for sale to any factor or commission merchant, it is hereby made his duty that such commission merchant will faithfully and truly perform all agreements and contracts entered into with consignors for said produce, cotton, sugar, goods, wares and merchandise; that said commission merchant will promptly receive and sell such produce, cotton, sugar, goods, wares or merchandise, in accord with the contract of consignment and will on receipt of such produce, cotton, sugar, goods, wares or merchandise class the same, and if such class as made by such commission merchant is not as high as that made and sent to him by the consignor, he, (the commission merchant) will immediately notify the consignor of such fact and of the class made by him and as soon as sold will send to the consignor a full and complete account of sales of same, giving an itemized account thereof, and the price received, the dates of sales, and shall, within five days after said produce, cotton, sugar, goods, wares or merchandise are sold, send to the consignor the full amount received for the same, less the commission due said commission merchant under the contract of consignment; and if cotton, sugar, or other produce sold by weight, the weight of same in gross, and the tare allowed, and be accompanied by the certificate or memorandum, signed by the weigher who weighed the same, of the weight and condition as required by law, and upon failure of said commission merchant to comply with any one of the provisions of this article, he and the bondsmen required by the subdivision shall be liable for all actual damages incurred by the consignor by reason thereof, and in addition thereto a penalty of not less than one hundred nor more than five hundred dollars, to be

recovered by the consignor in a suit filed for said actual damages and for said penalty.

[Acts 1925, S.B. 84.]

Art. 1279. False Charges

No commission merchant or factor shall be permitted to make any charge for mending or patching, or roping bales, or for cooperage or repairing bales, or for labor, or hauling, or cartage, or for storage, marking or weighing, unless the same has been actually done; and, in case of any such charge, a bill of particulars shall be rendered notwithstanding any usage or custom to the contrary to make such charge, by rate or average; and the person offending against any provision of this article shall be liable to a penalty of not less than one hundred nor more than five hundred dollars, to be recovered by suit by the owner or consignor.

[Acts 1925, S.B. 84.]

Art. 1280. Duties of Shipper

Each consignor of produce, goods, wares, or merchandise in this State consigning produce, goods, wares, or merchandise to commission merchants to be sold on commission shall, when he consigns such produce, goods, wares or merchandise, send to such commission merchant a written statement in which such consignor shall state the amount, the quality or class, the condition of such produce, goods, wares or merchandise so consigned, and if said merchant, on receipt of same, fails to promptly notify said consignor of any objection he may have to the class, quality or quantity so consigned, then such statement shall be prima facie evidence of the fact that said consignment of such produce, goods, wares or merchandise is truly stated in said statement by the consignor to said commission merchant. When such produce, goods, wares or merchandise is received by said commission merchant, such merchant shall give to the agent of the railroad or other carrier so delivering such produce, goods, wares or merchandise, a receipt for same which receipt shall state the quality, quantity, grade and condition of such produce, goods, wares or merchandise, and said agent of the railroad or other carrier shall keep such receipt on file in his office subject to the inspection of any one interested in such shipment, for six months from the date of such receipt.

[Acts 1925, S.B. 84.]

2. LIVE STOCK COMMISSION MERCHANTS

Arts. 1281 to 1286. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Art. 1286a. Repealed by Acts 1983, 68th Leg., p. 995, ch. 235, art. 1, § 7(2), eff. Sept. 1, 1983

Article 1, § 7(2) of the 1983 repealing act stated that the repeal of this article was to conform to Agriculture Code, § 147.063.

Arts. 1286b to 1287a. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

3. AGRICULTURAL COMMODITIES, COMMISSION MERCHANTS, DEALERS, AND BROKERS

Art. 1287-1. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

Art. 1287-2. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), (2)(C), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

Art. 1287-3. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

Without reference to repeal by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), art. 1287-3 was amended by Acts 1981, 67th Leg., p. 3185, ch. 832, §§ 1 to 4.

For text of Acts 1981, 67th Leg., p. 3185, ch. 832, see the italicized notes following Agriculture Code, §§ 101.019, 103.002, 103.003, 103.013.

TITLE 31

CONVEYANCES

Arts. 1288 to 1298. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

Art. 1299. Repealed by Acts 1963, 58th Leg., p. 1189, ch. 473, § 1, eff. Aug. 23, 1963

Art. 1300. Repealed by Acts 1967, 60th Leg., p. 735, ch. 309, § 6, eff. Jan. 1, 1968

Arts. 1301 to 1301b. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

Acts 1983, 68th Leg., p. 4488, ch. 724, §§ 1 to 3, amended art. 1301a, §§ 6 and 7, without reference to repeal of the article by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6.

For text of art. 1301a as amended by Acts 1983, 68th Leg., p. 4488, ch. 724, §§ 1 to 3, see the italicized notes following the Property Code, §§ 81.102, 81.103, and 81.104.

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COUNTIES AND COUNTY SEATS

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Art. 1539. Legislature May Create Counties

The Legislature shall have power to create counties for the convenience of the people.
[Acts 1925, S.B. 84.]

Art. 1540. Area Required

In the territory of the State exterior to the counties now existing, no new county shall be created with a less area than nine hundred square miles in a square form unless prevented by pre-existing boundary lines. If the State lines render this impracticable in border counties, the area may be less.
[Acts 1925, S.B. 84.]

Art. 1541. Division of Exterior Territory

The territory referred to in the preceding article may at any time, in whole or in part, be divided into counties in advance of population, and attached for

judicial and land surveying purposes to the most convenient organized county.

[Acts 1925, S.B. 84.]

Art. 1542. Created Out of Other Counties

Within the territory of any county or counties now existing no new county shall be created with less area than seven hundred square miles. No such county now existing shall be reduced to a less area than seven hundred square miles.

[Acts 1925, S.B. 84.]

Art. 1543. Line of New County

No new county shall be created so as to approach nearer than twelve miles of the county seat of any county from which it may, in whole or in part be taken.

[Acts 1925, S.B. 84.]

Art. 1544. County from Existing County

Counties of less area than nine hundred, but of seven hundred or more square miles, within counties now existing, may be created by a two-thirds vote of each house of the legislature, taken by yeas and nays, and entered on the journals.

[Acts 1925, S.B. 84.]

Art. 1545. Existing Counties Reduced

Any county now existing may be reduced to an area of not less than seven hundred square miles by a like two-thirds vote of each house of the legislature, taken by yeas and nays, and entered on the journals.

[Acts 1925, S.B. 84.]

Art. 1546. Liability of New County

When any part of a county is stricken off and attached to, or created into another county, the part stricken off shall be obligated to pay its proportion of all existing liabilities of the county from which it was taken, in such manner as the law shall provide.

[Acts 1925, S.B. 84.]

Art. 1547. Pro Rata of Indebtedness

Any county which has been or may hereafter be created by the Legislature out of any other county or counties, shall be held liable for its proportion of all the liabilities of the county or counties from which it was taken, existing at the date of its creation as such new county, according to the proportionate value of the property in the excised terri-

tory, and the value of the property remaining in the old county. A suit to recover the same may be brought in the district court by the parent county, either in such parent county, or in the newly created county; and the court shall have power to make any order or render any judgment necessary to carry out and satisfy its decree therein. The provisions of this article shall not apply to any county, the claims against which have already been placed before courts having jurisdiction thereof and tried or dismissed under laws that were at such time constitutional.

[Acts 1925, S.B. 84.]

Art. 1548. Apportionment of Indebtedness

Where any suit has been, or shall be, brought to enforce payment of the indebtedness created by the parent county or counties, or for the pro rata share of the excised territory, the assessment rolls of the parent county or counties for the year in which such new county was created shall be conclusive evidence of the property and value thereof remaining in the parent county, and in the excised territory at the date of the creation of such new county; provided that when the new county was organized and made assessment rolls for the same year as that in which it was created, such rolls shall be taken as conclusive evidence of the property therein and the taxable values thereof at the date of the creation of such new county, and the assessment rolls of the parent county for the same year shall be conclusive evidence of the property and the value thereof remaining in the parent county at the date of the creation of such new county.

[Acts 1925, S.B. 84.]

Art. 1549. Suits and Special Tax

All suits brought under this law shall be given precedence upon the dockets of the courts. If the plaintiff shall recover, the commissioners court of the newly created county shall levy a special tax on all property in the territory taken from the plaintiff county sufficient to pay off the judgment, and, if the first levy be insufficient, to make said levy annually till said judgment is satisfied, and the judgment of the court shall order said commissioners court to make such levies.

[Acts 1925, S.B. 84.]

Art. 1550. Non-residents to Pay

The Comptroller shall assess and collect from the non-residents of unorganized counties such rate of taxation, to pay the pro-rata share of the debt due by such unorganized county, as the commissioners court of the parent county shall levy on property in said parent county to pay such debt, and a certified statement of the commissioners court making the levy in the parent county, giving the amount of the levy, shall be authority for his action.

[Acts 1925, S.B. 84.]

Art. 1551. When Territory Added

When the territory taken is added to and made a part of an organized county, the commissioners court of such county shall levy and have collected on all property in such territory a tax sufficient to pay their pro-rata of the indebtedness, said tax not to exceed the constitutional limit; and the commissioners court of the county to which any unorganized county may be attached for judicial purposes shall levy and have collected on all property in such unorganized county owned or held by resident citizens a tax for the purpose of paying such indebtedness.

[Acts 1925, S.B. 84.]

Art. 1552. Tax for Pro Rata Indebtedness

When any county has organized, the commissioners court of such county shall levy and have collected on all property in this county such rate of taxation to pay the pro rata share of the debt due by such county as the commissioners court of the parent county shall levy on property in said parent county to pay such debt.

[Acts 1925, S.B. 84.]

Art. 1553. County Bonds Held by School Funds

When any new county has been created wholly out of an existing county, if any bonds were legally issued by the parent county prior to the severance of a part of its territory, such of said bonds and the coupons due thereon as are held by the school fund of this State shall be apportioned by the Comptroller between the parent county and the new county on the basis now provided by law.

[Acts 1925, S.B. 84.]

Art. 1554. Levy of Tax for Debt

The commissioners court of the parent county, or of any county created out of the parent county, which has now or may hereafter be organized, shall levy and have collected on all property in such county a tax to pay such county's pro rata share of the debt. The commissioners court of a county to which any unorganized county may be attached for judicial purposes shall levy and have collected on all property in said unorganized county owned by resident citizens thereof a tax for the purpose of paying said county's part of the debt. It shall be the duty of the Comptroller to assess and collect on all property in such unorganized counties owned by non-residents, a tax to pay said counties' pro rata part of said debt. Nothing herein shall be held to authorize the levy and collection of any tax in excess of that now allowed by the Constitution of this State.

[Acts 1925, S.B. 84.]

Art. 1555. Detachment by Vote

No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change has been sub-

mitted to a vote of the electors of both counties, and shall have received a majority of those voting on the question in each.

[Acts 1925, S.B. 84.]

Art. 1556. Election Ordered

An election for such purpose shall be ordered by the county judge, or county judges of the county or counties from which it is proposed to detach any proportion¹ thereof, or to attach any portion thereto, upon the written application of not less than fifty qualified voters of said county or counties.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill. Should probably read "portion".

Art. 1557. Application

Such application shall designate particularly by metes and bounds, the portion of the territory proposed to be detached, and shall show the number of square acres contained within said bounds, and the number of square acres remaining in the county or counties from which it is proposed to detach such part or parts, and the distance on a direct line of the county seat of any such county or counties from the nearest boundary line of the territory which it is proposed shall be detached.

[Acts 1925, S.B. 84.]

Art. 1558. Notices of Election

The notices of such election shall contain substantially the boundaries and statements contained in the application, and in order of election.

[Acts 1925, S.B. 84.]

Art. 1559. Question to be Voted Upon

The question to be voted upon at such election shall be, for or against the proposition, and the ballots shall be, "For the proposition," or "Against the proposition."

[Acts 1925, S.B. 84.]

Art. 1560. Law Governing Such Elections

Such election shall be governed by the law governing other elections so far as applicable, and not in conflict with any provisions of this chapter.

[Acts 1925, S.B. 84.]

Art. 1561. Returns of Election

The returns of such election shall be made to the county judge or county judges of the county or counties in which the election takes place; and such judge or judges shall estimate the vote and make duplicate statements of the same, and shall officially certify to such statements, and one of said statements, together with a copy of the application so certified, he shall seal in an envelope, writing his name across the seal, and endorsing upon the package "Election returns of _____ County," and direct and transmit the same by mail or other safe conveyance to the Speaker of the House of Repre-

sentatives at the seat of government, in time for the same to be received as early as practicable during the next session of the Legislature.

[Acts 1925, S.B. 84.]

Art. 1562. Subsequent Election

When any such election has been held in a county, and the proposition to detach a portion thereof has been defeated, no other election for the same purpose shall be ordered or held within five years thereafter.

[Acts 1925, S.B. 84.]

CHAPTER TWO. ORGANIZATION OF COUNTIES

Art.

- 1563. Old County Shall Organize New One.
- 1564. Election to be Ordered When and by Whom.
- 1565. County Commissioners May Act.
- 1566. Unorganized County.
- 1566a. Appraisers of Taxable Property in Unorganized Counties.
- 1567. Disorganized Counties.
- 1568. Organization of Attached County.
- 1569. Certificates of Election.
- 1570. Delivery to New Officers.
- 1571. Elections in Unorganized Counties.

Art. 1563. Old County Shall Organize New One

Whenever any new county shall hereafter be established, the commissioners court of the county from which the territory of such new county, or the greater part thereof was taken, at least one month previous to the general election next after such new county shall have been established shall lay off and divide such new county into convenient precincts for the election of justices of the peace and other precinct officers, defining particularly the boundaries of such precincts; and shall also designate convenient places in such new county where elections shall be held, and shall cause a record thereof to be made by the clerk. A copy thereof shall be transmitted to the county judge of such new county when elected.

[Acts 1925, S.B. 84.]

Art. 1564. Election to be Ordered When and by Whom

It shall be the duty of the county judge of every county from which any new county has been so taken at least one month previous to the general election of county officers next after such new county has been established, to order an election to be held in such new county or¹ said general election day, for all county officers authorized to be elected by the people of such new county, and to appoint a presiding officer for each place designated in such new county, for holding elections; such order of elections shall specify the number of precincts, their boundaries, and the officers to be elected in such county. Such presiding officers shall hold such elections in accordance with the laws regulating

elections, and shall make their returns to the county judge who ordered such election, who shall open and examine such returns and give certificates to the persons elected.

[Acts 1925, S.B. 84.]

¹ Probably should read "on".

Art. 1565. County Commissioners May Act

In any case where the office of county judge shall be vacant, any two of the county commissioners shall be authorized to perform each duty required of the county judge under this chapter.

[Acts 1925, S.B. 84.]

Art. 1566. Unorganized County

Until a new county is legally organized, the territory thereof shall remain in all respects subject to the county from which the same has been taken.

[Acts 1925, S.B. 84.]

Art. 1566a. Appraisers of Taxable Property in Unorganized Counties

Sec. 1. The sum of Two Thousand (\$2,000.00) Dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, to each of the counties in this State to which an unorganized county is attached for judicial purposes, to be used by said county through its Commissioners' Court for the employment of a skilled appraiser, with the consent and approval of the Comptroller of Public Accounts of the State of Texas, to assist in the appraisal of taxable property situated in any such unorganized county, of which fund herein provided for, not exceeding One Thousand (\$1,000.00) Dollars, shall be available for each calendar year, for each such county, for the years 1927 and 1928.

Sec. 2. After said appraiser has completed his work of the appraisal of the properties in the unorganized county, he shall make a report in duplicate to the Commissioners' Court of the county to which such unorganized county is attached for judicial purposes, stating therein in detail the values placed upon all classes of property by him in said unorganized county.

Sec. 3. After the Commissioners' Court has finally passed on the values fixed by said appraiser in his report, they shall certify their action to the Comptroller of Public Accounts, furnishing him with a duplicate of the report filed by the appraiser, and showing the action of the court had thereon, together with a certificate showing the extent of the services performed by the appraiser, and the value thereof, which shall be authority for the Comptroller to draw his warrant in favor of said appraiser for the amount shown to be due.

[Acts 1927, 40th Leg., 1st C.S., p. 199, ch. 74.]

Art. 1567. Disorganized Counties

All legally organized counties that, from any cause, may have lost, or may hereafter lose, their county organization, shall be, for all judicial and surveying purposes, and for the registration of deeds, mortgages and all other instruments that are now, or may hereafter be, required or permitted by law to be recorded attached to the organized county whose county seat is nearest to the county seat of such disorganized county, and so remain attached until such disorganized county shall again be legally organized.

[Acts 1925, S.B. 84.]

Art. 1568. Organization of Attached County

When any unorganized or disorganized county has been attached to another county for judicial or other purposes, and desires to be organized or reorganized, a petition expressing such desire, signed by not less than seventy-five qualified voters residing in such county, may be presented to the commissioners court of the county to which such unorganized or disorganized county is attached, and thereupon said court shall proceed without delay to the organization or reorganization of such county in the same manner as hereinbefore provided for the organization of new counties.

[Acts 1925, S.B. 84.]

Art. 1569. Certificates of Election

The county judge of the county conducting the organization of another county shall issue certificates of election to the officers elected in such organized or reorganized county, and approve the bonds of such officers.

[Acts 1925, S.B. 84.]

Art. 1570. Delivery to New Officers

All officers of the county from which a new county has been created or to which any such newly organized or reorganized county has been attached, and all other persons who may have in their possession any books, records, maps, or other property belonging to such newly organized or reorganized county, shall deliver the same to the proper officers of such newly organized or reorganized county within five days after such officers have been legally qualified.

[Acts 1925, S.B. 84.]

Art. 1571. Elections in Unorganized Counties

Where a county is not organized and there is no officer in the same authorized by law to organize such county, the county judge of the nearest county which is organized may order elections for county officers in any such county, and appoint the presiding officers and managers and clerks of election.

[Acts 1925, S.B. 84.]

**CHAPTER THREE. CORPORATE
RIGHTS AND POWERS**

- Art.**
 1572. County a Body Corporate.
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Art. 1572. County a Body Corporate

Each county which now exists or which may be hereafter established, shall be a body corporate and politic.

[Acts 1925, S.B. 84.]

Art. 1573. Suits Against

No county shall be sued unless the claim upon which such suit is founded shall have first been presented to the commissioners court for allowance, and such court shall have neglected or refused to audit and allow the same, or any part thereof.

[Acts 1925, S.B. 84.]

Art. 1574. Jurors

In any suit instituted by or against any county, the inhabitants of the county so suing or being sued may if otherwise competent, be jurors or witnesses.

[Acts 1925, S.B. 84.]

Art. 1575. Execution Against County

No execution shall be issued on any judgment against any county. When a judgment is rendered against a county the commissioners court of such county shall settle and pay such judgment in like manner and pro rata as other similar claims are settled and paid by said court.

[Acts 1925, S.B. 84.]

Art. 1576. Validity of Deed, etc.

All deeds, grants and conveyances heretofore or hereafter made and duly acknowledged, or proven, and recorded as other deeds of conveyance, to any county, or to the courts or commissioners of any county, or any other person or persons, by whatever form of conveyance, for the use and benefit of any county, shall be good and valid to vest in such county in fee simple or otherwise all such right, title, interest and estate as the grantor in any such instrument had at the time of the execution thereof in the lands conveyed and was intended thereby to be conveyed.

[Acts 1925, S.B. 84.]

1577. Sale or Lease of Real Estate

The Commissioners Court may, by an order to be entered on its minutes, appoint a Commissioner to sell or lease any real estate of the county at public auction, and notice of said public auction shall be advertised at least twenty (20) days before the day of sale, by the officer, by having the notice thereof published in the English language once a week for three (3) consecutive weeks preceding such sale or lease in a newspaper in the county in which the real estate is located and in the county which owns the real estate, if they are not the same. If the real estate is sold, the deed of such Commissioner made in conformity to such order for and in behalf of the county, duly acknowledged and proven and recorded, shall be sufficient to convey to the purchasers all the right, title, and interest and estate which the county may have in and to the premises to be conveyed. Provided, however, that where abandoned seawall or highway right-of-way property is no longer needed for seawall or highway purposes and the county decides to sell or lease said right-of-way property, it shall be sold or leased with the following priorities: (1) to abutting or adjoining landowners; (2) to the original grantor, his heirs or assigns of the original tract from whence said right-of-way was conveyed; (3) for public use only to the United States Government, or to the State of Texas, or to any city within the established limits of which said property is located; or (4) at public auction as provided above; unless in the deed of conveyance under which the county originally acquired title to the property, the sale or lease thereof to the public is restricted or prohibited; provided, however, that where the Commissioners Court determines that the said abandoned seawall or highway right-of-way property shall be sold or leased to an adjoining or abutting landowner, or to the original grantor, his

heirs or assigns, then the said Commissioners Court shall in addition to publication of notice of sale as provided above, appoint an appraiser who shall determine and report to the Commissioner of Sale the fair market and fair lease value of the property to be sold or leased, and the Commissioner shall not sell or lease said property for an amount less than that so determined, which said amount shall be reported to the Commissioners Court prior to sale and shall, if deemed reasonable, be approved by them prior to sale, the Commissioners Court being specifically authorized to reject any offers of purchase or sale or lease, whether at public auction or not, if deemed unreasonable, all costs of said sale, including the fee for appraisal, to be added to the price of sale and paid by the purchaser at such sale; provided further, whenever any real property, or interest therein, is owned by any county and is sold, leased, or exchanged hereunder and is being used by a public utility or common carrier having the right of eminent domain for right-of-way and easement purposes, the sale, lease, exchange, conveyance and surrender of possession herein provided for shall be and remain in all things subject to the right and continued use of such public utility or common carrier. The Commissioners Court may also provide for conveyance of any such real estate of the county subject to such restrictions, conditions, and limitations as the Commissioners Court may deem necessary or proper; however, every such conveyance of seawall right-of-way property shall contain a restriction that no structure may be placed within 50 feet or such greater distance as the Commissioners Court may provide of the landward boundary of the seawall right-of-way retained by the county. In the order and in the notice of public auction, the Commissioners Court shall give a substantial statement of any such restrictions, conditions, and limitations. Nothing contained in this Article shall authorize any Commissioners Court to dispose of any lands given, donated, or granted to such county for the purpose of education in any other manner than shall be directed by law.

[Acts 1949, 51st Leg., p. 904, ch. 485, § 1. Amended by Acts 1953, 53rd Leg., p. 447, ch. 133, § 1; Acts 1967, 60th Leg., p. 114, ch. 58, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 2071, ch. 772, § 1, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 1329, ch. 499, § 1, eff. June 14, 1973.]

Art. 1577a. Validation of Sales When Commissioner Not Appointed

In all cases wherein the Commissioners Court of any county, acting as such court or through some individual or individuals appointed by it for such purpose, has sold, or attempted to sell, any land, or interests in land, belonging to such county; and where such Commissioners Court shall have failed to appoint a Commissioner to sell and dispose of such real estate belonging to said county, at public auction; and where such Commissioners Court gave notice of its intention to sell such lands, describing the same, by publication of such notice in some newspaper published in the county, having a gener-

al circulation therein, once a week for a period of three (3) consecutive weeks, designating the time and place after such publication where such Commissioners Court would receive and consider bids for the same; and where, on the date specified in such notice, such Commissioners Court received and considered any and all bids submitted for the purchase of said lands, or any portion thereof which were advertised for sale; and where such Commissioners Court, in its discretion, awarded such land, or any part thereof to the highest bidder submitting a bid therefor; and where the consideration thus bid and accepted was received by such county; and where such Commissioners Court or some person or persons thereunto authorized by order of such Commissioners Court, made, executed, acknowledged and delivered to such successful bidder a deed or other instrument of conveyance purporting to convey to such purchaser the said property; and where more than three years have elapsed since the date of the execution and delivery of such deed or instrument of conveyance: that such sales and conveyances, or attempted sales and conveyances, are hereby in all things validated. Provided that nothing in this Act shall be construed as validating any sale or attempted sale of any lands given, donated or granted to such county for the purpose of education, made in any other manner than is directed by law; and provided further, that this Act shall not apply to any sale or conveyance the validity of which is involved in any litigation pending at the time this Act becomes effective.

[Acts 1951, 52nd Leg., p. 177, ch. 112, § 1.]

Art. 1577b. Validation of Sales and Conveyances; Purchasers in Adverse Possession

In all cases where the County Court or Commissioners Court in any county of this State acting as such court has sold or attempted to sell land or interest therein belonging to said County to any person, firm or corporation and where the County Court or Commissioners Court has made, executed, acknowledged, and delivered to any such person, firm or corporation an instrument of conveyance purporting to convey to a purchaser title to such property, and where such purchaser or his successors have held peaceable and adverse possession, using, enjoying and cultivating such property for a period of ten (10) years or more, then such sales, attempted sales and conveyances are hereby validated.

[Acts 1961, 57th Leg., p. 1121, ch. 509, § 1.]

Art. 1577c. Validation of Sales or Conveyances of Abandoned Right-of-Way Property

Sec. 1. In all cases where the Commissioners Court in any county of this State has sold or conveyed or attempted to sell or convey, in accordance with the provisions of and priorities established in Article 1577, Revised Civil Statutes of Texas, 1925,

as last amended by Chapter 133, page 447, Acts of the 53rd Legislature, Regular Session, 1953, the right, title and interest of any such county in and to abandoned right-of-way property no longer needed for highway or road purposes, such sales or conveyances and attempted sales and conveyances hereby are in all things validated and the right, title and interest in such abandoned right-of-way property conveyed by any such county hereby are confirmed in the grantee in such sale or conveyance.

Sec. 2. This Act shall not apply to any sale or conveyance or attempted sale or conveyance the validity of which is involved in litigation pending at the time this Act becomes effective.

[Acts 1965, 59th Leg., p. 759, ch. 352, eff. June 9, 1965.]

Art. 1578. Contracts with a County Valid

Any note, bond, bill, contract, covenant, agreement or writing, made or to be made, whereby any person is or shall be bound to any county, or to the court or commissioners of any county, or to any other person or persons, in whatever form, for the payment of any debt or duty or the performance of any matter or thing to the use of any county, shall be valid and effectual to vest in said county any right, interest and action which would be vested in any person if any such contract had been made directly with him.

[Acts 1925, S.B. 84.]

Art. 1578a. Contracts with United States for Improvements in Counties of 240,000 to 260,000

Sec. 1. Any county in this State is authorized and empowered, within the discretion of its governing body, to contract with the United States Government, or its agencies, for the joint construction or improvement of roads, bridges, or other county improvements, and for the maintenance of the same, and to pay the county's portion of such expense out of available county funds.

Sec. 2. The provisions of this Act shall apply only to counties having a population in excess of 240,000 inhabitants and less than 260,000 inhabitants, according to the latest preceding or any future federal census.

[Acts 1965, 59th Leg., p. 1647, ch. 710, eff. Aug. 30, 1965. Amended by Acts 1971, 62nd Leg., p. 1847, ch. 542, § 118, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 561, ch. 237, § 9, eff. Sept. 1, 1981.]

Art. 1579. Suits on Writings by County

Suits may be begun and prosecuted on such notes, bonds, bills, contracts, covenants, agreements, and writings, in the name of such county, or in the name of the person to whom they were made, for the use of the county, as fully and as effectually as any person may or can sue on like instruments made to him.

[Acts 1925, S.B. 84.]

Art. 1580. Agents to Contract for County

The commissioners court may appoint an agent or agents to make any contract on behalf of the county for the erection or repairing of any county buildings, and to superintend their erection or repairing, or for any other purpose authorized by law. The contract or acts of such agent or agents, duly executed and done, for and on behalf of the county, and within his or their powers, shall be valid and effectual to bind such county to all intents and purposes.

[Acts 1925, S.B. 84.]

Counties of 74,000 or more

Acts 1939, 46th Leg., Spec.Laws, p. 602, § 1 as amended by Acts 1939, 46th Leg., Spec.Laws, p. 605, § 1; Acts 1947, 50th Leg., p. 491, ch. 288, § 1; Acts 1949, 51st Leg., p. 713, ch. 376, § 1; Acts 1955, 54th Leg., p. 815, ch. 302, § 1; Acts 1957, 55th Leg., p. 382, ch. 185, § 1; Acts 1959, 56th Leg., p. 913, ch. 418, § 1; Acts 1965, 59th Leg., p. 343, ch. 161, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 166, ch. 24, § 1; Acts 1971, 62nd Leg., p. 2550, ch. 837, § 1; Acts 1975, 64th Leg., p. 748, ch. 294, § 1, read as follows:

"Section 1. (a) In all counties of this state having a population of seventy-four thousand (74,000) or more inhabitants according to the last preceding Federal Census, a majority of a Board composed of the judges of the District Courts and the County Judge of such county, may appoint a suitable person who shall act as the county purchasing agent for such county, who shall hold office, unless removed by said judges, for a period of two (2) years, or until his successor is appointed and qualified, who shall execute a bond in the sum of Five Thousand Dollars (\$5,000), payable to said county, for the faithful performance of his duties.

"(b) It shall be the duty of such agent to make all purchases for such county of all supplies, materials and equipment required or used by such county or by a subdivision, officer, or employee thereof, excepting such purchases as may by law be required to be made by competitive bid, and to contract for all repairs to property used by such county, its subdivisions, officers, and employees, except such as by law are required to be contracted for by competitive bid. All purchases made by such agent shall be paid for by warrants drawn by the county auditor on the county treasurer of such county as in the manner now provided by law.

"(c) It shall be unlawful for any person, firm or corporation, other than such purchasing agent, to purchase any supplies, materials and equipment for, or to contract for any repairs to property used by, such county or subdivision, officer, or employee thereof, and no warrant shall be drawn by the county auditor or honored by the county treasurer of any such county for any purchases except by such agent and those made by competitive bid as now provided by law; provided that the county purchasing agent may lawfully cooperate with the purchasing agent for any incorporated city or cities in such county to purchase such items in volume as may be necessary, and the County Treasurer shall honor any warrant drawn by the county auditor to reimburse any city purchasing agent making such purchase for the county.

"(d) On the first day of July of each year, such purchasing agent shall file with the county auditor and each of said judges of such county an inventory of all property of the county and of each subdivision, officer, or employee thereof then on hand, and it shall be the duty of the county auditor to examine carefully such inventory and to make an accounting for all property purchased or previously inventoried and not appearing in such inventory.

"(e) In order to prevent unnecessary purchases, such agent shall have authority and it shall be his duty to transfer county supplies, materials and equipment from any subdivision, department, officer, or employee of the county when such supplies, materials, or equipment are not actually needed or used by such division, department, officer, or employee that may require such supplies and materials, or the use of such equipment and such agent shall furnish to the county auditor a list of such supplies, materials, and equipment so transferred.

"(f) Such agent shall receive as compensation for his services a salary of not less than Five Thousand Dollars (\$5,000) per year, payable in equal monthly installments. The salary of the county

purchasing agent shall be paid out of the General Fund and/or the Road and Bridge Fund of such county by warrants drawn on the county treasurer and shall be set by the Board as designated in Section 1(a) of this Act.

"(g) Said agent may have assistants to aid in the performance of his duties as county purchasing agent.

"(h) Said agent and said assistants may have such help, equipment, supplies and traveling expenses with the approval of said Board of judges, as they may deem advisable, the amount of said expenses to be approved by said Board."

Art. 1581. Costs in Suit Against County

When the plaintiff in any suit against a county shall fail to recover a greater amount than the commissioners court of such county shall have allowed to such plaintiff on the presentation of his claim to such court, such plaintiff shall pay all costs of such suit.

[Acts 1925, S.B. 84.]

Art. 1581a. Ineffective

This article, derived from Acts 1933, 43rd Leg., p. 784, ch. 232, which related to adoption of county home rule charters and which was adopted in anticipation of the amendment to Const. art. IX, section 3 (adopted Aug. 26, 1933) providing for County Home Rule, was made ineffective by Acts 1933, 43rd Leg., 1st C.S. p. 249, ch. 91, § 21, set out as article 1606a § 21, which provides that this article shall not have effect after the instant at which this Act (article 1606a) may be in effect, but all procedures taken thereunder (relating to the formulation, circulation, presentation and prosecution of petitions, including all orders and notices of commissioners courts relative to such petition conventions held or other acts done) hereby are validated, to the same effect as though the same has been done hereunder.

Art. 1581b. Additional Law Enforcement Officers

Sec. 1. In all counties in this state having five thousand (5,000) or more cattle, sheep and goats rendered for taxation, such counties may employ certain additional law enforcement officers as hereinafter provided.

Sec. 2. To aid in the enforcement of all penal laws of this state, and ferreting out and detecting any violation thereof, the Commissioners Court of counties having five thousand (5,000) or more cattle, sheep, and goats rendered for taxation may, if they deem it necessary, and are hereby authorized to, employ in addition to the officers now provided for by law as many other competent and discreet persons as in the judgment of said court is necessary, and shall fix the compensation; provided, however, no such person, or persons, shall be paid in excess of Five (\$5.00) Dollars per day, while in actual service. Such court shall designate the duties to be performed by all such persons and shall require them to make monthly reports in writing to said court as to the manner in which they have performed such duties.

Sec. 3. If the Commissioners Court of several counties shall determine that it would be more economical and efficient to employ one or more men to serve the several counties, they may do so; provided, however, that the individual or individuals employed shall receive the compensation set out in Section 2 of this Act and that the salary and ex-

penses of such officer or officers shall be pro-rated among the counties.

[Acts 1943, 48th Leg., p. 339, ch. 262.]

Art. 1581b-1. Personal Injury Claims by Precinct and County Law Enforcement Officials; Subrogation by County

A county which has paid medical expenses, doctor bills, hospital bills, or salary for a sheriff, deputy sheriff, constable, deputy constable or other county or precinct law enforcement official under the provisions of Article III, Section 52e, Constitution of the State of Texas, shall be subrogated to the law enforcement official's right of recovery for personal injuries occasioned by the negligence or wrong of another to the extent of the amount of payments made by the county under Article III, Section 52e, Constitution of the State of Texas. The fact that the law enforcement official has a claim for damages for personal injuries is not a ground for the county to deny the payment of medical expenses, doctor bills, and hospital bills.

[Acts 1973, 63rd Leg., p. 671, ch. 282, § 1, eff. June 11, 1973.]

Art. 1581c. Relinquishing to Donors Lands Donated to County for County Purposes

Sec. 1. Commissioners Courts of the respective counties in this State are authorized and empowered to abandon and relinquish to the donors of such lands and their successors in the title, all lands donated to their county for county seats, courthouses and other county purposes, in all cases where such land has been abandoned and not used for more than forty (40) years for the purpose of such donation, at the date of the order of such Court abandoning and relinquishing the same, provided, however, that the provisions of this Act shall not apply unless it is shown that such donors and their successors in title have been in actual continuous, open, peaceful and adverse possession of such lands for a period of forty (40) years next preceding the order of such court abandoning, relinquishing or conveying of such realty by the Commissioners Court.

Sec. 2. All orders and judgments of the respective Commissioners Courts in this State abandoning or conveying or relinquishing lands which had been conveyed to their respective counties for county seat, courthouse or other county purpose, heretofore made, in cases where such land has not been used for the purpose of its donation for more than forty (40) years are hereby validated.

Sec. 3. Commissioners Courts of the respective counties in this State are authorized and empowered to reconvey and relinquish to the donors of such land, or to their successors in the title, all lands which were donated and conveyed to any such counties for county seat, county court, or other county purposes, which lands have been or may be aban-

doned and unused for such county purpose for a period of more than forty (40) years, as for failure of consideration of such grant to any such county. [Acts 1947, 50th Leg., p. 378, ch. 212.]

Art. 1581d. Airports; Counties of 6141 to 6150 Inhabitants

Sec. 1. All counties in this State having a population of not less than six thousand one hundred forty-one (6,141) and not more than six thousand one hundred fifty (6,150) inhabitants according to the last preceding Federal Census, and having an assessed valuation of not less than Twenty-one Million (\$21,000,000.00) Dollars according to the last approved tax rolls, are hereby authorized to acquire by purchase or otherwise an airport not to exceed six hundred forty (640) acres in area to be located not more than five (5) miles from the heaviest populated area in the county.

Sec. 2. Each county acquiring land to be used for an airport under the provisions of this Act may acquire such land to be used for airport purposes without the acquisition of any or all mineral interest thereunder.

Sec. 3. No airport acquired under this Act shall be located on any land which is owned by the State of Texas or in which the State of Texas has any interest, mineral or otherwise.

Sec. 4. If any provision of this Act shall be held invalid, such invalidity shall not affect the remaining provisions; and the Legislature hereby declares that it would have enacted such remaining portion despite such invalidity.

[Acts 1949, 51st Leg., p. 611, ch. 326.]

Art. 1581d-1. Airstrips; Counties of 24,600 to 24,700

Sec. 1. This Act shall apply in any county having a population of not less than twenty-four thousand, six hundred (24,600) nor more than twenty-four thousand, seven hundred (24,700), according to the last preceding federal census.

Sec. 2. As used in this Act, the term "airstrip" means any area of land or water used, or intended for use, for the landing and take-off of aircraft, and any appurtenant area used, or intended for use, for airport buildings, or other airport facilities, or rights-of-way.

Sec. 3. The Commissioners Court, in any county to which this Act applies, may authorize the use of equipment, machinery, and employees of the county to construct, establish, and maintain any public airstrip in such county. The cost of the use of equipment, machinery, and employees of the county as herein authorized shall be financed out of appropriate county funds.

[Acts 1963, 58th Leg., p. 823, ch. 313, eff. May 30, 1963. Amended by Acts 1971, 62nd Leg., p. 1829, ch. 542, § 53, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 561, ch. 237, § 10, eff. Sept. 1, 1981.]

Art. 1581e. Flood Control, Powers Respecting

Sec. 1. All counties in this State shall have the right of eminent domain to condemn and acquire real property and easements and right-of-ways over and through all public and private lands for the making and digging of canals, drains, levees and improvements in the county for flood control purposes and for drainage as related to flood control, and for providing necessary outlets for waters in such counties. No appeal from the finding and assessment of damages by the Special Commissioners appointed for that purpose shall suspend the work for which the land, right-of-way, easement, or other property is acquired. Where, in the judgment of the Commissioners Court, the acquisition of the fee in the land is necessary, condemnation of the fee title may be had; provided, however, that the counties shall not have authority to condemn the fee of, as distinguished from an easement or right-of-way over, across or upon, any property lawfully used or occupied by any public utility, railroad, canal, levee or other person, concern, corporation or body politic devoting its property to a public use.

Sec. 2. The proceedings with respect to condemning lands or interests therein, or other property, for the uses above specified shall be controlled by the statutes regulating such proceedings by counties in other cases, as provided in Article 3264, Revised Statutes of Texas, 1925, et seq.

Sec. 3. The Commissioners Court of any county in this State may contract and agree with any other county, political subdivision, governmental unit, or municipal corporation for the joint acquisition of right-of-ways, or joint construction or maintenance of canals, drains, levees and other improvements for flood control, and drainage as related to flood control, and for making necessary outlets, and maintaining them. Such contracts shall contain such terms, provisions and details as the governing bodies of the respective political subdivisions shall determine to be necessary under all of the facts and circumstances, and may provide that such works may be maintained jointly, or by either one (1) of such political subdivisions, under its exclusive direction and control, with such contributions toward the expense of such maintenance as the other county or political subdivision may agree to make.

Sec. 3a. Where, in the opinion of the Court, it becomes necessary to condemn an easement, as against persons who also have the power of eminent domain, all expenses involved in the acquisition, construction, and maintenance of the flood control or drainage project shall be the obligation of the county, flood control district or drainage district, as the case may be.

[Acts 1949, 51st Leg., p. 759, ch. 407.]

Art. 1581e-1. Flood Insurance; Participation in Federal Program by Gulf Coast Counties; Control of Flood Damage

Sec. 1. The State of Texas recognizes the personal hardships and economic distress caused by

flood disasters since it has become uneconomical for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions. Recognizing the burden on the nation's resources, Congress enacted the National Flood Insurance Act of 1968,¹ whereby flood insurance can be made available through coordinated efforts of the Federal Government and the private insurance industry, by pooling risks, and through the positive cooperation of state and local government. The purpose of this Act is to evidence a positive interest in securing flood insurance coverage under this Federal program, and to so procure for those citizens of Texas desiring to participate; and to promote the public interest by providing appropriate protection against the perils of flood losses and encouraging sound land use by minimizing exposure of property to flood losses.

Sec. 2. Any county bordering on the Gulf of Mexico or the tidewater limits thereof may determine and describe the boundaries of flood, or rising water prone, areas. The suitability of such determination shall be conclusively established when the commissioners court of such county shall have made a finding in a resolution passed by it that an area or areas located within the boundaries of such county are flood, or rising water prone, areas.

Sec. 3. For the purposes of this Act, the phrase, "flood, or rising water prone, area" shall mean an area that is subject to or exposed to flooding by the Gulf of Mexico or its tidal waters, including lakes, bays, inlets, and lagoons, which results in damage to land or property.

Sec. 4. The commissioners court of any such county shall have the power and authority to enact and enforce regulations which regulate, restrict, or control the management and use of land, structures, and other development in flood, or rising water prone, areas in such a manner as to reduce the danger of damage caused by flood losses. This power and authority may include, but shall not be limited to, requirements for flood-proofing of structures which are permitted to remain in, or be constructed in, flood or rising water prone, areas; regulations concerning minimum elevation of any structure permitted to be erected in, or improved in, such areas; specifications for drainage; and any other action which is feasible to minimize flooding and rising water damage.

[Acts 1969, 61st Leg., p. 2107, ch. 720, eff. June 12, 1969.]

¹ 42 U.S.C.A. § 4011 et seq.

Art. 1581f. Payment for Relocation of Water Lines Owned by Water Control and Improvement Districts

The counties of the State of Texas are hereby authorized to pay for the relocation of water lines owned by water control and improvement districts when such relocation is necessary to complete the construction or improvement of Farm-to-Market Roads as defined by Subsection 4-b of Article XX of

Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended,¹ provided the water control and improvement district which owns the water lines to be relocated agrees to repay the county for the cost of relocating the water lines within twenty (20) years with interest thereon at a rate equal to that paid by the county on their Road and Bridge Fund time warrants.

[Acts 1962, 57th Leg., 3rd C.S., p. 73, ch. 28, § 1.]

¹ Article 7083a.

Art. 1581g. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 1581g-1. County Industrial Commissions in Certain Counties

The county judge of any county having a population of not less than 13,300 nor more than 13,350, or not less than 22,600 nor more than 23,000, or not less than 17,900 nor more than 18,100, or not less than 14,650 nor more than 14,800, according to the last preceding federal census, may appoint a County Industrial Commission to consist of at least seven residents of the county and who are currently serving or have served in the past on the Industrial Foundation Committee, Commissioners Court, City Council or school boards, who have exhibited interest in the industrial development of the county to serve for a term of two years. The county is hereby authorized to pay the necessary expenses of such commission. Such commission shall investigate, study, and undertake ways and means of promoting and encouraging the prosperous development of business, industry, and commerce within said county. Such Commission shall promote and encourage the location and development of new businesses and industries in such county as well as the maintenance and expansion of existing businesses. Such commission shall cooperate with, and utilize the services of, the Texas Industrial Commission. The data obtained shall be available to the commissioners court.

[Acts 1971, 62nd Leg., p. 2947, ch. 975, § 1, eff. June 15, 1971. Amended by Acts 1981, 67th Leg., p. 561, ch. 237, § 11, eff. Sept. 1, 1981.]

Art. 1581g-2. County Industrial Commissions

Establishment of Commission

Sec. 1. (a) The county judge of any county may appoint a County Industrial Commission.

(b) The commission shall consist of at least seven residents of the county who have exhibited interest in the industrial development of the county. Members serve for a term of two years.

Expenses

Sec. 2. The county may pay the necessary expenses of the commission.

Duties of Commission

Sec. 3. The County Industrial Commission shall investigate and undertake ways and means of promoting the prosperous development of business, industry, and commerce within the county. The commission shall promote the location and development of new businesses and industries in the county as well as the maintenance and expansion of existing businesses.

Cooperation with Texas Industrial Commission

Sec. 4. The commission shall cooperate with and utilize the services of the Texas Industrial Commission.

[Acts 1979, 66th Leg., p. 2017, ch. 791, §§ 1 to 4, eff. June 13, 1979.]

Art. 1581h. Unclaimed Funds in Custody of County or Precinct Officer**Definition**

Sec. 1. In this Act, "person" includes any private legal entity.

Funds Covered by Act

Sec. 2. (a) This Act applies to any funds in the custody or control of a county or precinct officer, including a court, that a person is entitled to receive on demand. That a court must enter an order directing that the funds be paid or that an officer must perform a ministerial act for them to be paid does not remove the funds from the coverage of this Act.

(b) This Act does not apply to a claim, the validity of which is unquestioned, if there is a controversy regarding the amount of funds a person is entitled to receive.

Notice

Sec. 3. (a) If a county or precinct officer has custody or control of funds covered by this Act, he has no knowledge of any controversy about who is entitled to receive the funds, and the person entitled to receive them does not claim them within one year after becoming entitled to them, the officer shall give the person a written notice stating:

- (1) that the officer holds funds belonging to the person;
- (2) the amount of the funds; and
- (3) that the funds will become subject to escheat to the county if the person does not claim them within the time prescribed by law.

(b) Except as provided by Subsection (d) of this section, the officer shall send the notice to the person at the person's last known address by certified mail, delivery restricted to addressee. If no address is available or if the letter is returned undelivered, the officer shall publish the notice in a newspaper of general circulation in the county once a week for at least two consecutive weeks.

(c) The cost of postage, if notice is given by mail, and the cost of newspaper publication, if notice by publication is required, shall be deducted from the funds to which the notice applies. If notice by publication is given for more than one item of funds in a single advertisement, an equal share of the cost of the advertisement shall be paid from each item of funds.

(d) If the cost that would be assessable for giving notice equals or exceeds the funds to which the notice applies, notice shall be given by posting it at the courthouse at or near the place where notices of meetings of public bodies are posted. The notice must remain posted for at least 14 consecutive days.

Petition for Escheat

Sec. 4. (a) If funds are not claimed within four years after notice is given, they are subject to escheat to the county served by the county or precinct officer having custody or control of the funds.

(b) When funds become subject to escheat to the county, the county attorney, or the criminal district attorney in a county without a county attorney, shall file a sworn petition in the district court stating the amount of the unclaimed funds, the name of the person entitled to receive them, and the facts or circumstances causing the funds to be subject to escheat. The petition shall request that the funds be escheated to the county and that a writ of possession for the funds be issued in behalf of the county.

Citation

Sec. 5. Citation is issued and served in the manner provided by law for civil suits generally.

Citation by Publication

Sec. 6. Citation in each case shall also be issued by publication, in the manner provided by law for other civil suits. The citation shall direct any person who may have a claim for the funds to appear and answer. The citation shall contain a brief statement of the contents of the petition.

Appearance by Claimants

Sec. 7. The defendant and any other person claiming an interest in the funds may appear and plead to the proceedings.

Default Judgment

Sec. 8. Judgment shall be rendered by default in behalf of the county if no person appears and pleads in the time prescribed by law.

Trial

Sec. 9. The court shall try all issues of fact and law raised by the pleadings in the manner applicable to civil suits generally.

Judgment for County

Sec. 10. If it appears from the facts found that the funds are subject to escheat, judgment shall be rendered that the county recover the funds, and, in the discretion of the court, recover the costs against the defendant. A writ of possession shall issue in the manner applicable to other judgments for the recovery of personal property. The writ of possession shall specify the exact amount of the unclaimed funds in the custody or control of the county or precinct officer.

Costs Against County

Sec. 11. Court costs may not be charged against the county unless the defendant obtains a favorable judgment. The costs incurred by the defendant may be charged against the county in the manner applicable to civil suits generally.

Appeal

Sec. 12. A party who has appeared in the proceedings, including the county attorney or criminal district attorney on behalf of the county, may appeal the judgment.

Disposition of Funds

Sec. 13. The funds recovered by the county under this Act shall be delivered to the county treasurer, who shall deposit them to the credit of the county general fund.

[Acts 1979, 66th Leg., p. 727, ch. 321, §§ 1 to 5, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 2256, ch. 541, §§ 1 to 5, eff. June 12, 1981.]

Section 6 of the 1981 amendatory act provided:

"If on the effective date of this Act a county or precinct officer holds funds covered by Chapter 321, Acts of the 66th Legislature, Regular Session, 1979 (Article 1581h, Vernon's Texas Civil Statutes), as amended by this Act, that have been in his custody or control for at least one year, he has no knowledge of any controversy about who is entitled to receive the funds, and the funds have not been claimed by the person entitled to receive them, the officer shall give the notice required by Section 3 of that law within 90 days after the effective date of this Act."

CHAPTER FOUR. COUNTY LINES

- Art.
1582. Survey Made.
1583. Marking Boundary.
1584. Natural Objects.
1585. Notice to Other Counties.
1586. Oath and Bond of Surveyors.
1587. Return and Record of Field Notes.
1588. Absence of Surveyor.
1589. Land Commissioner to Direct Survey.
1590. Division of Expense.
1591. Suit to Establish Boundary.
1592. Marking Line on Map.
1592a. Repealed.

Art. 1582. Survey Made

Whenever it appears to the satisfaction of the county court of any county, or notice shall be given such court by the Land Commissioner that the boundary or any part thereof, of the county is not

sufficiently definite and well defined, such court shall appoint an experienced and competent practical surveyor, whose duty it shall be to ascertain by actual survey the boundary, or any part thereof, of said county, and to make and establish the lines and corners in the manner herein prescribed. The court, in the order making the appointment, shall specify the line or lines to be run, and the corners to be established and marked; and shall in all things conform to the law defining the boundaries of said county.

[Acts 1925, S.B. 84.]

Art. 1583. Marking Boundary

The initial corners of the surveys herein provided for shall be designated by posts, mounds or stone monuments; the posts shall be of hewn cedar, cypress or bois d'arc, at least eight inches in diameter, five feet long, and set in the ground not less than three feet; the mounds shall be of stone when practicable, otherwise of earth, and not less than two feet high; at the end of each mile in said boundary a like post, mound or stone monument shall be established; the initial corners shall be described on the post or monument established there.

[Acts 1925, S.B. 84.]

Art. 1584. Natural objects

In the field notes of the survey of the lines ordered to be run, the surveyor shall give accurate description of all prominent natural objects crossed by, or adjacent to said lines, as well as of the corners and lines of surveys on or near said boundaries.

[Acts 1925, S.B. 84.]

Art. 1585. Notice to Other Counties

The court making such order shall cause a copy thereof to be sent to the county courts of the counties interested in such boundary, stating the time and place, which time shall not be later than twenty days after the meeting of the county court of the county notified, for the commencement of the survey; and such notice shall be given at least ten days before the meeting of said county court; and the court so notified shall appoint an experienced and competent practical surveyor to proceed at the time and place to assist in running and establishing such line.

[Acts 1925, S.B. 84.]

Art. 1586. Oath and Bond of Surveyors

Such surveyors shall take the oath of office prescribed by law for county surveyors, and shall, before entering upon the duties herein prescribed, enter into bond in the sum of one thousand dollars, with two or more sureties to be approved by the county judge, payable to the county judge or his

successors in office, conditioned for the faithful performance of his duty.

[Acts 1925, S.B. 84.]

Art. 1587. Return and Record of Field Notes

When the line shall have been surveyed and marked as herein provided, it shall be the duty of the surveyor to make due return of the field notes and map to the county court; which field notes and map shall be recorded by the clerk, and a certified copy thereof returned to the general land office.

[Acts 1925, S.B. 84.]

Art. 1588. Absence of Surveyor

If either of the surveyors appointed to run and mark such line shall fail to attend at the time and place appointed, the one in attendance shall proceed alone to perform the duties assigned and make his report to the county court of the county employing him, which being approved by such court, shall be recorded as evidence of the line in question. The line so surveyed and marked shall thereafter be regarded as the true boundary line between the counties.

[Acts 1925, S.B. 84.]

Art. 1589. Land Commissioner to Direct Survey

If the surveyors above provided for fail to agree as to the true boundary line between their respective counties, the facts of such disagreement, with a full statement of the questions at issue between them, shall be by them reported to the Land Commissioner, who shall examine the disputed matter at once; and from such data as the maps and archives of his office furnish, shall designate to such surveyors the line to be run stating at what specific point they shall begin and to what specific point they shall run, adhering as nearly as possible to the line designated in the act creating such county line, which instructions shall be authority for said surveyors to run such line. The line so run as above directed shall thereafter be the true dividing line between said counties.

[Acts 1925, S.B. 84.]

Art. 1590. Division of Expense

The expense of surveying and marking such line shall be divided between the counties interested, in proportion to the frontage of each county upon the line, and paid for by each county as proportioned. The surveyors appointed as herein provided shall receive for their services three dollars per mile for each mile run. The expense of establishing the posts, mounds, or stone monuments shall be paid by the counties interested, and they shall be erected under the supervision and direction of the surveyor.

[Acts 1925, S.B. 84.]

Art. 1591. Suit to Establish Boundary

Notwithstanding any preceding article of this chapter, any county in this State may bring suit

against any adjoining county or counties, for the purpose of establishing the boundary line between them. Such suit shall be brought in the district court of the county in an adjoining judicial district whose boundaries are not affected by the suit, and whose county seat is nearest the county seat of the county suing. Said court shall try said cause as other causes, and shall have jurisdiction to determine where such boundary line is located, and, if necessary, shall order the same to be remarked and resurveyed. If, in the trial of any such cause, it is found that the boundary line between the counties involved has never been established and marked, or if marked has become indefinite and undefined, said court shall have power to re-establish the same and order it marked. Any boundary line so established by such judgment shall thereafter be regarded as the true boundary line between the counties in question; provided, that if it shall be found in any such cause that the boundary line in question has been heretofore established under the law then in force, the same shall be declared to be the true line, and shall be resurveyed and established as such.

[Acts 1925, S.B. 84.]

Art. 1592. Marking Line on Map

It shall be unlawful for the Land Commissioner to mark, fix or place on any of the maps in said office any contested county line at any definite point thereon, until a certified copy of the final judgment of the court is filed in the General Land Office, together with a certified copy of the field notes of the line so established by such judgment.

[Acts 1925, S.B. 84.]

Art. 1592a. Repealed by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(4), eff. Sept. 1, 1977

Acts 1977, 65th Leg., ch. 871, repealing this article, enacts the Natural Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Natural Resources Code.

CHAPTER FIVE. COUNTY SEATS

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- 1605a-2. Office Buildings Outside County Seat in Counties of 25,000 to 25,050.
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Art. 1593. Election for County Seats

In the organization of any county or counties now existing, or hereafter created by the Legislature, it shall be the duty of the county judge holding the election in such county for county officers thereof to order an election for the location of a county seat therein, which shall be conducted in the same manner as that regulating the election of the officers of such new county. The place receiving a majority of all the votes cast by the electors voting on the location of such county seat shall thereafter be the county seat of such county, subject to be removed as other county seats. When any county has been organized, and no county seat has been located, the county judge of such county shall order an election for the location of a county seat.

[Acts 1925, S.B. 84.]

Art. 1594. Vote Necessary

No county seat first established in a newly organized county shall be located at any point more than five miles from the geographical center of any county in this State, unless by a two-thirds vote of all the electors voting on the subject in said county.

[Acts 1925, S.B. 84.]

Art. 1595. Election for Removal of

No county seat situated within five miles of the geographical center of any county shall be removed except by a vote of two-thirds of all the electors in said county voting on the subject; nor shall any county seat be removed from a point more than five miles from the geographical center of any county to any other point more than five miles from such center, nor from a point within five miles of the geographical center to any other point within five miles of such center, except by a two-thirds vote of all the electors in said county voting on the subject. No person shall be allowed to vote except he be a bona fide citizen of the county in which he offers to vote. A majority of said electors, however, voting at such election may remove a county seat from a point more than five miles from the geographical center of the county to a point within five miles of such center; in either event the center to be determined by a certificate from the Land Commissioner.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 7, ch. 5, § 1; Acts 1929, 41st Leg., p. 343, ch. 160, § 1.]

Art. 1596. Proceedings for Removal of County Seat

When it becomes desirable to remove the county seat of any county, the county judge of said county, upon the written application of not less than one hundred freeholders and qualified voters, who are resident citizens of said county shall make a written order upon the minutes of said commissioners court for the holding of an election at various voting precincts in said county on a day therein named, which shall not be less than thirty nor more than sixty days from date of order, for the purpose of submitting the question to the electors of said county. When a county seat has been established for more than ten years, it shall require two hundred freeholders and qualified voters to make said application. In counties having less than three hundred and fifty legal voters, to be determined by the number of votes cast at the last preceding general election such application may be made by one hundred resident freeholders and qualified voters of said county. When a county seat has been established for more than forty years, it shall require a majority of the resident freeholders and qualified voters of said county to make the application, said majority to be ascertained by the county judge from the assessment rolls thereof. In counties having not more than 150 qualified voters, such application shall be held sufficient when it shall have been signed by a majority of the resident freeholders and qualified voters of said county, said majority to be ascertained by the county judge from the assessment rolls thereof. In the event of the failure, refusal or inability of the county judge to perform any duty imposed upon him by this article such duty may be performed by any two county commissioners of the county.

[Acts 1925, S.B. 84.]

Art. 1597. Geographical Center

The Land Commissioner, upon being notified by the county judge that a proposition is submitted to the people of his county, or that it is desirable on the part of the people thereof, that the center of such county shall be designated, preliminary to the removal of any county seat, shall from the maps, surveys and other data on file in his office, designate the center of such county, and shall certify the same to such county judge, who shall cause the same to be spread upon the records of deeds of his county.

[Acts 1925, S.B. 84.]

Art. 1598. Who May Vote and Form of Ballot

All persons who are qualified voters under the Constitution and laws of the State shall be entitled to vote at said election. On each ticket, the voter shall write or cause to be written or printed: "For removal to .(6)" (inserting the name of the place); or, should the voter be in favor of the county seat remaining where it is, he shall write or cause to be

written or printed on his ticket: "For remaining at .(6)" (inserting the name of the place.)

[Acts 1925, S.B. 84.]

Art. 1599. Election

The county judge or commissioners shall order said election in each voting precinct in said county, which shall be conducted as near as may be, as elections for county officers. The officers holding the elections shall make return thereof to the authority ordering said election within ten days after the same was held, who shall then proceed to open said returns and count the same, and declare the result, which shall be entered upon the records of said commissioners court, and shall also state the name of the place from which, and the name of the place to which, the same is removed. A certified copy of such entry shall thereupon be recorded in the proper record deeds of such county.

[Acts 1925, S.B. 84.]

Art. 1600. County Seats Removed, When

When such entry has been made, the county seat, if the election be held to move the county seat from a point within five miles of the geographical center, to a point more or less than five miles from the geographical center, or from a point more than five miles from the geographical center, to any other point more than five miles from such center, shall be removed to the place receiving the votes of two-thirds of all the electors voting on the subject; and such place shall thereafter be the county seat of such county. If the election be held to move the county seat from a point more than five miles from the geographical center to a point within five miles of such center, then the county seat shall be moved to the place receiving a majority of all the electors in the county voting at such election, and such place shall thereafter be the county seat of such county.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 7, ch. 5, § 2; Acts 1929, 41st Leg., p. 343, ch. 160, § 2.]

Art. 1601. Subsequent Election

Whenever an election for the location or removal of a county seat has been voted on by the electors of any county, and the question settled, it shall not be lawful for a like application to be made for the same purpose within ten (10) years thereafter. Provided that an application may be made and an election held to remove the county seat from a location more than five (5) miles from a railroad operating as a common carrier, to a location on a railroad within two (2) years thereafter; and further provided that no county seat of any county in the State of Texas shall be moved from its present location until all bonds, warrants, and evidence of debt of every kind, character, and description issued by said county and incurred for the construction of existing courthouse or courthouses, shall have been paid in full provided that the provisions of this Act shall not apply to counties where the county seat is

at the time of the passage of this Act located more than fifteen (15) miles air-line from a railroad.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 264, ch. 185; Acts 1933, 43rd Leg., p. 328, ch. 128.]

Art. 1602. Courts Shall Hold at Seat

All terms of the district, county and commissioners court shall be held at the county seat.

[Acts 1925, S.B. 84.]

Art. 1603. Buildings to be Provided

The county commissioners court of each county, as soon as practicable after the establishment of a county seat, or after its removal from one place to another, shall provide a court house and jail for the county, and offices for county officers at such county seat and keep the same in good repair.

[Acts 1925, S.B. 84.]

Art. 1604. Place of Holding Court

Until the county seats of new counties are established, as required under this chapter, the courts of such new counties shall be held at such place as may be appointed by the commissioners court of such county.

[Acts 1925, S.B. 84.]

Art. 1605. Location of Offices

(a) The County Judge, Sheriff, Clerks of the District and of the County Courts, County Treasurer, Assessor and Collector of Taxes, County Surveyor and County Attorney of the several counties of this State, shall keep their offices at the county seats of their respective counties; provided, however, that in all counties having a city or cities, other than the county seats, within their boundaries, having a population of five thousand (5,000) and over, and in counties of over three hundred fifty thousand (350,000), according to the last Federal Census, the Assessor and Collector of Taxes when authorized by order of the Commissioners Court may maintain a branch office in said city or cities, and may appoint one or more Deputies for said offices, and the salaries to be paid said Deputies together with the office rent and other expenses incidental to maintaining said offices shall be considered as a part of the necessary expenses of the Assessor and Collector of Taxes and shall be paid in the manner now provided by law for the payment of the expenses of the Assessor and Collector of Taxes; and provided further that in all counties having a population of more than seventy thousand (70,000), according to the last Federal Census, and containing one or more cities or towns, other than the county seat, which has in excess of one thousand (1,000) inhabitants, according to the last Federal Census, said Tax Assessor and Collector with the consent and approval of the Commissioners Court may maintain a branch office and may appoint a Deputy Tax Collector in each such town or city, who shall have the right to collect taxes from all persons who desire to pay

their taxes to him, and to issue a valid receipt therefor. Such Deputy shall enter into such bond, payable to the County Judge of the County, as the Tax Assessor and Collector and Commissioners Court of the county may require. The period of time such branch offices shall be maintained, and the salary of such Deputy Collector and the period of time he shall hold such office shall be fixed by the Commissioners Court and such Deputy Collector shall be subject to all of the terms and provisions of the law relating to Deputy Tax Collectors. The Tax Collector shall remain liable on his bonds for all taxes collected by such Deputy, and nothing herein shall be construed as a limitation on the liability of the bonds of either the Tax Collector or such Deputy. Nothing contained herein shall be construed as making it mandatory upon the Assessor and Collector of Taxes and the Commissioners Courts of such counties to maintain such branch offices and appoint such Deputies, but the establishment of such branch offices and the appointment shall wholly be within the discretion of the Commissioners Courts of such counties. When such branch office or offices are established and a Deputy or Deputies are appointed hereunder, the salary or salaries to be paid and expense necessary to maintain said office or offices shall be considered as a part of the necessary expenses of the Assessor and Collector of Taxes, and shall be paid as now provided by law for the payment of the expenses of the Assessor and Collector of Taxes.

(b) If any branch office is established under this Article or under any other law permitting the establishing of subcourthouses, office buildings, or branch offices and if the Assessor and Collector of Taxes maintains at least one (1) full-time, permanent employee at the subcourthouse, office building, or branch office, boat certificates of number and boat and outboard motor certificates of title shall be issued or the applications for those certificates shall be accepted as provided by Subchapters B and B-1, Chapter 31, Parks and Wildlife Code, as amended,¹ at the subcourthouse, office building, or branch office.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 338, § 1; Acts 1937, 45th Leg., p. 63, ch. 39, § 1; Acts 1953, 53rd Leg., p. 49, ch. 39, § 1; Acts 1979, 66th Leg., p. 1354, ch. 607, § 6, eff. Aug. 27, 1979.]

¹ Parks and Wildlife Code, §§ 31.021 et seq. and 31.045 et seq.

Art. 1605a. Branch Office Buildings in Cities of 15,000 or More Outside County Seat

Sec. 1. The Commissioners Court of each county of this State shall have the power and the authority to provide, maintain, and repair an office building and/or jail in one or more cities, other than the county seat, having a population of Fifteen Thousand (15,000) or more, according to the last preceding federal census in the same manner as the Commissioners Court may now provide for and maintain a courthouse and jail at the county seat, and upon

the acquisition or construction of such office building, the Commissioners Court may authorize, in the same manner as authorized by Article 1605, the maintaining of branch offices in each of said cities, except the District Clerk, County and District Judges, County Clerk, and County Treasurer, provided that all officers shall keep all original records at the county seat, and deputies may be provided as authorized in Article 1605. The Commissioners Court shall have the care and custody of such buildings and may place such limitations as it may see fit on the authorization and maintenance of branch offices.

Sec. 2. Said office building and/or jail may be provided for, maintained and repaired by the issuance of bonds as is provided by Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, and all amendments thereto,¹ or to provide, maintain, the repair the same through the issuance of evidences of indebtedness in the same manner as courthouses and jails at the county seats, and the taxes may be levied therefor in the same manner and subject to the same limitations as for courthouses and jails at the county seat; provided, however, that the cost of any such office building and/or jail shall not exceed more than two percent of the taxable values of the county for the last preceding year.

Sec. 3. All acts heretofore taken and proceedings heretofore adopted by the Commissioners Court in any county providing for the purchasing of a site and erecting and equipping an office building for county officers in any city other than the county seat of such county, all evidences of indebtedness heretofore authorized to finance the same, and all tax levies heretofore made in behalf of such evidences of indebtedness are in all things confirmed, approved and validated; provided, however, nothing in this Act shall validate any evidence of indebtedness the validity of which is in question in a court of competent jurisdiction on the effective date of this Act if the ultimate decision of the court is against the validity thereof.

[Acts 1931, 42nd Leg., p. 810, ch. 333. Amended by Acts 1933, 43rd Leg., p. 101, ch. 49, § 1; Acts 1963, 58th Leg., p. 12, ch. 10, § 1, eff. March 7, 1963; Acts 1975, 64th Leg., p. 645, ch. 266, § 1, eff. May 20, 1975.]

¹ Article 701 et seq.

Art. 1605a-1. Branch Office Buildings in Counties of Over 110,000 Having City of Over 10,000 Outside County Seat

Sec. 1. This Act shall apply only to those counties which may now or hereafter have a population in excess of 110,000, and which county, at the same time, contains one or more incorporated cities whose area is not contiguous to the county seat, which have a population in excess of 10,000.

Sec. 2. The Commissioners Court of any county to which this Act applies is hereby authorized to acquire land for and to purchase, construct, repair, equip and improve buildings and other permanent

improvements to be used as a county branch office building; provided that such building may not be located at the county seat or in a city contiguous to the county seat, nor shall such building be constructed in any city having a population of less than 10,000.

Sec. 3. To pay the costs of acquiring land for and of purchasing, constructing, repairing, equipping and improving such buildings and other permanent improvements, the Commissioners Court of each county to which this Act applies is hereby authorized to issue negotiable bonds or certificates of indebtedness of the county and to levy and collect taxes in payment of either of such obligations out of the permanent improvement fund. The certificates or bonds shall be authorized by an order of the Commissioners Court, shall mature in not exceeding 40 years, shall bear interest at a rate not to exceed five per cent per annum which interest shall be evidenced by coupons attached to the bonds or certificates. They shall be signed by the County Judge, attested by the County Clerk and registered by the County Treasurer. The certificates or bonds authorized to be issued under the provisions of this Act, and the records relating to their issuance, shall be submitted to the Attorney General of Texas for examination, and if they have been issued in accordance with the constitution and laws of the State of Texas, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts; and after they have been approved and registered and delivered to the purchaser, they shall be incontestable. Such obligations shall be fully negotiable and are hereby declared to be negotiable instruments.

Sec. 4. Any bonds authorized under the provisions of this Act may be issued only upon compliance with Chapter I of Title 22, Revised Civil Statutes of Texas, 1925, as amended, governing the issuance of bonds by political subdivisions. Certificates of indebtedness authorized under the provisions of this Act may be issued only if a notice of intention to issue the certificates is given in the manner provided by Section 2 of Chapter 163, Acts of the 42nd Legislature, 1931 (Bond and Warrant Law of 1931),¹ and no petition is presented in the manner prescribed by Section 4 of that Act² or the result of the election called under said Section 4 permits the issuance of the certificates.

Sec. 5. It is the purpose and intent of this Act to permit the construction of a county branch office building in cities other than the county seat where the administration of the affairs of the county will not be impaired and where the acquisition of such office space can be located in a city whose population is sufficient to justify the establishment of such facilities. Nothing in this Act shall be construed as permitting a branch office to be established away from the county seat if other provisions of the laws in force and effect prohibit such establishment. The provisions of this Act shall be construed to accomplish this purpose and should any sentence,

clause, paragraph or portion of this law be construed as in contravention of the constitution, its invalidity shall not affect the remainder of the provisions of the Act.

[Acts 1957, 55th Leg., p. 156, ch. 67.]

¹Article 2368a, § 2.

²Article 2368a, § 4.

Art. 1605a-2. Office Buildings Outside County Seat in Counties of 25,000 to 25,050

Sec. 1. In all counties having a population of more than 25,000 but less than 25,050, according to the last preceding federal census, the Commissioners Court of each said county shall have the power and authority to construct, operate and maintain an office building and/or jail at a city other than the county seat in the same manner as such Commissioners Court may not provide for and maintain a court house and jail at the county seat. The Commissioners Court may authorize the maintenance of a branch office of the county tax assessor and collector, a jail, and a justice court in such buildings. However, all county officers shall keep all original records at the county seat. The Commissioners Court shall have the care and custody of such buildings and may place such limitations as it may see fit on the authorization and maintenance of such facilities. When authorized to maintain such branch office, the assessor and collector of taxes may appoint one or more deputies for said offices. The expenses incidental to maintaining said facilities shall be considered as a part of the necessary expenses of the county. Said deputy assessor-collectors shall have the right to collect taxes from all persons who desire to pay their taxes to them, and to issue a valid receipt therefor. Such deputy shall enter into such bond, payable to the County Judge of the county, as the tax assessor and collector and Commissioners Court of the county may require. The period of time such branch offices shall be maintained, and the salary of such deputy collector and the period of time he shall hold such office shall be fixed by the Commissioners Court and such deputy collector shall be subject to all of the terms and provisions of the law relating to deputy tax collectors. The tax collectors shall remain liable on his bonds for all taxes collected by such deputy, and nothing herein shall be construed as a limitation on the liability of the bonds of either the tax collector or such deputy. Nothing contained herein shall be construed as making it mandatory upon the assessor and collector of taxes and the Commissioners Courts of such counties to maintain such branch offices and appoint such deputies, but the establishment of such branch offices and the appointment shall wholly be within the discretion of the Commissioners Courts of such counties. When such branch office or offices are established and a deputy or deputies are appointed hereunder, the salary or salaries to be paid and expense necessary to maintain said office or offices shall be considered as a part of the necessary expenses of the assessor and

collector of taxes, and shall be paid as now provided by law for the payment of the expenses of the assessor and collector of taxes.

Sec. 2. Said office building and/or jail may be provided for, maintained and repaired by the issuance of bonds as is provided by Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, as amended, or it may be provided for, maintained, and repaired through the issuance of evidences of indebtedness in the same manner as courthouses and jails at the county seats, and the taxes may be levied therefor in the same manner and subject to the same limitations as for courthouses and jails at the county seat.

[Acts 1961, 57th Leg., p. 103, ch. 57. Amended by Acts 1971, 62nd Leg., p. 1841, ch. 542, § 101, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 561, ch. 237, § 12, eff. Sept. 1, 1981.]

Art. 1605a-3. Counties and Cities; Joint Construction, Ownership and Maintenance of Buildings; Contracts

Sec. 1. This Act shall be applicable in any county in which there is an incorporated city having a population of not less than two thousand (2,000) which is located more than 10 (ten) miles from the county seat, and shall apply to such city.

Sec. 2. Any county and city to which this Act is applicable are authorized jointly to own, construct, equip, enlarge and maintain a building in such city to be used for branch offices and library of the county, the justice of the peace, and for a city hall. The cost of construction thereof shall be paid from current income and funds on hand as provided in the budgets or tax levies of the county and the city.

Sec. 3. The county and the city shall specify by contract the amount or the proportionate part of money to be contributed by each for such construction and equipment; the account or accounts in which such money is to be deposited; the party which shall award construction and other contracts or that such contracts are to be awarded by action of both parties; and the manner in which disbursements from such account shall be authorized. Such contract may provide for the appointment of a committee or a board to operate and maintain the building, or that one of the parties shall perform that service; and may specify the portion of the operation and maintenance expenses to be contributed annually by the county and the city.

Sec. 4. Annual expenses for the operation and maintenance of the building shall be budgeted by the county and by the city.

Sec. 5. Title to the land upon which the building is to be constructed shall be placed jointly in the county and the city.

[Acts 1961, 57th Leg., p. 149, ch. 76.]

Art. 1605a-4. Branch Offices for Tax Assessors and Collectors in Counties of 38,200 to 39,000

Sec. 1. In any county which has a population of not less than 38,200 inhabitants but not more than 39,000 inhabitants according to the last preceding federal census, the Commissioners Court may provide for, operate, and maintain a branch office for the county tax assessor and collector for any length of time the commissioners consider necessary.

Sec. 2. (a) If the branch office is maintained in a building which is owned by the county, the commissioners court shall operate and maintain the building in the same manner in which it operates and maintains the county courthouse. The commissioners court shall have care and custody of the building and may place any limitations on the use and maintenance of the building which it finds necessary.

(b) If the commissioners court does not wish to construct a building or purchase office space for the branch office, the commissioners court may rent or lease a sufficient amount of office space for the branch office.

Sec. 3. (a) After the commissioners court has authorized the creation of a branch office, the county tax assessor and collector may appoint one or more deputies to work in the office. The commissioners court shall determine the length of time for which the deputies will serve and the salaries to be paid to the deputies.

(b) Each deputy shall execute a bond in any amount required by the commissioners court, payable to the county judge, conditioned on the faithful performance of their duties. The county tax assessor and collector is liable under his bonds for all taxes collected by any deputy under this Act, and this Act shall not be construed as a limit on the liability of the bonds of the county tax assessor and collector or his deputies.

(c) Any deputy appointed under this Act may collect taxes from any person who desires to pay his taxes and may issue a valid receipt for the taxes.

(d) Any deputy appointed under this Act is subject to the terms and provisions of the law relating to deputy tax collectors.

Sec. 4. Expenses incurred in providing office space, in operating and maintaining the branch office, and in paying the salaries of the deputies are considered part of the necessary expenses of the county tax assessor and collector and shall be paid in the same manner as other expenses of the county tax assessor and collector.

Sec. 5. Any actions taken by the commissioners court and the county tax assessor and collector and his deputies which relate to providing, operating, and maintaining a branch tax office before the effective date of this Act and any expenditures made by the county in connection with a branch tax

office before the effective date of this Act are validated.

[Acts 1969, 61st Leg., p. 74, ch. 32, §§ 1 to 5, eff. March 26, 1969. Amended by Acts 1971, 62nd Leg., p. 1819, ch. 542, § 14, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 1958, ch. 599, § 1, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 562, ch. 237, § 13, eff. Sept. 1, 1981.]

Art. 1605a-5. Auxiliary Courthouses and Facilities

Auxiliary Courthouses and Facilities

Sec. 1. (a) The commissioners court of a county may provide one or more of the following facilities in any part of the city, town, or village designated as the county seat, including a part of the municipality added to the municipality after it became the county seat, but not including a part of the municipality that is outside the county:

- (1) auxiliary courthouses;
- (2) jails;
- (3) parking garages;
- (4) district, county, and precinct administrative and judicial offices and courtrooms; or
- (5) any facility related to the administration of civil or criminal justice.

(b) The authority of the commissioners court to provide a facility under this Act includes the authority to acquire necessary sites and to purchase, construct, equip, or enlarge one or more facilities, as well as to repair and maintain the facilities provided.

(c) The commissioners court by order may designate a facility acquired or constructed under this Act as a courthouse of the county, but an auxiliary facility provided under this Act may not replace the courthouse at the county seat.

Holding of Court

Sec. 2. (a) Any district, county, or other court required by law to hold its terms at the county seat may hold its terms at a court facility provided under this Act, even though the facility is located in a part of the municipality designated as the county seat that was added to the municipality after it became the county seat.

(b) This section does not apply to the terms of the commissioners court.

Offices

Sec. 3. Any district, county, or precinct officer who is required by law to maintain an office at the county seat may maintain an office and keep official records at a facility provided under this Act, but the officer must continue to maintain an office at the county seat.

Auxiliary Courts within the County

Sec. 4. In addition to auxiliary courthouses and facilities within a municipality designated as the county seat, the commissioners court of a county may authorize specific geographic locations within the county and outside the limits of a municipality designated as the county seat as auxiliary courts for purposes of conducting nonjury proceedings and may designate those locations as auxiliary county seats for such purposes.

Previous Actions Validated

Sec. 5. If before the effective date of this Act the commissioners court of a county undertook to provide a facility covered by this Act or to acquire land for a facility covered by this Act, and the location of the proposed facility or the land was in a part of the city, town, or village designated as the county seat that was not a part of the municipality when it was designated as the county seat, all governmental acts and proceedings of the commissioners court relating to that undertaking, including any evidences of indebtedness authorized and any tax levies made for the evidences of indebtedness, are validated. This section does not apply to any matter that, on the effective date of this Act:

- (1) is involved in litigation, if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or
- (2) has been held invalid by a final judgment of a court of jurisdiction.

Effect on Other Laws

Sec. 6. (a) This Act does not limit authority of a commissioners court under any other law with regard to providing facilities of the type covered by this Act.

(b) To the extent this Act conflicts with Article 1602 or 1605, Revised Civil Statutes of Texas, 1925, as amended, or any other statute, this Act prevails.

[Acts 1979, 66th Leg., p. 382, ch. 174, §§ 1 to 6, eff. May 15, 1979.]

CHAPTER SIX. COUNTY BOUNDARIES

Art. 1606. Boundaries as Established, Adopted, and Acts Creating Continued in Force

The county boundaries of the counties in this State as now recognized and established are adopted as the true boundaries of such counties, and the acts creating such counties and defining the boundaries are continued in force.

[Acts 1925, S.B. 84.]

CHAPTER SEVEN. COUNTY HOME RULE

Art.

1606a. County Home Rule.

1606b. Bexar County; Manner of Determining Result.

Art. 1606a. County Home Rule**Purpose of Act**

Sec. 1. The purpose of this Act is to provide an enabling Act under the recent Constitutional Amendment adopted and known as Section 3 of Article 9 of the Constitution of the State of Texas, hereinafter sometimes referred to as "the amendment," in order that the counties coming within the provision of such article may adopt, upon a vote of the qualified resident electors of such counties, a Home Rule Charter in accordance with the terms and provisions of such portion of the Constitution.

Precinct and County Conventions; Delegates to Select Charter Drafting Commission

Sec. 2. This Act shall apply to any qualified county of Texas, desiring to adopt a Home Rule Charter under the powers, and within the limitations, expressed by Section 3 of Article IX of the Constitution of Texas; and, the people of any qualified county who may desire to move for the adoption of a county charter, under such Constitutional provisions, shall proceed thereto by calling a convention in each voting precinct of the county for the purpose of choosing a delegate and an alternate delegate to a county wide convention; which convention shall be charged with the duty to select a Charter Drafting Commission to be composed of persons considered capable of drafting, or to give aid in drafting, a charter deemed to conform to the will and needs of the qualified resident electors of the county; and, to be subject to rejection or adoption by vote of the people of the county; all to be done in keeping with the provision of said amendment and under the procedural safeguards by this Act provided.

Qualifications of Petitioners and Electors; Notice

Sec. 3. All persons hereinafter referred to as the signers of petitions, as participating in precinct or county conventions and as voting in elections, to be held hereunder, shall be understood to mean resident qualified electors of the affected county. Where the publication of notice is required, unless otherwise provided as to a given case, such notice shall be given by publication in one or more newspapers, having general circulation in the county, at least one day in each of two (2) consecutive weeks, and to give not less than fourteen (14) days from the first day of such publication to the day of any proposed act to which such notice may relate, excluding the day of first publication and the day of the proposed act. The mailing of notice, as later in this Act may be required, unless otherwise provided as to a given case, shall be given by depositing in the United States Mail written notice properly

stamped and appropriately addressed to the person or persons proper to have notice of a given matter, giving advice of the time and place at which any given proposed act is to be considered or done. Not less than two (2) nor more than ten (10) business days (to be exclusive of the day of the mailing of the notice and the day of a proposed act) may run between the mailing of such notice and any desired meeting for the performance of an act to be done hereunder, all as hereinafter will be required; provided, however, calls for meetings of the Charter Drafting Commission (hereinafter provided for) shall be as established by it, as being reasonable, fitting and necessary.

Form and Requisites of Petition; Qualifications of Petitioners; Number of Signatures Required

Sec. 4. Proponents of the adoption of a county charter hereunder, subject to the further provisions of this Section, may procure and present to the commissioners' court of the county (hereinafter designated as the "Court") one or more petitions, bearing the true date upon which the circulation thereof began, seeking the calling of precinct and county conventions (as hereinafter provided for), and identical petitions signed by different qualified persons shall be considered as one petition. Only persons who are resident qualified voters of the county, owning real estate subject to the county's tax, may validly sign the petitions hereby provided for. The minimum number of signatures required upon such petitions shall be determined upon the county population basis, as given in the Federal Census issued next prior to the date of a given petition, and to be as follows: Counties of five thousand (5,000) population or under, one hundred (100); counties of five thousand and one (5,001) to ten thousand (10,000), two hundred (200); counties of ten thousand and one (10,001) to twenty-five thousand (25,000), three hundred (300); counties of twenty-five thousand and one (25,001) to seventy-five thousand (75,000), four hundred (400); counties of seventy-five thousand and one (75,001) to one hundred fifty thousand (150,000), five hundred (500); counties of one hundred fifty thousand and one (150,001) or more, six hundred (600). Any form of petition which indicates the desire to proceed for adoption of a Home Rule Charter for the county (which hereinafter may be referred to as the "Charter"), under said Section 3 of Article IX of the Constitution shall be sufficient. Upon the delivery of such petition it shall be the duty of the clerk of said court to mark the day of filing thereon, and thereafter, as soon as may be done, to record the same in the minutes of the court as a part of the order which the court must enter in compliance with the petition.

Calling Precinct Charter Conventions; Designation of Time and Place for Precinct and County Conventions

Sec. 5. At the first meeting of the court after the filing of any such petition, or at any time not to exceed ten (10) days after the filing of such petition, it shall be the duty of the court to enter its order to

execute said petition by calling a precinct charter convention (hereinafter provided for) in each voting precinct of the county, as defined and designated at the time any such petition may bear date, for the purpose of selecting one delegate and an alternate from each precinct to participate in a county convention (hereinafter provided for). The court's call shall fix the time for holding such precinct conventions, for a time not less than twenty (20) days nor more than thirty (30) days after the date of the calling order, and shall fix the time for the holding of the county convention for a time not less than ten (10) days nor more than twenty (20) days after the time set for holding precinct conventions.

The call shall designate for each precinct a place therein for the holding of its convention and shall specify the time for opening such conventions at ten (10) o'clock of the morning. Such call also shall specify a place in the county seat (preferably a designated room in the county courthouse) for the holding of the county convention, and shall designate an opening hour therefor not earlier than ten (10) o'clock of the morning and not later than two (2) o'clock of the afternoon.

Form of Notice Calling Precinct Charter Convention; Publication; Errors

Sec. 6. The form of the call provided for in Section 5 hereof shall be in form substantially as follows:

NOTICE

State of Texas,
County of _____

To Each Resident Qualified Elector of This County:

Complying with a petition seeking the adoption of a County Home Rule Charter, filed with the county commissioners' court of this county on the _____ day of _____, 19____, we issue and publish this call for precinct conventions and a county convention to provide a commission to draft a proposed charter to be submitted to a vote of the qualified electors of this county. You respectively hereby are notified to be present at ten (10) o'clock in the morning on the _____ day of _____, 19____, at the place hereinafter designated for the county voting precinct in which you may reside, for the purpose of participating in a precinct convention for the election of one delegate and one alternate to represent your precinct in a county convention to be held in (name place, city or town and designate the place therein) and to convene at _____ o'clock _____ m., on the _____ day of _____, 19____.

In the precinct convention each qualified person present and participating (to exclude all persons who are not qualified voters residing in the precinct) shall be entitled to one vote each on each question presented, and all questions shall be determined by a majority of the votes cast. Organization shall be effected by choice of a temporary chairman and a temporary secretary, to be followed by selection of

a permanent chairman and a permanent secretary. The procedure shall be under Robert's Rules of Order or other orderly procedure. All votes save those incident to organization shall be by written ballot. The convention by majority vote, will choose one delegate and one alternate to participate in the county convention, both of whom must reside in the county voting precinct to be represented by them. When the delegate and the alternate shall have been chosen, the chairman and the secretary of the convention, in the presence of the convention shall sign the credentials of the delegate and the alternate, both of whom shall countersign the credentials for identification, if required by the county convention. The credentials shall be sufficient if in form substantially as follows:

_____, _____, 19____.

To County Convention:

This certifies to you that _____ (whose post office address is _____), as delegate, and _____ (whose post office address is _____), as alternate, will be authorized to represent precinct number _____ in your proceeding.

_____	_____
Chairman.	Secretary.
Countersigned:	
_____	_____
Delegate.	Alternate Delegate.

The credentials so executed shall be placed in an envelope bearing the secretary's name written across the closed seal, and delivered by the delegate, or the alternate, to the temporary secretary of the county convention at the time of its convening. Whereupon, the persons so certified shall be entitled to represent your precinct in the county convention. The official county voting precinct numbers and the respective places for holding the several precinct conventions follow, viz.:

Precinct No.	Place of Convention.
(Here Designate)	(Here Designate)
Commissioners' Court of _____ County, Texas.	

Attest:

By _____
County Judge.

Clerk.
(Seal.)

Said notice, as soon as may be done, shall be published as provided in Section 3 of this Act. No error in the form of the notice or the printing thereof which is not harmfully misleading, after the exercise of reasonable diligence to know the truth, shall invalidate the call for the conventions.

Precinct Convention

Sec. 7. The precinct convention shall be held, organized and shall proceed to a conclusion as speci-

fied in the convention call written in Section 6 hereof.

County Convention; Procedure

Sec. 8. The county convention shall convene at the time and place designated in the call therefor (or other well known adequate place, if it be not convenient to occupy the place originally designated), and shall proceed to temporary organization as provided for precinct conventions. The temporary chairman shall call for the presentation of credentials of delegates and their alternates, whereupon the temporary chairman and temporary secretary, in the presence of all persons present who may desire to supervise, shall open the credentials and shall prepare a written permanent roll of all persons shown by the credentials to be authorized to participate in the further proceedings of the convention. The convention shall then proceed to permanent organization by electing a permanent chairman and secretary. Upon the roll shall be noted those delegates (and alternates for absent delegates) who may be present for participation in the convention. Procedure shall be in accordance with Robert's Rules of Order. The presence at roll call for the opening session of the convention of fifty-one (51), or more, per centum of the total number of authorized delegates shall constitute a quorum for the conduct of business during such session and until final adjournment and dissolution of the convention.

All questions shall be decided by a majority of the votes cast thereon. An alternate shall be permitted to participate in the proceedings of the convention only in the absence or nonparticipation of the delegate for whom such alternate was chosen. All votes other than votes on organization shall be by written ballot bearing the voter's name and precinct number. The respective yeas and nays upon every question shall be recorded by name in the presence of the convention, the result of each ballot shall be declared to the convention in an audible voice and shall be recorded in the convention's journal, in a manner showing each issue decided by each ballot taken. The convention may recess from time to time, but may not adjourn, until the work is ended; provided that, the time and place for resuming its session after a recess thereof shall be announced prior to such recess, or written notice of reassembly given as provided in Section 3 of this Act. The business of the convention shall be dispatched with all possible diligence, and no compensation or expense shall be allowed to any member of the convention.

Manner of Choosing Charter Drafting Commission and Number of Members

Sec. 9. (a) When the convention shall have been organized, the members, by ballot shall determine whether the Charter Drafting Commission (which hereinafter may be referred to as the "Commission") to be chosen shall consist of three (3), five (5), seven (7), nine (9), eleven (11), thirteen (13) or fif-

teen (15) members. This having been determined, the chairman of the convention, from the membership of the convention, shall appoint a nominating committee of five (5) persons, who shall retire and prepare a list, alphabetically arranged, of proposed members of the commission to be chosen, which list shall bear twice as many names of persons as there are to be members of the Drafting Commission, and regional representation may properly be made a consideration in the nominations. The persons to be named by the nominating committee may or may not be members of the convention, but they shall be persons deemed to have peculiar fitness for the drafting of, or to aid in the drafting of, a charter to control the county government.

(b) When the nominating committee shall have reported, they shall be discharged and the secretary of the convention will furnish to each present member of the convention a true copy of the nominations, together with a ballot slip on which shall be written the number of names to be voted for. From the names nominated by the committee, each voting member of the convention shall select from those nominated persons (equal in number to the membership of the Drafting Commission) preferred by the voting member for service on the commission, indicating the choice by crossing out the names of those nominated persons not preferred by the voter. There may be as many ballots as are required to obtain a majority vote for a number of nominees equal to the membership of the Drafting Commission. Those persons receiving in consecutive order from high to low, the highest number of votes shall be elected for service: In case of a tie vote, balloting shall continue until the tie is broken. The results of each ballot shall be tallied and canvassed by the secretary, in the presence of the convention and the result audibly declared. The Drafting Commission so chosen shall be given their written credentials, signed by the chairman and secretary of the convention. Written minutes of all proceedings of the convention shall be kept in a journal, audibly read in the presence of the convention, and if found without majority sustained objection, they shall be approved and signed by the chairman and the secretary of the convention (safely to be preserved for disposition as later in this Act is provided), and thereupon the convention shall be adjourned, subject to recall only as hereinafter is provided for.

Journals

Sec. 10. The County Charter Convention and the Charter Drafting Commission each shall cause to be kept a daily journal correctly reflecting their respective proceedings, and showing the yea and nay votes on all substantive questions, which shall be adequately identified in the journals. These journals must be preserved as permanent records and filed as archives in the records of the administrative body of the county, as hereinafter provided for.

**Drafting Commission; Rules; Vacancy in
Office; Procedure**

Sec. 11. (a) Within ten (10) days after their election the Drafting Commission shall convene at some convenient time and place in the county seat, known in advance to all members of the commission, for organization, which shall be as for organization of a precinct convention. The commission may adopt all necessary reasonable rules to control notice of meetings and its procedure, save that, attendance of a majority of the commission's membership shall be required to constitute a quorum for business, and all questions shall be decided by a majority vote of those members in attendance. So long as there be not vacancies to destroy a lawful quorum of the commission, it lawfully may transact its business and perform its duties; however, in case of a vacancy of a membership either through inability or failure or refusal of a member to act, the commission may certify the vacancy to the commissioners' court, whereupon it shall become the duty of the court to fill the vacancy on the commission by a majority supported order entered of record in its minutes.

(b) The Drafting Commission shall be empowered to employ one clerk, who shall be a competent stenographer and who shall fill the office of secretary of the commission. The commission shall be authorized to make reasonable compensation to its secretary, but not, in any event, to exceed Six Dollars (\$6.00) per day of actual service, and ratably for a fraction of a day. The commission shall be authorized to incur all other reasonable expense necessary to facilitate its work, but not in any event to exceed Three Dollars (\$3.00) per day (exclusive of the cost to publish notices, as required by this Act) for the full period from the first meeting day of the commission until it may have been discharged. The expenses so incurred, and the cost to publish the notices by this Act required, shall be paid under orders signed by the chairman and the secretary of the Drafting Commission, addressed to the commissioners' court of the county, and, if the vouchers accompanying such orders be found to support the same, it shall be the duty of the court promptly to make payment thereof by warrants drawn on the county's General Fund, whether budgeted therein, or not. No member of the Drafting Commission shall have compensation for service on the commission.

(c) The Drafting Commission shall diligently pursue its labors and at a time not less than sixty (60) days nor more than one hundred and eighty (180) days after their organization, they shall have prepared a complete proposed county charter. It shall be the duty of the secretary of the commission, at all reasonable times, to make available to any interested person the minutes of any prior meeting of the commission and any written proposals pending before the commission.

(d) In the preparation of the charter, any complete section thereof may be written in two (2)

alternate and elective forms, for submission to a vote of the people. The proposed charter having been completed, there shall be written at the end thereof the words, "We hereby recommend the adoption of the foregoing proposed charter, subject to such later revisions as may grow out of our public hearings hereon," to be followed by the date of the certificate and the signatures of at least a majority of the Drafting Commission: Substantial compliance as to form of the certificate shall be deemed sufficient.

(e) In case a Charter Drafting Commission, from any cause whatever, fails to complete a proposed charter hereunder, within the time limit hereinbefore specified, such commission shall automatically expire, and, upon the written request of any ten (10) signers of the original petition for the adoption of a county charter, it shall be the duty of the county judge to reconvene the county convention by giving the written notice specified in Section 3 of this Act. The convention being reassembled shall proceed to the selection of a Charter Drafting Commission of the number originally fixed, in the same manner as provided for selection of the membership of the defaulting commission. The substitute commission shall proceed in time and manner as provided for the original commission. Further, in such case, the secretary of the defaulting commission shall safely keep all records of the prior commission and deliver the same to the substitute commission, or its secretary. This procedure to remedy default of a commission may be exercised as many times as may be necessary to procure the submission of a charter to the electorate.

(f) When a proposed charter has been completed and certified, the Drafting Commission, within ten (10) days shall cause the same to be published in full, in the manner provided in Section 3 of this Act. Said publication further shall provide for five (5) or more public hearings before the commission, the first of which must be not less than fourteen (14) days nor more than twenty (20) days after the first publication of the notice. The time and place of each proposed hearing shall be stated in the notice, and all of the same must be held within thirty (30) days after the date of the first hearing. At such hearings all qualified resident electors of the county may appear and be heard to express their views in an orderly manner, within Robert's Rules of Order, and such other reasonable limitations as the commission may adopt for the timely, efficient and orderly disposition of business. When said public hearings have been concluded, the commission, within ten (10) days, shall make such revision of the proposed charter as by them may be deemed for the betterment thereof.

**Form of Charter Election Report and Notice to
Commissioners' Court; Amendments**

Sec. 12. Within five (5) days after a proposed county charter finally has been approved for submission to the qualified electors of the county, it

shall be the duty of the Charter Drafting Commission to prepare its report announcing the conclusion of its labors and to make requisition for the holding of a charter election hereunder, which shall be addressed to the commissioners' court of the county and filed with said court within said five (5) days. Such report and requisition in form shall be substantially as follows:

To the Honorable Commissioners' Court of _____ County, Texas:

We present herewith two (2) true and certified multiples of a proposed charter to provide for the government of this county, as provided for by Section 3, Article IX, of the Constitution of Texas. We also transmit to you the journals of proceedings of the county convention and of this Charter Drafting Commission. By law, you are required to safely keep said proposed charter and said journals as permanent records, in the archives of the county, where they at all reasonable times shall be open to inspection by the public.

We hereby request that, and under the provisions of an Act of the Legislature of Texas to provide proceedings for adopting Home Rule Charters for counties it now is required that, you by order (to be entered of record in your minutes; to which one copy of the proposed charter shall be attached as an exhibit, and as part thereof) will call an election submitting said proposed charter to a vote of the qualified electors of this county for adoption or rejection, as their votes may determine, under the provisions of said Section 3, Article IX, of the Constitution.

This we pray you to do in time, manner, form and after due execution of all appropriate formalities required by the applicable law.

Executed in _____, Texas, on this, the _____ day of _____ A.D. 19____, by the undersigned, who constitute a majority, or more, in number of the Charter Drafting Commission of this county.

Substantial conformity to the foregoing form shall be deemed sufficient, and the same may be amended, as a matter of right, to cure any substantive defect therein.

Charter Election; Procedure

Sec. 13. (a) In compliance with the notice and request provided for by Section 12 hereof, an appropriate order shall be entered by the court at a time within ten (10) days after said request is delivered to the court. Upon delivery of such request, the clerk of the court shall endorse on the presented proposed charter, and accompanying request the day and hour of the receipt of the same.

(b) By said order the court shall call an election, in which no other question may be submitted to the electors. Said election shall be held at a time not less than thirty (30) days nor more than forty (40) days after the entry of the court's order therefor.

(c) Publication of notice of said election, the holding thereof, the canvass of the returns and the declaration of the results thereof (save in those things peculiarly appropriate to the object of the election, and which peculiar matters are specifically provided for herein), shall be had, done and performed in accordance with the then effective provisions of the law regulating the holding of general elections in the State of Texas. Those additional things required and deemed peculiarly appropriate to such election are as follows, viz.:

1. There shall be printed as many copies of the proposed charter as there were voters in the last preceding general election in the county, plus twenty-five per centum (25%) thereof, which copies on or before the second day succeeding the first publication of the notice of the election, shall be placed, for distribution, on request, to qualified voters of the county, at each polling place designated in the notice of election.

2. The notice of the election shall contain a full copy of the proposed charter and to include alternate and elective provisions, if any such have been submitted to the electorate, which distinct and alternate provisions shall be printed in the order given them in the proposed charter.

3. Ballots at least equal to one and one-half the vote cast in the last general election in the county shall be provided for the charter election. Distribution thereof to voting precincts changed or created later than the last general election held in the county shall be according to an estimate of the vote to be cast therein at the charter election. To each of the precincts remaining as at the last general election there shall be distribution of ballots approximately equal to one and one-half times the votes cast therein at the last general election. After the day upon which a petition for submitting a proposal to adopt a county home rule charter, or to amend the same, is started in circulation (the commissioners' court being advised thereof by writing filed with its clerk), no county voting precinct may be redefined, consolidated or created, until a time subsequent to the election called for by the petition so filed.

4. There shall be printed on said ballots, exclusive of all other things, the following, viz.:

"County Home Rule Charter Ballot for
Adoption of Charter

or

Against Adoption of Charter"

Next there shall be printed in full there on elective alternate charter provisions which may have been submitted for determination by the electors; and, in case any such elective charter provisions have been submitted, the same shall be printed in full on the ballot, in the forward progressive order in which they appear in the proposed charter. Indication of the will of the voter shall be by crossing out those propositions or provisions

which are not favored. In case a voter crosses out both of two related alternate provisions, or if the voter fails to cross out one of two related alternate charter provisions, the vote to adopt or reject the charter shall nevertheless be counted on that issue.

5. No proposal to consolidate or merge the government of a governmental agency or entity, or any division or function thereof, with the government of the county for administration thereby, shall be voted on at an election held for the original adoption of a charter hereunder. However, it is provided that any such charter may contain provision whereby such consolidations may be submitted to the voters of the county.

Canvassing Returns and Declaring Results of Election; Contest Procedure

Sec. 14. The canvassing of the returns and the declaring of the result of the election shall be by the commissioners' court of the county and the charter drafting commission jointly sitting as a board for such purpose and the result as declared shall be spread on the minutes of the commissioners' court. Contest of an election held hereunder may judicially be determined as is, or may be, provided by the laws of Texas relating to contest of general elections, subject to these conditions, viz.:

(a) Written notice of such contest must be filed with the commissioners' court and with the clerk of the county charter commission within ten (10) days after the declaration of the result.

(b) In case of such notice, within five (5) days the members of the commissioners' court and the charter drafting commission shall reassemble as a joint board of review, for the public opening of those ballot boxes as to which the notice of proposed contest has specified exception, examination and recount of the ballots cast in each such voting precinct, revision, if any be required, in the tally sheets from the respective precincts in which error in the tally or returns, or illegal voting, may have been specified in the notice of proposed contest. Matters not specified in such notice of contest may not be inquired into by the board, nor later reviewed by a court. The board may hear evidence, subpoena witnesses and enforce their attendance by attachment to be issued by the clerk of any court of record on request of the board, and administer oaths to witnesses. The hearing shall be concluded as speedily as may be consistent with the object of the hearing. Having concluded the taking of evidence, the board publicly shall revise or reaffirm the tally to conform to their findings of the truth, and enter of record in the minutes of the commissioners' court their redeclaration of the result of the election. Thereupon the ballots shall be appropriately resealed in the boxes from which they were taken and, or, otherwise preserved as required by the general applicable law. A certified copy of the findings of the joint board of review must be received in evidence in any judicial proceeding contesting an election held hereunder, and shall constitute

prima facie proof of the correctness of the declaration of the result of the election, as recorded by the joint board of review.

(c) The time consumed in re-examination of the returns by the Joint Board of Review, as herein provided for, shall not be computed in determining the time within which a petition initiating an election contest in a court of appropriate jurisdiction must be filed. Such time shall be computed from the day on which the Joint Board of Review announce their decision.

(d) Upon performance of the duties hereinbefore prescribed for the Charter Drafting Commission, without other or further act, it shall be dissolved, subject only to its right to designate one of its members to be a special fiscal agent, with the duty to terminate all pecuniary business matters which have been incident to the performance of the duties of the commission, to procure payment of all outstanding lawful accounts created by the commission, in the manner provided in subdivision (b) of Section 11 of this Act.

Adoption of Charter; Resubmission After Rejection; Amendments

Sec. 15. If the election results in a constitutional majority of the votes cast in the election being for the charter, the same shall be declared to be adopted and to be in effect after such procedures, at such time and under such conditions, as may be provided for in the adopted charter. If the proposal to adopt a charter be defeated in any such election, no other proposal for the adoption of a charter for the county hereunder may be initiated at a time less than twelve (12) months next succeeding the day of the defeat of the prior proposal. However, in case a charter adopted for a given county does not provide a time limitation (which may not exceed two (2) years) for a time at which such charter may be amended, and any home rule charter adopted hereunder may be amended at any time.

Majority of Votes Cast Outside Cities and Towns Necessary for Adoption

Sec. 15a. No county home rule charter may be adopted by any county save upon a favoring vote of the resident qualified electors of the affected county. In elections submitting to the voters a proposal to adopt a charter the vote cast by the qualified electors residing within the limits of all the incorporated cities and towns of the county shall be separately kept and collectively counted and the votes of the qualified electors of the county who do not reside within the limits of any incorporated city or town likewise shall be separately kept and separately counted, and unless there be a favoring majority of the votes cast within and a favoring majority of the votes cast without such collective cities and towns, the charter shall not be adopted.

**Effect of Amendment on Designation of
Administrative Body**

Sec. 16. In case there be adoption of a county home rule charter providing for an administrative body styled other than a "Commissioners' Court," and, or, "County Judge" (as a member of the court), and thereafter there be occasion to proceed for the amendment of such charter, the quoted designations, as they appear in this Act shall be held to conform to the appropriately related designations as contained in the charter.

Expenses of Proponents

Sec. 17. In case there be not available to a given county funds to liquidate the expenses incurred because of the exercise of power under this Act, the proponents of a proposed charter may, in writing filed with the court, designate a fiscal agent through whom the proponents may pay all such lawful and proper expenses as may accrue, preserving proper vouchers therefor. Upon presentation of the itemized verified account of such expenses, accompanied by the appropriate vouchers, the commissioners court may approve or disapprove the same, or approve the part thereof found to be proper, and on such approval the court shall pay the same to the designated fiscal agent, or his successor, as soon as money lawfully may be applied thereto, and any other law to the contrary shall be without effect. The county shall have no responsibility for the restitution of such money by the fiscal agent to the several contributing proponents, as their several interests may be.

**Constitutional Rights and Powers of
Counties Recognized**

Sec. 18. Nothing in this Act contained is intended to deny to the counties of Texas any right or power which in the absence of this Act might lawfully be enjoyed and exercised under the provisions of said Section 3 of Article IX, of the Constitution. On the contrary, all such rights and powers hereby are expressly recognized.

**Charter Provisions Ineffective Against State's
Governmental Powers**

Sec. 19. Nothing in this Act contained shall be construed to authorize county charter provisions which would impair the operation of the General Laws of the State relating to the judicial, tax, fiscal, educational, police, highway and health systems of the State, or any department of the State's superior government; and, no charter provision having such vice may have effect as against the State.

Partial Unconstitutionality

Sec. 20. If any provision, section, part, subsection, sentence, clause, phrase, or paragraph of this Act be declared invalid or unconstitutional, the same shall not affect any other portion or provision hereof, and all other provisions shall remain valid and unaffected by any invalid provision, if any.

**Proceedings Under Anticipatory Enabling
Act Validated**

Sec. 21. The anticipatory enabling Act passed at the Regular Session of the Forty-third Legislature (known as Chapter 232 of the General Laws of the Regular Session of the Forty-third Legislature)¹ shall not have effect after the instant at which this Act may be in effect, but all procedures taken thereunder (relating to the formulation, circulation, presentation and prosecution of petitions, including all orders and notices of commissioners courts relative to such petition, conventions held or other acts done) hereby are validated, to the same effect as though the same had been had and done hereunder.

[Acts 1933, 43rd Leg., 1st C.S., p. 249, ch. 91.]

¹See article 1581a.

Art. 1606b. Bexar County; Manner of Determining Result

Sec. 1. Authority is hereby conferred upon Bexar County to adopt a "Home Rule Charter" in accordance with the provisions of Section 3 of Article IX of the Constitution of Texas by a favoring vote of the resident qualified electors of said County, and it shall not be necessary for the votes cast by the qualified electors residing within the limits of all the incorporated cities and towns of the county to be separately kept nor separately counted from those cast by qualified electors of the county who do not reside within the limits of any incorporated city or town, and a favoring majority of the votes of such electors cast in the county as a whole shall determine the result of such election.

Sec. 2. The authority hereby granted is by a two-thirds ($\frac{2}{3}$) vote of the total membership of each House of the Legislature.

[Acts 1951, 52nd Leg., p. 70, ch. 43.]

CHAPTER EIGHT. COUNTY FIRE MARSHAL

Art. 1606c. Office of County Fire Marshal

**Establishment of Office; Compensation; Facilities;
Exemption from Liability**

Sec. 1. The Commissioners Court of any county may, at its option and if it deem advisable, by proper order set up and establish the office of County Fire Marshal for such period of time as it may desire, but not to exceed the term for which the members of said court are elected; said court may provide for such compensation to be paid the County Fire Marshal as in its judgment it may deem advisable. Authority is granted to such Commissioners Court to provide office facilities, equipment, transportation, assistants and professional services as it may deem necessary for said County Fire Marshal for the proper execution of his duties. Except in cases of gross neglect or wilful malfeasance in office, said County Fire Marshal, his assistants or employees, shall not be answerable in damages, for any acts or omissions, to any persons in

the performance of his or their duties. The provisions of this Act shall not apply to any state agency authorized to prevent and extinguish forest and grass fires.

Investigation of Fires

Sec. 2. It shall be the duty of the said County Fire Marshal to investigate the cause, origin and circumstances of every fire occurring within the county, outside of any incorporated city, town or village, by which property has been destroyed or damaged, and he shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall begin within twenty-four hours, not including Sunday, after the County Fire Marshal receives notice or information of any such fire.

Record of Fires

Sec. 3. The County Fire Marshal shall keep or cause to be kept in his office a record of all fires occurring within the county, outside of any incorporated city, town or village, together with all facts, statistics and circumstances, including the origin of the fire and the estimated amount of the loss, which may be determined by his investigation. Such record shall be kept in a legible and permanent form and be so preserved that the same may be at all times accessible and open for inspection.

Witnesses and Evidence; Filing of Criminal Charges; Contempt

Sec. 4. When in his opinion further investigation is necessary, the County Fire Marshal shall have the power to subpoena witnesses to appear before him and testify as to their knowledge of facts and circumstances surrounding the fire or attempt at setting of the fire; he shall be empowered to administer oaths and affirmations to any person appearing as a witness before him; he shall take and preserve written statements, affidavits and depositions as he shall deem fit; he shall file in courts of competent jurisdiction any charges of arson, attempt to commit arson, or any other crime or conspiracy to defraud, against any and all persons whom he shall deem guilty; he shall require the production before him of any book, paper or document deemed pertinent to such investigation and shall file misdemeanor charges in courts of competent jurisdiction against any witness who refuses to be sworn, who refuses to appear and testify, or who fails and refuses to produce before him any book, paper or document touching on any matter under examination when called upon by the County Fire Marshal to do so. Any person found guilty of such conduct of contempt of the proceedings held by the County Fire Marshal shall upon conviction be fined not more than Twenty-five (\$25.00) Dollars and costs in any court of competent jurisdiction.

Privacy of Examinations; Service of Process

Sec. 5. The investigations and examinations may be conducted by said County Fire Marshal in private; all persons may be excluded from being present except the persons under examination; and the witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they shall have been examined. All process shall be served by any Constable or Sheriff and the same shall be signed by the County Fire Marshal in his official capacity.

Oath and Bond; Qualifications

Sec. 6. The said County Fire Marshal shall qualify by taking the oath prescribed by the Constitution and giving such good and sufficient bond as the Commissioners Court of the county may prescribe and fix, conditioned for the faithful and strict performance of his duties of office. He shall not be interested, directly or indirectly, in the sale of any firefighting apparatus or equipment or fire extinguisher of any kind, nor be engaged in any manner of fire insurance business.

Right of Entry; Investigation of Dangerous Conditions; Order

Sec. 7. He shall have the authority to enter and examine any and all buildings or structures where a fire has occurred, in the performance of his duties of office, day or night, and examine any adjacent buildings or premises, but this authority shall be exercised with reason and discretion and with a minimum burden upon the persons living in said buildings. It shall be his duty when called upon, or when he has reason to believe that it is in the interest of safety and fire-prevention, to enter any premises and inspect the same, and if he find that because of inflammable substance being present, dangerous or dilapidated walls, ceilings or other parts of the structure existing, improper lighting, heating or other facilities being used that endanger life, health or safety, or if because of chimneys, wiring, flues, pipes, mains or stoves, or any substance he shall find stored in any building, he believes that the safety of said building or that of its occupants is endangered and that it will likely promote or cause fire or combustion, he shall be empowered to order the said situation rectified forthwith and the owner or occupant of the said structure shall comply with the orders of the said County Fire Marshal or shall be adjudged guilty of contempt of said order and of a Class B misdemeanor; and each recurring refusal to so rectify such conditions shall be deemed as a separate offense and violation of such order.

Enforcement of Regulations; Cooperation with State Fire Marshal and Municipal Fire Chiefs

Sec. 8. The County Fire Marshal shall be charged with enforcing all State and county regulations that pertain to fire or other combustible explosions or damages caused by fire or explosion of any kind; he shall coordinate the work of the various

fire-fighting and fire-prevention units within the county, provided that, he shall have no authority to enforce his orders or decrees within the corporate limits of any incorporated city, town or village within the county and shall act in a cooperative and advisory capacity there only when his services are requested; he shall cooperate with the State Fire Marshal in the carrying out of the purposes of fire prevention, fire fighting or post-fire investigation. If called upon by any city or State Fire Marshal or the Fire Chief of any incorporated city, town or village to aid in an investigation or to take charge of same, he shall act in the capacity requested.

Civil Rights and Actions

Sec. 9. No action taken by the County Fire Marshal shall affect the rights of a policy-holder or any

company in respect to a loss by reason of any fire so investigated; nor shall the result of any such investigation be given in evidence upon the trial of any civil action upon such policy; nor shall any statement made by any insurance company, its officers, agents or adjusters, nor by any policy-holder or anyone representing him, made with reference to the origin, cause or supposed origin or cause of the fire to the Fire Marshal or to anyone acting for him, or under his direction, be admitted in evidence or be made the basis for any civil action for damages.

[Acts 1951, 52nd Leg., p. 548, ch. 323. Amended by Acts 1953, 53rd Leg., p. 668, ch. 252, § 1; Acts 1967, 60th Leg., p. 1008, ch. 438, § 1, eff. Aug. 23, 1967; Acts 1977, 65th Leg., p. 133, ch. 62, § 1, eff. Aug. 29, 1977.]

TITLE 34

COUNTY FINANCES

1. GENERAL PROVISIONS

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1. GENERAL PROVISIONS

Art. 1607. Finance Ledger

Each commissioners court shall procure a well-bound ledger and index, to be known as the finance ledger, and shall cause to be entered therein a full and orderly statement of the condition of the county finances. The county clerk shall open and keep in said book an account with each officer of the county, district or State, who may be authorized or required by law to receive or collect all money or other property for the use of, or belonging to the county, and shall state at the top of each page of said account the name of such officer and his office. The clerk shall keep such other accounts as may be necessary to carry out the purposes of this title, and shall conveniently index each. And items shall be entered daily under their respective heads. All reports and vouchers shall be filed with said clerk and carefully preserved, and briefly noted in the proper account upon the ledger. Said finance ledger shall be at all times subject to the inspection of the public.

[Acts 1925, S.B. 84.]

Art. 1608. Quarterly Statement

Said clerk shall balance each account so kept, and make a sworn tabular statement at each regular term of the commissioners' court for the three months preceding the month when such court meets in regular session, to be presented to said court during the second day of its term, specifying therein the names of the creditors of said county, and the items of indebtedness, with their respective dates of accrual, and also the names of persons to whom moneys have been paid, with the amounts paid each, the names of persons for whom moneys have been received, with the date of receipt and for what account received, during the quarter for which such statement is prepared; said statement shall also separately show the amount to the credit or debit of each fund.

[Acts 1925, S.B. 84.]

Art. 1609. Exhibit Published

Immediately after the first regular term of said court in each year said clerk shall publish once in some weekly newspaper published in his county, or if there be no paper published therein, then by posting four copies of such exhibit, one in each commissioners precinct, one of which shall be at the court house door, the other three at public places in such precincts, an exhibit showing the aggregate amount paid out of each fund for the four preceding quarters, and the balance to the credit or debit of each fund; also the amount of indebtedness of said county, with their respective dates of accrual, and to whom and for what due; also the amount to the debit or credit of each officer or other persons with whom an account is kept. The cost for publishing the same shall be paid by order of said court out of the general fund of the county.

[Acts 1925, S.B. 84.]

Art. 1610. Account with Tax Collector

The accounts of the tax collector shall be kept as follows: A separate account shall be kept for each separate fund that may be upon the tax rolls; each account shall state the name of the collector, the character of the fund entered therein, and the year for which the same is assessed; and the taxes assessed for each year shall be kept separate and distinct.

[Acts 1925, S.B. 84.]

Art. 1610-1. Oaths and Acknowledgments Taken by Assessor-Collector

The county assessor-collector or an employee of the assessor-collector may administer oaths and take acknowledgments relating to any document required or authorized to be filed with the office of county assessor-collector, including:

- (1) a bill of sale and application for transfer of a motor vehicle or trailer;
- (2) an application for a certificate of title concerning a motor vehicle;
- (3) an affidavit and application to register a rebuilt motor vehicle;
- (4) a notice of the installation of a new or different motor in a motor vehicle;
- (5) an affidavit concerning the weight of any motor vehicle;
- (6) an affidavit with reference to the application for the registration of a light delivery truck, motor bus, semitrailer, or trailer;
- (7) an application for the replacement of license plates;
- (8) an affidavit as to the weight and application for the registration of a commercial farm truck;
- (9) an affidavit and application for the reregistration of a motor vehicle that has not been used for the current registration year; and

(10) an affidavit required for payment of the motor vehicle sales and use tax under Chapter 152, Tax Code.

[Acts 1983, 68th Leg., p. 3131, ch. 536, § 1, eff. Aug. 31, 1983.]

Art. 1611. Receipts for Tax Rolls

Whenever the tax rolls are ready for delivery to the tax collector, the court or officer having control of the same shall take from the collector a written receipt for the same, specifying the amount therein assessed and due the county, stating separately the amount assessed to each fund, and shall deliver said receipt to the county clerk, who shall charge the collector with the amount stated in said receipt in the proper account; and said amounts shall be treated as debts due the county by the collector.

[Acts 1925, S.B. 84.]

Art. 1612. Collector's Credits

The collector shall discharge said indebtedness within the time prescribed by law, by filing with said clerk receipts for the same, as follows:

1. The commission due the collector.
2. The assessor's receipt for commissions due such assessor, if any, are to be paid by the county.
3. Proper vouchers for such payments as he may be required to pay out of any money on hand.
4. The county treasurer's receipt for the money paid into the treasury.

[Acts 1925, S.B. 84.]

Art. 1613. Indigent and Delinquent Tax Accounts

The collector shall make separate lists of the indigent and delinquent taxpayers, showing their names, and the amount due by each taxpayer. The court shall carefully examine said list, and shall make an order and enter the same upon its minutes, stating the names and amounts that are adjudged uncollectible; and the collector shall have credit for the amounts included in said order in the proper accounts, only after said order has been made and entered.

[Acts 1925, S.B. 84.]

Art. 1614. Shall Deliver Tax Rolls to Successor

On leaving office the tax collector shall deliver to his successor the tax rolls in his possession, and shall receive from his successor a written receipt for the amount of taxes due on the tax rolls so delivered, specifying the amount of each fund and each year separately, and also the amount due on the indigent and delinquent list; and deliver said receipts to the county clerk, who shall enter those allowed by the court to the credit of the collector presenting them, and shall charge the amounts so

credited to the successor in office of such collector, in the proper accounts.

[Acts 1925, S.B. 84.]

Art. 1615. Occupation Tax

Said collector shall collect all occupation taxes due the county without assessment and give the party paying the tax a written receipt, stating his name, the occupation paid for, the time such occupation is to be pursued, and the amount collected for the State and for the county. On presentation of such receipt, the county clerk shall issue to the payee therein a license in the name of the State or county or both, in accordance with the tax so paid, authorizing said payee to pursue such occupation during the time for which the tax is paid. The clerk shall keep an occupation tax account with the collector of the county, in which he shall charge the collector with all licenses issued for the county. The collector shall have credit in said account for his commissions, and the amount paid into the treasury upon filing the proper receipt of the county treasurer with such clerk. Said clerk shall, at the end of every month, make two reports, one of licenses issued on taxes paid to the State which he shall forward to the Comptroller by mail; the other of licenses issued on taxes paid to the county and file the same in his office. Such reports shall recite the information contained in the tax collector's receipt for such tax, and shall be dated and signed under the clerk's official seal.

[Acts 1925, S.B. 84.]

Art. 1616. Account with Sheriff

An account shall be kept with the sheriff charging him with all judgments, fines, forfeitures and penalties, payable to and rendered in any court of the county, the collection of which he is by law made chargeable. The sheriff may free himself from liability from such charge, by:

1. Producing the receipt of the county treasurer showing the payment of such judgment, fine, forfeiture or penalty.
2. Showing to the satisfaction of the commissioners court that the same cannot be collected, or that the same has been discharged by imprisonment or labor, or by escape, without his fault or neglect, and obtaining an order from said court allowing the same.

[Acts 1925, S.B. 84.]

Art. 1617. Officers to Report Collections

Each district clerk, county clerk, county judge, county treasurer, sheriff, district and county attorney, constable and justice of the peace, who shall collect or handle any money for the use of the county, shall make a full report to the commissioners court, at each regular term thereof, of all fines imposed and collected and all judgments rendered and collected for the use of the county, and all jury fees collected in their respective courts in favor of,

or for the use of the county; and at the same time present their receipts and vouchers showing what disposition has been made of the money collected, fines imposed and judgments rendered. Said court shall carefully examine said reports, receipts and vouchers and, if found correct, shall cause the clerk to enter the same on the finance ledger, and, if found to be incorrect, shall summon said officer before them, and have the same corrected. Said reports, receipts, and vouchers shall be filed in the county clerk's office.

[Acts 1925, S.B. 84.]

Art. 1618. Collections: Form of Report

The reports required by the preceding article shall state fully:

1. The name of the party fined and the amount of the fine, or the name of the party against whom judgment was rendered and the amount of such judgment.
2. The style and number of the cases in which fines have been imposed or judgments rendered, and the date thereof.
3. The amount of jury fees collected, and the style and number of the case in which each jury fee was collected and from whom collected.

[Acts 1925, S.B. 84.]

Art. 1619. Accounts of Justice

Fines imposed and judgments rendered by justices of the peace shall be charged against the justice imposing or rendering the same. He may discharge said indebtedness by filing with the county clerk the treasurer's receipt for the amount thereof, or by showing to the satisfaction of the commissioners court that he has used due diligence to collect the same without avail, or that the same have been satisfied by imprisonment or labor.

[Acts 1925, S.B. 84.]

Art. 1620. Report of Attorneys

The district attorney of each district shall, at each term of the district court for each county in his district, make a report to the county clerk, of all moneys received by him since the last term of the district court for such county for the use of such county. Each county attorney shall make a similar report to the said clerk at the end of each month.

[Acts 1925, S.B. 84.]

Art. 1621. Judgment Sold

Whenever the proceeds of any judgment revert to and belong to any county, if the principal and sureties thereon are insolvent so that under any existing process of law said judgment or any part thereof cannot be collected, the commissioners court is hereby constituted a board to dispose of such judgment, and may offer for sale, by such advertising as it deems necessary and to the best interests of the county, all the right of the county to such judgment.

If the amount bid on same at public sale shall not be deemed sufficient, said court shall refuse to accept the same, and shall dispose of said judgment in any manner deemed most advantageous to the interest of the county. Upon sale said court shall make a proper assignment of said judgment to the purchaser.

[Acts 1925, S.B. 84.]

Art. 1622. Collections: Report to Clerk

When any officer collects money belonging to, and for the use of, any county, he shall, except where otherwise provided in this title, forthwith report the same to the proper county clerk stating fully from whom collected, the amount collected, the time when collected, and by virtue of what authority or process collected. On making such report, such amount shall be charged to such officer, and he may discharge himself therefrom by producing the receipt of the proper county treasurer therefor.

[Acts 1925, S.B. 84.]

Art. 1623. Estray Account

When an application to estray an animal is filed with the county clerk, said clerk shall keep an estray account on the debit side of said finance ledger showing, the date of the application, the name of the person estraying, and a brief description of the animal to be estrayed. The amount of such charge shall be left blank until said person shall file his account of the sale thereof. Upon the filing of said account, the net amount due the county from such sale shall be entered in the blank. When the receipt of the county treasurer is presented to the clerk, showing any amount paid into the treasury on account of such sale, the same shall be entered on the credit side of the account, showing the date, name of payer, amount paid and a brief description of the estray, and such amount shall be charged on the debit side of the county treasurer's account.

[Acts 1925, S.B. 84.]

Art. 1624. Account with County Treasurer

An account with the county treasurer shall be kept in said ledger, in which such treasurer shall be charged separately with the amount of each fund for which he gives a receipt to the sheriff, collector, or other person paying the same into the treasury; and such treasurer shall have credit for all moneys paid out by him, when the commissioners court has approved his reports of the same and for his legal commissions.

[Acts 1925, S.B. 84.]

Art. 1625. Claim Registers

Each county treasurer shall keep a well-bound book in which he shall register all claims against his county in the order of presentation, and if more than one is presented at the same time he shall register them in the order of their date. He shall

pay no such claim or any part thereof, nor shall the same, or any part thereof, be received by any officer in payment of any indebtedness to the county, until it has been duly registered in accordance with the provisions of this title. All claims in each class shall be paid in the order in which they are registered.

[Acts 1925, S.B. 84.]

Art. 1626. Claims Classified

Claims against a county shall be registered in three classes, as follows:

1. All jury scrip and scrip issued for feeding jurors.
2. All scrip issued under the provisions of the road law or for work done on roads and bridges.
3. All the general indebtedness of the county, including feeding and guarding prisoners, and paupers' claims.

[Acts 1925, S.B. 84.]

Art. 1627. Registering Claims

Said treasurer shall enter each claim in the register, stating the class to which it belongs, the name of the payee, the amount, the date of the claim, the date of registration, the number of such claim, by what authority issued, and for what service the same was issued, and shall write on the face of the claim its registration number, the word, "registered," the date of such registration, and shall sign his name officially thereto.

[Acts 1925, S.B. 84.]

Art. 1628. Classification of County Funds

The funds received by the county treasurer shall be classed as follows, and shall be appropriated, respectively, to the payment of all claims registered in the first, second and third classes:

1. All jury fees, all money received from the sale of estrays, and all occupation taxes.
2. All money received under any of the provisions of the road and bridge law, including the penalties recovered from railroads for failing to repair crossings, and all fines and forfeitures.
3. All money received, not otherwise appropriated herein or by the commissioners court.

[Acts 1925, S.B. 84.]

Art. 1629. Other Classes of Funds

The commissioners court may cause such other accounts to be kept, creating other classes of funds, as it may deem proper, and require the scrip to be issued against the same and registered accordingly.

[Acts 1925, S.B. 84.]

Art. 1630. Transfer of Funds

The commissioners court by an order to that effect may transfer the money in hand from one

fund to another, as it may deem necessary and proper, except that the funds which belong to class first shall never be diverted from the payment of the claims registered in class first, unless there is an excess of such funds.

[Acts 1925, S.B. 84.]

Art. 1630a. Road and Bridge Fund Set Aside From Other Funds in Certain Counties; Budgeting of Fund

That in all counties having a population of fifty thousand, nine hundred and fifty (50,950) to fifty-one thousand, one hundred (51,100), inclusive, according to the last preceding Federal Census, the Commissioners Court shall annually set aside from all other county funds the Road and Bridge Fund and shall budget this Road and Bridge Fund into three (3) equal amounts, and the total expenditures from the Road and Bridge Fund for any four-month period of the fiscal year may not exceed one-third of the annual budget; provided that nothing in this Act shall be construed as repealing or affecting the Uniform Budget Law, County Budgets, being Sections 10, 11, 12, and 13 of House Bill No. 768, Acts of 1931, Forty-second Legislature, page 339, Chapter 206.¹

[Acts 1941, 47th Leg., p. 720, ch. 445, § 1.]

¹ Articles 689a-9 to 689a-12.

Art. 1630b. Change Fund in Counties of Over 600,000 Population

Sec. 1. The Commissioners Court of any county having a population of over 600,000 by the last preceding Federal Census may set aside from the General Fund an amount to be approved by the County Auditor for the use by any county or district official collecting public funds as a change fund, which said fund is to be used only for making change in connection with collections due and payable to the county, State of Texas or any political subdivision for which collections are often made by such county or district official.

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

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

Sec. 4. The Commissioners Court shall upon recommendation of the County Auditor increase or decrease such change funds at any time.

[Acts 1953, 53rd Leg., p. 376, ch. 100. Amended by Acts 1969, 61st Leg., p. 1651, ch. 515, § 1, eff. June 10, 1969.]

Art. 1630c. Change Fund in Counties of 600,000 or Less Population

Sec. 1. The Commissioners Court of any county having a population of not more than six hundred thousand (600,000), by the last preceding Federal

Census, may set aside from the General Fund amounts not to exceed One Hundred Dollars (\$100) for any one collecting office for use by any county or district official collecting public funds as a change fund, which said fund is to be used only for making change in connection with collections due and payable to the county, the State of Texas or any political subdivision for which collections are lawfully made by said county or district official.

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

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

Sec. 4. The Commissioners Court shall, within its discretion, have the right to recall any part or all of said change funds at any time.

[Acts 1957, 55th Leg., 2nd C.S., p. 184, ch. 22.]

Art. 1631. Report of Claims

At the end of each month the county treasurer shall file in the office of the county clerk a report showing the total amount of claims registered by him during said months stating each class separately. He shall enter the same upon the ledger under the head of "Registered indebtedness of the county," keeping a separate account of each class of indebtedness, and, from the reports of the treasurer of disbursements made, credit said accounts with the total amount of vouches of each class of claims paid.

[Acts 1925, S.B. 84.]

Art. 1632. Receipt of Payee

The county treasurer or any other officer disbursing money for the county, or receiving county claims in payment of dues of any kind, shall require the party receiving payment of, or credit for the same, his agent or attorney, to receipt in writing upon the face of such claim for the amount so paid or received thereon.

[Acts 1925, S.B. 84.]

Art. 1633. Report of Claims Collected

Every officer who shall collect any fine, penalty, forfeiture, judgment, tax or other indebtedness due the county in claims against the county, shall keep a descriptive list of such claims, and shall when he reports such collection, file with his report a list stating the party in whose favor each claim was issued, the class and register number thereof, the name of the party paying in such claim, and the amount received, and for what purpose received. Such claims and report shall be turned over to the county treasurer who shall give a proper receipt for the same, and he shall file said list with his report in the office of the county clerk.

[Acts 1925, S.B. 84.]

Art. 1634. Accounts of Treasurer

The county treasurer shall keep accurate detailed accounts showing all the transactions of his office. And all warrants by him paid off shall be punched at the time he pays them; and the vouchers relating to and accompanying each report shall be presented to the commissioners court with the corresponding report, when said court shall compare the vouchers with the report, and all proper vouchers shall be allowed and the treasurer credited with the amount thereof.

[Acts 1925, S.B. 84.]

Art. 1635. Claim Canceled

When a claim presented as a voucher has been found by the court to be correct, the court shall cause the same to be canceled by writing or stamping upon the fact¹ thereof the word, "canceled," and the clerk shall attest the same by his official signature.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill. Should probably read "face".

Art. 1636. To Inspect Treasurer's Accounts

When the commissioners court has compared and examined the quarterly report of the treasurer, and found the same correct, it shall cause an order to be entered upon the minutes of the court, stating the approval thereof, and reciting separately the amount received and paid out of each fund by the treasurer since the preceding treasurer's quarterly report, and the balance of such fund, if any, remaining in the treasurer's hands and the court shall cause the proper credit to be made in the accounts of the treasurer, in accordance with said order. Said court shall actually inspect and count all the actual cash and assets in the hands of the treasurer belonging to the county at the time of the examination of his said report. Prior to the adjournment of each regular term of the court, the county judge and each commissioner shall make affidavit that the requirements of this article have been in all things fully complied with by them at said term of said court, and that the cash and other assets mentioned in said county treasurer's quarterly report made by said treasurer to said court, and held by him for the county, have been fully inspected and counted by them giving the amount of said money and other assets in his hands. Such affidavits shall be filed with the county clerk and recorded in the minutes of said court the term at which the same were filed; and the same shall be published in some newspaper published in the county if there be a newspaper published in the county, for one time.

[Acts 1925, S.B. 84.]

Art. 1637. To Examine Finance Accounts

The commissioners court shall, at each regular term, examine all accounts and reports relating to the finances of the county, and compare the same with the vouchers accompanying them, and cause

such corrections to be made as are necessary, in order to make said accounts and reports correct, and shall cause all orders made by them, appertaining to said accounts and reports, to be properly entered upon the minutes of said court and noted upon said accounts and reports.

[Acts 1925, S.B. 84.]

Art. 1638. Finance Committee

At each term of the district court, the district judge, upon request of the grand jury, may appoint a committee consisting of three citizens of the county, men of good moral character and intelligence, and experienced accountants, to examine into the condition of the finances of the county. Said committee shall examine all the books, accounts, reports, vouchers and orders of the commissioners court relating to the finances of the county that have not been examined and reported upon by a previous committee; count all the money in the office of the county treasurer belonging to the county, and make such other examination as it deems necessary and proper in order to ascertain the true condition of the finances of the county. The court shall, if necessary, upon the application of said committee, send for persons and evidence to aid in such investigation.

[Acts 1925, S.B. 84.]

Art. 1639. Report of Committee

Said committee shall, at the earliest practicable day after its appointment, make to said district court a detailed written report stating whether the books and accounts required to be kept by the provisions of this title are correctly kept in accordance with said provisions, and setting forth fully the condition of the finances of the county, the state of each officer's account, and specifying all irregularities, omissions and malfeasance of any kind that they may discover. Said report shall be signed and sworn to by said committee and filed in the office of the district clerk, and the attention of the grand jury called thereto as soon after the filing of the same as practicable.

[Acts 1925, S.B. 84.]

Art. 1640. Pay of Committee

Said committeemen shall each be entitled to receive for their services three dollars for each day, not to exceed five days, that they may be engaged in the performance of their duties as such, to be paid out of the county treasury upon the certificate of the district judge stating the number of days served.

[Acts 1925, S.B. 84.]

Art. 1641. Audit by Accountant

Any Commissioners Court, when in its judgment an imperative public necessity exists therefor, shall have authority to employ a disinterested, competent and expert public accountant to audit all or any part

of the books, records, or accounts of the county; or of any district, county or precinct officers, agents, or employees, including auditors of the counties, and all governmental units of the county, hospitals, farms, and other institutions of the county kept and maintained at public expense, as well as for all matters relating to or affecting the fiscal affairs of the county. The resolution providing for such audit shall recite the reasons and necessity existing therefor such as that in the judgment of said court there exists official misconduct, willful omission or negligence in records and reports, misapplication, conversion or retention of public funds, failure in keeping accounts, making reports and accounting for public funds by any officer, agent or employee of the district, county or precinct, including depositories, hospitals, and other public institutions maintained for the public benefit, and at public expense; or that in the judgment of the court, it is necessary that it have the information sought to enable it to determine and fix proper appropriation and expenditure of public moneys, and to ascertain and fix a just and a proper tax levy. The said resolution may be presented in writing at any regular or called session of the Commissioners Court, but shall lie over to the next regular term of said court, and shall be published in one issue of a newspaper of general circulation published in the county; provided if there be no such newspaper published in the county, then notice thereof shall be posted in three public places in said county, one of which shall be at the court house door, for at least ten days prior to its adoption. At such next regular term said resolution shall be adopted by a majority vote of the four Commissioners of the court and approved by the County Judge. Any contract entered into by said Commissioners Court for the audit provided herein shall be made in accordance with the statutes applicable to the letting of contracts by said court, payment for which may be made out of the public funds of the county in accordance with said statutes. The authority conferred on county auditors contained in this title as well as other provisions of statutes relating to district, county and precinct finances and accounts thereof shall be held subordinate to the powers given herein to the Commissioners Court. Provided that in addition to the emergency powers granted herein, there is also conferred upon the Commissioners Court the authority to provide for and cause to be made an independent audit of the aforesaid accounts and officials when the court, by order duly entered at any regular term, finds that the interest of the public would be best served thereby. Any contract entered into by said Commissioners Court for the audit provided herein shall be made in accordance with the statutes applicable to the letting of contracts by said court, payment for which may be made out of the public funds of the county in accordance with said statutes. The authority conferred on county auditors contained in this title as well as other provisions of statutes relating to district, county and precinct finances and accounts thereof shall be held subordi-

nate to the powers given herein to the Commissioners Court.

[Acts 1925, S.B. 84. Amended by Acts 1955, 54th Leg., p. 78, ch. 50, § 1; Acts 1973, 63rd Leg., p. 752, ch. 327, § 1, eff. June 12, 1973.]

Art. 1641a. Public Accountant in Certain Counties

In counties of a population of not less than 298,000 and not more than 355,000, according to the last Federal Census, that the Grand Jury of any County or the State Auditor when in the judgment of either, an imperative public necessity exists therefor, shall have authority to employ a disinterested, competent and expert public accountant for the same purposes authorized by Article 1641, or for any other necessary purpose; provided, however, that same shall not be made more than once every two years, except for the purposes of supplementing any audit theretofore made. The same notice shall be given as provided in the preceding Article, one week prior to the making of said contract with such Auditor, and the same shall be paid for out of the general funds of said County.

[Acts 1931, 42nd Leg., p. 842, ch. 353, § 1.]

Art. 1641b. Independent Audit of Finances and Offices in Counties of 40,000 to 100,000

Sec. 1. At any term of the District Court of any county in this State upon request of the grand jury of such county, the district judge of such county shall appoint an auditor, who shall be of good moral character and intelligence and an experienced accountant, to examine into the condition of the finances of said county. Said auditor shall examine all the books, accounts, reports, vouchers and orders of the Commissioners Court relating to the finances of the county, or such part thereof as may be ordered and directed by said district judge. Said auditor shall count all the money in the office of the county treasurer belonging to the county and make such other examination as he deems necessary and proper, or as may be ordered by said district judge in order to ascertain the true condition of the finances of the county. The Court shall, if necessary, upon the application of such auditor, summons witnesses and compel their attendance and require such witnesses to give such testimony as said auditor may desire; and said judge shall require the production of all books, records and any other evidence that such auditor may request or desire to aid in such investigation; and the said district judge shall have authority to punish for contempt any person violating any of the said orders of said district judge or any process issued under the provisions of this Act.

Sec. 2. Said auditor shall, at the earliest practicable date after his appointment, make to the said District Court a detailed written report stating the true condition of the finances of said county and whether the books and accounts required to be kept

by the provisions of law, are correctly kept in accordance with said provisions, and setting forth fully the condition of the finances of the county, and the state of each officer's account included within the scope and provisions of the order of said district judge; and shall point out and specify all irregularities, omissions and malfeasance of any kind that he may discover. Said report shall be signed and sworn to by said auditor and filed in the office of the district clerk of said county and the attention of the grand jury shall be called thereto as soon after the filing of said report as practicable.

Sec. 3. Said auditor shall be entitled to receive for his services a sum not to exceed Twenty-five Dollars (\$25) per day for the time that may be reasonably required in the performance of his duties under the provisions hereof. Said sum shall be paid out of the county treasury upon the certificate of the district judge, stating the number of days served and the total amount due such auditor as herein provided.

Sec. 3a. This Act shall apply in counties having not less than forty thousand (40,000) population nor more than one hundred thousand (100,000) population, according to the last preceding Federal Census.

[Acts 1947, 50th Leg., p. 957, ch. 411.]

Art. 1641c. Special Audit of County Records on Petition of Voters; Employment of Auditor

Sec. 1. In every county of this state there shall be a special audit of all the county records upon the filing of a petition of at least thirty per cent (30%) of the qualified voters residing in such county who voted in the last general election for Governor of Texas with any district judge having jurisdiction in the county.

Sec. 2. Upon receipt of such petition the district judge shall determine its validity and if he finds that thirty per cent (30%) of the qualified voters residing in the county who voted in the last general election for Governor of Texas have requested an audit of the county records he shall immediately employ a person having the qualifications prescribed by law for county auditors to prepare a special audit of all of the county records. The person so employed to prepare such special audit shall receive as compensation for his services a reasonable fee to be fixed by the district judge and paid out of the general fund or the officers' salary fund of the county.

Sec. 3. After the preparation of the audit it shall be filed with the district judge employing the auditor, and a copy shall be filed with the State Auditor.

Sec. 4. The provisions of this Act shall be cumulative of all other laws.

[Acts 1957, 55th Leg., p. 265, ch. 124.]

Art. 1641d. Annual Independent Audit of Books, Records and Accounts in Counties of 350,000 or More

Sec. 1. In every county in the State of Texas having a population of 350,000 inhabitants or more, according to the last preceding Federal Census, an annual independent audit shall be made of all books, records, and accounts of the district, county, and precinct officers, agents or employees, including regular auditors of the counties and all governmental units of the county hospitals, farms, and other institutions of the county, and all matters pertaining to the fiscal affairs of the county.

Sec. 2. In all counties in which this Act applies, the first independent audit shall be made in 1960 and completed prior to December 31, 1960, and thereafter an annual independent audit shall be made of all office books and records enumerated in Section 1 of this Act.

Sec. 3. The Commissioners Court in all counties affected by this Act shall employ a disinterested, competent, experienced public accountant or certified public accountant to audit all of the above records and accounts enumerated in Section 1 of this Act.

Sec. 4. At the regular meeting of the Commissioners Court in January, 1960, and at the regular meeting of the Commissioners Court in January each year thereafter, the Court shall enter into a contract with a disinterested, competent, experienced public accountant or certified public accountant to audit all the books and records of the county that are enumerated in Section 1 of this Act. It shall not be necessary that the Commissioners Court advertise for competitive bids before selecting the public accountant or certified public accountant to prepare the audit or audits required by the provisions of this Act, and the consideration specified in each contract shall be paid out of the general fund of the respective county.

Sec. 5. The audits provided for in this Act shall be in addition to any special audits that may be prepared pursuant to the provisions of Articles 1638, 1641 and 1641c, or any regular or special audit report that may be prepared by the regular county auditor.

[Acts 1959, 56th Leg., p. 249, ch. 144.]

Art. 1641e. Biennial Independent Audit of Books, Records and Accounts in Counties of 160,000 to 170,000

Sec. 1. In every county in the State of Texas having a population of not less than 160,000 inhabitants nor more than 170,000 inhabitants according to the last preceding federal census, a biennial independent audit shall be made of all books, records, and accounts of the district, county, and precinct officers, agents or employees, including regular auditors of the counties and all governmental units of the county hospitals, farms, and other institutions

of the county, and all matters pertaining to the fiscal affairs of the county.

Sec. 2. In all counties in which this bill applies, the first independent audit shall be made in 1962 and completed prior to December 31, 1962, and thereafter a biennial independent audit shall be made of all office books and records enumerated in Section 1 of this Act. Thereafter, said audit shall be made on the even-numbered years in such counties and the audit report shall be completed before December 31st of such year.

Sec. 3. The Commissioners Court in all counties affected by this Act shall employ a disinterested, competent, experienced public accountant or certified public accountant to audit all of the above records and accounts enumerated in Section 1 of this Act.

Sec. 4. At the first regular meeting of the Commissioners Court in January 1962, and at the regular meeting of the Commissioners Court in January every two (2) years thereafter, the Court shall enter into a contract with a disinterested, competent, experienced public accountant or certified public accountant to audit all the books and records of the county that are enumerated in Section 1 of this Act. It shall not be necessary that the Commissioners Court advertise for competitive bids before selecting the public accountant or certified public accountant to prepare the audit or audits required by the provisions of this Act, and the consideration specified in each contract shall be paid out of the general fund of the respective county.

Sec. 5. Nothing in this Act shall be construed so as to prevent any county coming under the provisions of this Act from having an annual independent audit made of the records covered by this Act, provided that when such annual independent audit reports covering such books, accounts and records are completed prior to December 31st of each year such annual independent audits may be considered as compliance with the audits provided by this Act.

Sec. 6. The audits provided for in this Act shall be in addition to any special audits that may be prepared pursuant to the provisions of Articles 1638, 1641 and 1641c, or any regular or special audit report that may be prepared by the regular county auditor.

[Acts 1961, 57th Leg., p. 364, ch. 183. Amended by Acts 1971, 62nd Leg., p. 1820, ch. 542, § 19, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 2373, ch. 734, § 1, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 562, ch. 237, § 14, eff. Sept. 1, 1981.]

Art. 1642. Requisites of Report

All reports required under any provision of this title shall be in writing and sworn to by the officer making the same, before some officer authorized to administer oaths; and all such monthly reports shall be filed within five days after the end of each month.

[Acts 1925, S.B. 84.]

Art. 1643. Warrants Attested

All warrants or scrip issued against the county treasurer by any judge or court shall be signed and attested by the clerk or judge of the court issuing the same, under his official seal. No justice of the peace shall have authority to issue warrants against the treasury for any purpose whatever, except as provided in the Code of Criminal Procedure.

[Acts 1925, S.B. 84.]

Art. 1644. Compensation of Clerk

The clerk shall receive annually as compensation for the labor performed in keeping the finance ledger and making the quarterly statement required by this title, the sum of five dollars for each one thousand dollars tax assessed as due the county, to be paid quarterly on order of the commissioners court out of the general fund of the county; provided, the same be not less than one hundred nor more than two hundred and fifty dollars per annum.

[Acts 1925, S.B. 84.]

Art. 1644a. Expenses of Survey for Drainage, etc., or Water Control

In any county in this State having taxable values of two hundred ninety million dollars or more, according to the latest approved tax rolls of the county, the Commissioners' Court may spend not to exceed \$15,000.00 in any one year out of the general fund of the county for the purpose of making a preliminary engineering survey relating to drainage, reclamation, conservation, levee improvement, or water control.

[Acts 1929, 41st Leg., p. 342, ch. 159, § 1.]

Art. 1644a-1. Surveys of Water Resources for Use Within County; Expenditure for by Certain Counties; Referendum

Sec. 1. Any county of this State having a river flowing through or forming a part of the boundary of such county is hereby authorized to make expenditures from the General Fund or any other available fund of the county for the purpose of conducting investigations and assembling information relative to the present and prospective water needs of its inhabitants and the feasibility of developing the water resources of the river for uses within the county upon approval of such expenditure at an election as hereinafter provided.

Sec. 2. Before any expenditure authorized in Section 1 is incurred, the Commissioners Court shall fix the maximum amount of the expenditure and shall submit to the qualified taxpaying voters of the county, at an election ordered for that purpose, the proposition of whether such expenditure shall be incurred. The election shall be ordered and conducted in accordance with the General Election laws of this State. The ballots at the election shall have printed thereon the propositions:

"FOR the expenditure of county funds for the purpose of making a survey of water resources, in an amount not to exceed _____ Dollars."

"AGAINST the expenditure of county funds for the purpose of making a survey of water resources, in an amount not to exceed _____ Dollars."

If a majority of the ballots cast are in favor of such expenditure, the Commissioners Court shall have authority to contract for professional services and incur such other expenses as may be necessary, not to exceed the maximum amount fixed for this purpose. If the majority of the ballots cast are opposed to such expenditure, the Commissioners Court shall not be authorized to make any expenditure for this purpose, and no further election shall be held for a period of two (2) years thereafter. [Acts 1955, 54th Leg., p. 973, ch. 378.]

Art. 1644b. Authorizing Counties to Purchase Property to Satisfy Claims

Sec. 1. That any county in this State whose population according to the last preceding United States Census did not exceed Fifteen Thousand (15,000), having at the time of the passage of this Act, any claim for money against any person, partnership, corporation, joint stock or other association, and whose claim shall amount to at least fifty (50%) per cent of all the claims against such debtor, and the property of such person, partnership, corporation, joint stock or other association shall be sold, within two years from the date this Act shall become effective, under any proceedings in bankruptcy, receivership, or in any other judicial proceeding whatever, and the Commissioners' Court of such county shall be of the opinion that it is necessary or advisable, in the protection of the interests of such county so to do, the said Commissioners' Court be, and is hereby authorized to purchase any or all of the property of such debtor or debtors so sold, within two years from the date this Act shall become effective, when offered for sale by any trustee in bankruptcy, receiver, or by any other officer under the order of any court for such price as the Commissioners' Court may deem advisable and for the best interests of the county, and to have such property by said trustee in bankruptcy, receiver, or other judicial officer conveyed and transferred to the county.

Sec. 2. The Commissioners' Court of any such county is hereby expressly authorized and empowered to borrow money on the credit of the county, and to execute or cause to be executed the obligations of the county therefor, for the purpose of making such purchase or purchases; and it is further expressly authorized to pledge, hypothecate or mortgage any property so purchased to secure the payment of all sums so borrowed.

Sec. 3. The said Commissioners' Court is hereby expressly granted the full power and authority to determine upon what terms, for what length of time

and at what rate of interest said sums shall be borrowed.

Sec. 4. Said Commissioners' Court is further hereby expressly authorized to liquidate all assets so purchased for the use and benefit of the county, in any manner that a private individual might liquidate such assets, and to sell and convey all or any of the properties so acquired, either for cash or upon credit, for such length of time and at such rate of interest as said court may deem advisable and to sue upon any obligations so acquired or contracted to said county, and to pay any and all expenses and costs incurred in connection with all or any of the foregoing matters from said property or the proceeds of the sale or liquidation thereof, the net proceeds received by said county to be paid to and for the use and benefit of the respective funds of the county to which said original claim belonged pro rata.

[Acts 1933, 43rd Leg., p. 620, ch. 206.]

Art. 1644c. Counties, Cities, and Other Subdivisions of State Authorized to Borrow Money from Federal Agencies

Sec. 1. All counties of this State in which there has been damage to public and private property from a tropical hurricane during the year, 1933, and cities, towns, independent school districts, common school districts, water improvement districts, water control and improvement districts, navigation districts, drainage districts, and any and all other public municipal corporations, organized and existing under the Constitution and Laws of this State located in such counties; and all private corporations, created under the Laws of Texas, providing for corporations without capital stock, and the shareholders of which are prohibited from receiving any income of any kind from such corporation, are hereby expressly authorized and empowered to borrow money, and to receive grants and other aid from the Government of the United States, from the Federal Emergency Administrator of Public Works, the Reconstruction Finance Corporation, the Federal Reserve Banks, and any and all other agencies of the Government of the United States, which now are or hereafter may be authorized to make such loans or grants on such terms and in such amounts as may be agreed upon with the lending agency.

Sec. 2. The several counties, cities, towns, and other public municipal corporations above enumerated and described, are further hereby expressly authorized and empowered to issue warrants or other obligations of such counties, cities, towns or other public municipal corporations, in evidence of money borrowed from the Government of the United State or from its agencies, which warrants or obligations may draw interest at any rate not to exceed six per centum (6%) per annum, and may be payable within such time and on such terms as may be agreed upon between the lending agency and the public municipal corporation to which the loan is made; and such counties, cities, towns, and other public municipal

corporations are further expressly authorized to pledge the taxes and/or revenues provided for such counties, cities, towns, and other public municipal corporations, under the Constitution and Laws of this State, in payment of such loans made to them by the Government of the United States, or any agency of such Government. Provided, however, that the powers to issue warrants or other obligations by the governing boards of the public municipal corporations herein enumerated or referred to shall be contingent upon an affirmative authorizing vote by a majority of the qualified voters voting in an election called for that purpose under conditions set forth in the statutes governing special elections, except where the warrants or other evidences of obligations are issued for funds to be used to repair damage caused by any tropical hurricane during the year 1933.

Sec. 3. All funds granted or lent to counties, cities, towns, or other public municipal corporations of this State by the Government of the United States or any agency of such Government shall be administered by the officers of such public municipal corporation in the same manner that construction and maintenance funds of such corporations are required to be administered under the Constitution and Laws of this State.

Sec. 4. All funds granted or lent to non-profit corporations by the Government of the United States, or any agency of such Government, shall be administered by the officers of such non-profit corporation in accordance with its by-laws and under such rules and regulations as the lending agency may prescribe; and may be lent by such corporations to persons, firms, and corporations that have been injured or damaged by a tropical hurricane during the year, 1933.

[Acts 1933, 43rd Leg., 1st C.S., p. 327, ch. 118.]

Art. 1644c-1. Authority to Borrow Money in Counties of 8,300 to 8,600

Sec. 1. All counties of this State having a population of more than eight thousand, three hundred (8,300) but less than eight thousand, six hundred (8,600) according to the last preceding United States Census, are hereby expressly authorized and empowered to borrow money from any source, public or private, in any amount not to exceed the aggregate principal amount of One Hundred and Sixty-five Thousand Dollars (\$165,000). By the term "aggregate principal amount" is meant the total of the sums so borrowed by any county under the provisions of this Act, and not the balance owing and due by any county at any one time.

Sec. 2. Such counties are further hereby expressly authorized and empowered to issue time warrants and/or other obligations of such counties in evidence of money borrowed, which warrants or obligations may draw interest at any rate not to exceed four percent (4%) per annum, and may be payable within such time, not to exceed ten (10)

years, and on such terms as may be agreed upon between the lending agency and the county to which the loan is made; and such counties are further expressly authorized to levy taxes and to pledge any taxes and/or revenues provided for such counties, under the Constitution and Laws of this state, in payment of such loans.

Sec. 3. The Commissioners Court of any such county qualifying under Section 1 is empowered with authority to approve the issuance of such warrants or obligations which may be in any amount or amounts, providing that the total of such warrants or obligations does not exceed One Hundred and Sixty-five Thousand Dollars (\$165,000). No such warrants or obligations shall be issued, sold or delivered after five years from the effective date of this Act.

Sec. 4. Such warrants or obligations, upon approval by the Commissioners Court, shall be signed by the county judge and county clerk of such county.

Sec. 5. Such warrants or obligations, when issued and signed in accordance with the provisions of this Act, shall constitute valid obligations of such counties.

Sec. 6. This Act shall be cumulative of all other Laws, General and Special, relating to the subject matter hereof.

[Acts 1961, 57th Leg., p. 445, ch. 218. Amended by Acts 1971, 62nd Leg., p. 1821, ch. 542, § 21, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 562, ch. 237, § 15, eff. Sept. 1, 1981.]

Art. 1644d. Validation of Purchases by Counties to Satisfy Claims

All purchases, pursuant to Legislative enactment of the property of any debtor or debtors, at any sale under any proceedings bankruptcy, receivership or in any other judicial proceeding whatever, heretofore made by any county in this State whose population did not exceed fifteen thousand (15,000) according to the last United States Census, and which had a claim or claims for money against any such person, partnership, corporation, joint stock or other associations, amounting to at least fifty (50) per cent of all the claims against such debtor, and where the Commissioners Court of any such county has deemed it necessary or advisable to so purchase said property to protect the interest of such county, and all conveyances, transfers and assignments to any such county of real and personal property so purchased, and the liquidation of such assets by the Commissioners Court of any such county heretofore done, and all sales, conveyances, transfers and assignments of real and personal property, oil, gas and mineral leases, and other transfers, conveyances and assignments made by any such county to any and all purchasers in connection therewith, whether such sales were made at public or private sale, be

and the same are here and now in all things fully and completely validated, ratified and confirmed. [Acts 1935, 44th Leg., p. 231, ch. 94, § 1.]

Art. 1644e. Fiscal Year

Sec. 1. The commissioners court of a county at a regular meeting may adopt an order making the fiscal year of the county a one-year period beginning on October 1 of each year.

Sec. 2. The fiscal year of a county is a calendar year unless the commissioners court has adopted a fiscal year that begins on October 1 pursuant to Section 1 of this Act.

Sec. 3. If the commissioners court of a county adopts a fiscal year that begins on October 1, it may revert to a fiscal year based on a calendar year by adopting an order to that effect at a regular meeting.

Sec. 4. If a law prescribes a certain date or month each year for taking action with regard to a county budget, and the law is based on the assumption that the county fiscal year is a calendar year, in counties that have a fiscal year that begins on October 1 the law shall be construed as prescribing a date or month three months earlier than the date or month specified in the law.

[Acts 1975, 64th Leg., p. 1928, ch. 627, §§ 1 to 4, eff. Sept. 1, 1975.]

Art. 1644f. Contracts for Deposit of Public Funds in Counties of Less Than 200,000

The commissioners court of any county with a population of less than 200,000 is hereby authorized at the February regular term thereof to enter into a contract with any banking corporation, association, or individual banker in such county for the depositing of the public funds of such county in such bank or banks; provided, however, that such commissioners court is required at the February regular term thereof next following each general election to enter into such contracts for the depositing of public funds. Notice that such contracts will be made by the commissioners court shall be published by and over the name of the county judge once each week for at least 20 days before the commencement of such term in some newspaper published in said county, and if no newspaper be published therein, then in any newspaper published in the nearest county. In addition thereto, notice shall be published by posting same at the courthouse door of said county.

[Acts 1979, 66th Leg., p. 1660, ch. 694, § 1, eff. Aug. 27, 1979.]

2. COUNTY AUDITOR

Art. 1645. Appointment in Certain Counties; Term of Office; Compensation

Sec. 1. In any county having a population of 10,000 inhabitants or over according to the last

preceding Federal Census, there shall be appointed every two years an auditor of accounts and finances, the title of said office to be County Auditor, who shall hold his office for two years and who shall receive as compensation for his services an annual salary from the County General Fund of not more than the amount allowed or paid the Assessor-Collector of Taxes in his county, such salary of the County Auditor to be fixed and determined by the District Judge or District Judges making such appointment and having jurisdiction in the county, a majority ruling, said annual salary to be paid monthly out of the General Fund of the county. The action of the District Judge or District Judges in determining and fixing the salary of the County Auditor shall be made by order and recorded in the minutes of the District Court of the county and the Clerk thereof shall certify the same for observance to the Commissioners Court which shall cause the same to be recorded in its minutes.

Sec. 2. In addition to the procedure for the appointment of a County Auditor prescribed by Article 1646, a County Auditor may be appointed in a county in which the office is not required under Section 1 of this article if the District Judge or District Judges having jurisdiction in the county, by majority vote, determine that the county's financial circumstances warrant the appointment. The provisions of Section 1 of this article relating to salary and term of office apply to a County Auditor appointed under this section. A County Auditor appointed under this section shall qualify for office and perform the duties of a County Auditor as provided by law.

Sec. 3. At least once every two years, the Commissioners Court of a county not having the office of County Auditor shall have conducted an independent audit of the books, records, and accounts of the county's officers, agents, and employees and of any other matters relating to the county's fiscal affairs.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 104, ch. 35, § 1; Acts 1929, 41st Leg., 1st C.S., p. 62, ch. 28, § 1; Acts 1931, 42nd Leg., 2nd C.S., p. 29, ch. 15, § 1; Acts 1937, 45th Leg., 1st C.S., p. 1826, ch. 45, § 3; Acts 1939, 46th Leg., Spec.Laws, p. 595, § 1; Acts 1941, 47th Leg., p. 1331, ch. 601, § 1; Acts 1949, 51st Leg., p. 1068, ch. 552, § 1; Acts 1955, 54th Leg., p. 1117, ch. 414, § 1; Acts 1979, 66th Leg., p. 870, ch. 395, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2616, ch. 701, § 1, eff. Aug. 31, 1981.]

Section 2 of the 1981 amendatory act provides:

"A county auditor serving a county in which the office is no longer required because of this Act serves until the day his term expires unless he is reappointed under Article 1646 or Section 2 of Article 1645, Revised Civil Statutes of Texas, 1925."

Art. 1645a. County Auditors in Counties of 19,150 to 19,175 Inhabitants

In any county having a population of not less than nineteen thousand, one hundred and fifty (19,150) nor more than nineteen thousand, one hundred and seventy-five (19,175) according to the last preceding Federal Census, there shall be biennially

appointed an auditor of accounts and finances, the title of said officer to be "County Auditor," who shall hold his office for two (2) years and who shall receive as compensation for his services the sum of Eighteen Hundred Dollars (\$1800) per annum payable in equal monthly installments out of the General Fund of the county upon order of the Commissioners Court.

[Acts 1937, 45th Leg., p. 606, ch. 305, § 1.]

Art. 1645a-1. County Auditors in Certain Counties to Act as Purchasing Agents; Compensation

Sec. 1. That in all counties having a population of not less than twenty-four thousand, one hundred twenty-five (24,125) nor more than twenty-four thousand, one hundred fifty (24,150), according to the last preceding Federal Census, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for the county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent the sum of Six Hundred (\$600.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addition to that allowed by law for such Auditor, and to be payable out of the General Revenue of such county. Provided that in all counties having a population of not less than forty-three thousand (43,000) and not more than forty-three thousand, one hundred (43,100) according to the last preceding Federal Census, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for the county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent the sum of Six Hundred (\$600.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addition to that allowed by law for such Auditor, and to be payable out of the General Revenue of such county. Provided further, that in all counties having a population in excess of sixty-five thousand (65,000) inhabitants according to the last preceding Federal Census, and having a tax valuation of not more than Forty Million (\$40,000,000.00) Dollars according to the last approved tax rolls, and containing at least two incorporated cities of more than thirteen thousand, five hundred (13,500) population each, according to the last preceding Federal Census, such Auditor shall, in addition to his regular duties as Auditor, constitute the Purchasing Agent of such county when so directed by order of the Commissioners Court of such county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent a sum not to exceed Nine Hundred (\$900.00) Dollars annually, payable in twelve (12) equal monthly installments, and such compensation shall be in addition to that allowed by law for such Auditor, and payable out of the General Revenue of such county.

Sec. 2. That in all counties having a population of not less than ninety thousand (90,000) inhabitants nor more than two hundred twenty-five thousand (225,000) inhabitants according to the last preceding Federal Census, and having a tax valuation of not less than One Hundred Twenty Million (\$120,000,000.00) Dollars and not more than One Hundred Fifty Million (\$150,000,000.00) Dollars, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for such county when so directed by order of the Commissioners Court of such county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent a sum not to exceed One Thousand Five Hundred (\$1,500.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addition to that allowed by law for such Auditor, and to be payable out of the General Revenue of such county.

[Acts 1937, 45th Leg., p. 639, ch. 313, § 1. Amended by Acts 1939, 46th Leg., Spec.Laws, p. 600, § 1; Acts 1949, 51st Leg., p. 680, ch. 353, § 1.]

Art. 1645a-2. County Auditor's Office in Counties of 28,700 to 29,000 Abolished; County Auditors in Counties of 27,545 to 27,555 Population

Sec. 1. No county having a population of not less than twenty-eight thousand seven hundred (28,700), nor more than twenty-nine thousand (29,000), according to the last preceding, or any future Federal Census, shall have a county auditor, and the office of county auditor is hereby abolished, in any and all such counties, and the duties of the office of county auditor, in any such counties, shall be performed by such other officers of the county, as may be provided by General Law.

Sec. 1-a. In any county having a population of not less than twenty-seven thousand five hundred forty-five (27,545), nor more than twenty-seven thousand five hundred fifty-five (27,555), according to the last preceding Federal Census, there shall be biennially appointed an auditor of accounts and finances, the title of said officer to be "County Auditor," who shall hold his office for two (2) years and who shall receive as compensation for his services not less than Eighteen Hundred (\$1800.00) Dollars nor more than Twenty-four Hundred (\$2400.00) Dollars per annum payable in equal monthly installments out of the General Fund of the county upon order of the Commissioners' Court.

[Acts 1937, 45th Leg., 1st C.S., p. 1778, ch. 17.]

Art. 1645a-3. Appointment of County Auditors in Counties of 20,100 to 20,150 Population and Less Than \$15,000,000 Tax Valuation

Sec. 1. In any county having a population of not less than twenty thousand, one hundred (20,100) nor more than twenty thousand, one hundred and fifty (20,150), according to the last preceding Federal

Census, and having a tax valuation of less than Fifteen Million Dollars (\$15,000,000), according to the last approved tax roll, if the Commissioners Court of such county shall determine that an auditor is a public necessity in the dispatch of the business of the county, such Commissioners Court may enter an order so stating and may appoint an auditor of accounts and finances, the title of said office to be "County Auditor," who shall qualify and perform all the duties required of County Auditors in this State, and who shall receive as compensation for his services a salary not to exceed Eighteen Hundred Dollars (\$1800) annually; said salary to be set by the Commissioners Court and to be paid monthly out of the General Revenue of the county upon order of the Commissioners Court; provided the Commissioners Court may by its order discontinue such office at any time it may find such office is not a public necessity.

[Acts 1937, 45th Leg., 2nd C.S., p. 1951, ch. 50, § 1.]

Art. 1645a-4. Salary of Auditor in Certain Counties

In all Counties containing a population of not less than fifty-one thousand seven hundred seventy-nine (51,779), nor more than fifty-two thousand (52,000) according to the last preceding Federal Census, the County Auditor shall receive a salary of not more than Four Thousand (\$4,000.00) Dollars per annum, payable in equal monthly installments upon order of the Commissioners' Court.

[Acts 1939, 46th Leg., Spec.Laws, p. 598, § 1.]

Art. 1645a-5. Auditors in Counties of 33,200 to 33,600

Auditors in counties of thirty-three thousand, two hundred (33,200) to thirty-three thousand, six hundred (33,600).

In every county in this State having a population of not less than thirty-three thousand, two hundred (33,200) and not more than thirty-three thousand, six hundred (33,600), according to the last preceding Federal Census, the District Judge having jurisdiction in such county shall, if such reason be good and sufficient, appoint a County Auditor as provided in Article 1646, of the Revised Civil Statutes of Texas, of 1925, and said Auditor shall receive a salary of not less than Three Thousand Dollars (\$3,000) nor more than Thirty-six Hundred Dollars (\$3600) per year, and same shall be paid in the same manner as other county officers are paid in said counties.

[Acts 1939, 46th Leg., Spec.Laws, p. 594, § 1. Amended by Acts 1941, 47th Leg., p. 844, ch. 519, § 1; Acts 1949, 51st Leg., p. 941, ch. 515, § 1.]

Art. 1645a-6. County Auditors in Counties of 14,850 to 14,920 Population; Qualification; Salary

Sec. 1. From and after the effective date of this Act in all counties in this State having a population of not less than fourteen thousand, eight hundred

and fifty (14,850), and not more than fourteen thousand, nine hundred and twenty (14,920), according to the last preceding Federal Census, or any subsequent Federal Census, the Commissioners Court in such counties, if they shall determine that an Auditor is a public necessity in the dispatch of the county business, and shall enter an order upon the minutes of said Court, fully setting out the reasons and necessities for such Auditor, and shall cause said order to be certified to the District Judge having jurisdiction in the counties hereinabove set out, said Judge shall, if such reasons be considered good and sufficient, appoint a County Auditor as provided in Article 1647 of the Revised Civil Statutes of Texas of 1925, and upon the appointment by said Judge of such Auditor, such Auditor shall qualify by taking the oath of office and giving the bond as now provided in Article 1649 of the Revised Civil Statutes of Texas of 1925.

Sec. 2. When the Auditor, as hereinabove provided, shall have qualified by taking the oath and giving the bond, as provided in Section 1 hereof, he shall be authorized to perform all the duties now required of Auditors generally in counties of this State, as provided in Title 34 of the Revised Civil Statutes of Texas, 1925, and amendments thereto not in conflict herewith, and shall receive a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, said salary to be paid in equal monthly installments and shall be paid from the County General Fund, of such counties, the Jury Fund, the Road and Bridge Fund, the Permanent Improvement Fund, in proportion and on the percentage of levies made for each respective Fund, and in proportion that such levies bear to the total salary of such Auditor.

Sec. 3. This Act shall be deemed cumulative of all general provisions now authorizing the employment of Auditors, and it is not intended by this Act to repeal any law, or parts of law, not in conflict herewith.

[Acts 1939, 46th Leg., Spec. Laws, p. 591.]

Art. 1645a-7. Abolition of Office of County Auditor in Counties of 25,500 to 25,610

No County having a population of not less than twenty-five thousand five hundred fifty (25,550), nor more than twenty-five thousand six hundred ten (25,610), according to the last preceding or any future Federal Census, shall have a County Auditor, and the office of County Auditor is hereby abolished in any and all such Counties, and the duties of the office of County Auditor in such Counties shall be performed by such other officers of the County, as may be provided by General Law.

[Acts 1941, 47th Leg., p. 36, ch. 22, § 2.]

Art. 1645a-8. County Auditors in Counties of 25,450 to 25,500; Appointment; Compensation; Term of Office

In any county having a population of not less than twenty-five thousand, four hundred and fifty

(25,450) nor more than twenty-five thousand, five hundred (25,500) according to the last preceding Federal Census, there shall be biennially appointed an auditor of accounts and finances, the title of said officer to be "County Auditor," who shall hold his office for two (2) years and who shall receive as compensation for his services the sum of Eighteen Hundred Dollars (\$1800) per annum payable in equal monthly installments out of the General Fund of the county upon order of the Commissioners Court.

[Acts 1941, 47th Leg., p. 721, ch. 447, § 1.]

Art. 1645a-9. Office Abolished in Counties of 3,000 to 25,500

No County Auditor shall hereafter be appointed in any county having a population of not more than twenty-five thousand, five hundred (25,500) and not less than three thousand (3,000) where no such County Auditor has been appointed by the District Judge prior to the effective date of this Act, except upon the petition of the County Commissioners Court and in all such counties the duties of such County Auditor in such County shall be performed by other officers as may be prescribed by general law.

[Acts 1951, 52nd Leg., p. 693, ch. 399, § 1. Amended by Acts 1953, 53rd Leg., p. 574, ch. 217, § 1.]

Art. 1645a-10. Auditors in Counties of 2,000,000 or More; Election by Judges; Term of Office

Sec. 1. In any county having a population of 2,000,000 or more, according to the last preceding federal census, the district judges having jurisdiction in the county, shall nominate candidates for the office of county auditor. Each judge may nominate as many candidates as he wishes. The office of county auditor shall be filled by the candidate receiving a two-thirds vote of the district judges having jurisdiction in the county at a meeting held for that purpose and the vote of a district judge shall not be counted unless he is present at the meeting.

Sec. 2. The term of office of the county auditor in counties to which this Act applies is two years, beginning on January 1 of odd-numbered years. The initial appointee under this Act shall be appointed within 20 days after this Act takes effect and shall serve for the unexpired portion of the term of office specified in this section.

[Acts 1971, 62nd Leg., p. 2633, ch. 864, §§ 1, 2, eff. June 9, 1971. Amended by Acts 1981, 67th Leg., p. 563, ch. 237, § 16, eff. Sept. 1, 1981.]

Sections 3 and 4 of the 1971 Act provide:

"Sec. 3. As used in this Act, 'the last preceding federal census' means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes.

"Sec. 4. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be

given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 1645a-11. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 1645a-12. Abolition of Office of County Auditor in McCulloch County; Election; Audit

Sec. 1. The office of county auditor of McCulloch County is abolished.

Sec. 2. The Commissioners Court of McCulloch County shall require that an annual audit of their books and records be made by an outside Certified Public Accounting Firm selected by the commissioners court with the approval of the district judge of the state judicial district in which McCulloch County is located. Such annual audit shall verify, among other things, that all expenditures of funds authorized by the Court were made according to applicable law.

Sec. 3. This Act takes effect only if and when an election is called and held by the commissioners court in which the ballots are printed to provide for voting for or against the proposition, "Abolishing the office of county auditor," and in which a majority of the qualified voters of the county voting on the proposition vote in favor of the proposition as shown by the official canvass of the returns of the election by the commissioners court.

[Acts 1973, 63rd Leg., p. 1290, ch. 479, eff. June 14, 1973.]

Art. 1645a-13. Abolition of Office of County Auditor in Culberson County; Election; Audit

Sec. 1. The office of county auditor of Culberson County is abolished.

Sec. 2. The Commissioners Court of Culberson County shall require that an annual audit of their books and records be made by an outside Certified Public Accounting Firm selected by the commissioners court with the approval of the district judge of the state judicial district in which Culberson County is located. Such annual audit shall verify, among other things, that all expenditures of funds authorized by the Court were made according to applicable law.

Sec. 3. This Act takes effect only if and when an election is called and held by the commissioners court in which the ballots are printed to provide for voting for or against the proposition, "Abolishing the office of county auditor," and in which a majority of the qualified voters of the county voting on the proposition vote in favor of the proposition as shown by the official canvass of the returns of the election by the commissioners court.

[Acts 1973, 63rd Leg., p. 1380, ch. 531, eff. Aug. 27, 1973.]

Art. 1645b. County Auditor's Salary in Counties of 42,100 to 42,500

In all counties containing a population of not less than forty-two thousand, one hundred (42,100) nor more than forty-two thousand, five hundred (42,500) according to the Federal Census of 1930, the County Auditor shall receive a salary not less than Three Thousand, Six Hundred (\$3,600) per annum, payable in equal monthly installments upon order of the Commissioners Court.

[Acts 1937, 45th Leg., p. 158, ch. 84, § 1.]

Art. 1645c. Compensation of County Auditors in Counties of 49,010 to 49,100 Population

In every county in this State having a population of not less than forty-nine thousand, ten (49,010) nor more than forty-nine thousand, one hundred (49,100) inhabitants according to the last preceding United States Census, the compensation of each County Auditor shall be Three Thousand Dollars (\$3,000) per annum to be paid in equal monthly installments out of funds of said county.

[Acts 1937, 45th Leg., p. 852, ch. 420, § 1.]

Art. 1645c-1. Compensation of County Auditors in Counties of 77,600 to 131,000 Population

In all counties of this State having a population of not less than seventy-seven thousand six hundred (77,600) inhabitants nor more than one hundred thirty-one thousand (131,000) inhabitants, according to the last Federal Census, as same now exists or may hereafter exist, and having an assessed valuation of not less than Forty-five Million and One Dollars (\$45,000,001.00) nor more than Sixty-three Million Five Hundred Thousand Dollars (\$63,500,000.00), according to the last approved tax rolls, as same now exists or may hereafter exist, the County Auditor shall receive an annual salary from county funds of Forty-two Hundred Dollars (\$4200.00) to be paid in equal monthly installments out of the general revenues of the county.

[Acts 1937, 45th Leg., 1st C.S., p. 1798, ch. 24, § 4. Amended by Acts 1939, 46th Leg., Spec.Laws, p. 599, § 1.]

Art. 1645c-2. Compensation of County Auditors in Counties of 24,900 to 25,000

From and after the effective date of this Act in all counties having a population according to the last Federal Census of not less than twenty-four thousand, nine hundred (24,900) and not more than twenty-five thousand (25,000), the County Auditors of such counties shall receive an annual salary of Two Thousand, Four Hundred Dollars (\$2,400), to be paid in twelve (12) equal monthly installments out of the general fund of such counties.

[Acts 1941, 47th Leg., p. 120, ch. 93, § 1.]

Art. 1645d. Compensation of County Auditors in Counties of 39,100 to 39,200 Population

In all counties in this State having a population of not less than thirty-nine thousand, one hundred (39,100), nor more than thirty-nine thousand, two hundred (39,200), according to the last preceding United States Census, the County Auditor shall receive a salary of Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable in twelve (12) equal monthly installments out of the General Funds of said county.

[Acts 1937, 45th Leg., 2nd C.S., p. 1908, ch. 29, § 1.]

Art. 1645d-1. Compensation of County Auditors in Counties of 45,000 to 50,000 Population

In all counties in this State having a population of not less than forty-five thousand (45,000) inhabitants nor more than fifty thousand (50,000) inhabitants, according to the last Federal Census, as same now exists or may hereafter exist, the County Auditor shall receive an annual salary from county funds of Four Thousand Dollars (\$4,000) to be paid in equal monthly installments out of the general revenues of the county.

[Acts 1937, 45th Leg., 1st C.S., p. 1798, ch. 24, § 5.]

Art. 1645d-2. Compensation of County Auditors in Counties of 49,100 to 51,000 Population

In all Counties in this State having a population of not less than forty-nine thousand, one hundred (49,100) and not more than fifty-one thousand (51,000) inhabitants according to the 1930 Census of the United States, the County Auditor shall receive a salary of Four Thousand (\$4,000.00) Dollars per annum, to be paid in equal monthly installments out of the General Revenues of the County.

[Acts 1939, 46th Leg., Spec.Laws, p. 597, § 1.]

Art. 1645d-3. Compensation of County Auditor in Counties of 27,250 to 27,490 Population

From and after the effective date of this Act in all counties having a population according to the last Federal Census of not less than twenty-seven thousand, two hundred and fifty (27,250) and not more than twenty-seven thousand, four hundred and ninety (27,490), the County Auditor of such counties shall receive an annual salary of Two Thousand, Four Hundred Dollars (\$2,400) to be paid in twelve (12) equal monthly installments out of the general fund of such counties.

[Acts 1939, 46th Leg., Spec.Laws, p. 593, § 1.]

Art. 1645d-4. Repealed by Acts 1943, 48th Leg., p. 458, ch. 307, § 1**Art. 1645e. Compensation of County Auditors in Counties of 190,000 to 200,000 Population**

In every county in this State having a population of not less than one hundred and ninety thousand

(190,000) nor more than two hundred thousand (200,000) inhabitants according to the last preceding United States Census, the compensation of each County Auditor shall be Forty-eight Hundred Dollars (\$4800) per annum to be paid in equal monthly installments out of funds of said county.

[Acts 1937, 45th Leg., 1st C.S., p. 1798, ch. 24, § 1.]

Art. 1645e-1. Compensation of County Auditors in Certain Counties

In every county in this State having a population of less than thirty-three thousand (33,000), according to the last preceding Federal Census, and having assessed property valuation of more than Eighty Million Dollars (\$80,000,000), according to the last approved tax rolls, the compensation of each County Auditor shall not exceed Four Thousand, Two Hundred Dollars (\$4,200); and in every county in this State having a population of not less than thirty-four thousand, one hundred and forty-five (34,145), nor more than thirty-four thousand, one hundred and sixty (34,160), according to the last preceding Federal Census, the County Auditor shall not receive more than Three Thousand Dollars (\$3,000) per year; that in every county in this State having a population of not less than forty-six thousand, one hundred and seventy-nine (46,179), nor more than forty-nine thousand, and twenty (49,020), according to the last preceding Federal Census, the compensation of each County Auditor shall be Three Thousand Dollars (\$3,000) per annum; and providing that in counties having a population of not less than forty-eight thousand, six hundred (48,600), nor more than forty-nine thousand (49,000), according to the last preceding Federal Census, the compensation of each County Auditor shall be Three Thousand, Six Hundred Dollars (\$3,600); such salaries to be payable in equal monthly installments.

[Acts 1937, 45th Leg., 2nd C.S., p. 1902, ch. 25, § 1.]

Art. 1645e-2. Compensation of County Auditors in Certain Counties

In all counties in this State having a population of not less than twenty-four thousand, five hundred (24,500) and not more than twenty-four thousand, seven hundred (24,700) inhabitants, according to the last preceding Federal Census, and having an assessed valuation in excess of Twenty Million Dollars (\$20,000,000) according to the last preceding approved tax roll of such counties, the County Auditor shall receive as compensation for his services a salary of One Hundred and Fifty Dollars (\$150) for each One Million Dollars (\$1,000,000) or major portion thereof on the assessed valuation of said county, such annual salary to be computed from the last approved tax roll, and to be paid in twelve (12) monthly installments or in the same manner as other county officers are paid in said counties.

[Acts 1941, 47th Leg., p. 544, ch. 339, § 1.]

Art. 1645e-3. Compensation of County Auditors in Certain Counties

In all counties with a population of more than 97,000 but not more than 99,000, or more than 111,000 but not more than 121,000, or more than 128,000 but not more than 128,400, according to the last preceding federal census, the annual salary of the county auditor shall be in an amount determined by the district judge or judges having authority to appoint the county auditor, and shall not exceed the annual salary of the county judge.

[Acts 1975, 64th Leg., p. 1243, ch. 466, § 1, eff. June 19, 1975. Amended by Acts 1981, 67th Leg., p. 563, ch. 237, § 17, eff. Sept. 1, 1981.]

Art. 1645e-4. Compensation of Auditors in Rusk and Cameron Counties

The county auditor of Rusk County and the county auditor of Cameron County are entitled to compensation as determined by the district judge or judges having jurisdiction in Rusk County and Cameron County, respectively, but the compensation may not exceed the total compensation the county judge of the appropriate county receives from all sources.

[Acts 1977, 65th Leg., p. 1420, ch. 578, § 1, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 4907, ch. 870, § 1, eff. June 19, 1983.]

Art. 1645f. Additional Duties of County Auditors in Counties of 190,000 to 200,000 Population Having City and County Hospital

In counties having more than one hundred and ninety thousand (190,000) and not more than two hundred thousand (200,000) inhabitants according to the last Federal Census where there is a city and county hospital to care for the city and county patients, and where a financial record for such hospital must be kept and reports made to the city and county, the Auditor shall, in addition to the regular duties performed by him as required by law, keep such financial record of such hospital, and make such report to the executive bodies of the city and county, the Mayor and City Councilmen for the city, and the County Judge and County Commissioners for the county.

[Acts 1937, 45th Leg., 1st C.S., p. 1798, ch. 24, § 2.]

Art. 1645g. Audits and Reports Respecting Certain Monies by County Auditors in Counties of 320,000 to 350,000 Population

All County Auditors in counties having a population of more than three hundred and twenty thousand (320,000) and less than three hundred and fifty thousand (350,000) persons by the last preceding Federal Census or any future Federal Census are hereby authorized, empowered and directed to make a complete audit of any and all monies, property or funds of whatsoever kind or character received, expended or disposed of in any manner by the

Superintendent of Public Instruction, the County Board of Trustees and/or County Superintendent of Schools in any such county. A copy of the auditor's report shall be filed with the Commissioners Court and with the County or District Attorney at the end of each fiscal year.

[Acts 1937, 45th Leg., 1st C.S., p. 1798, ch. 24, § 3.]

Art. 1645h. County Auditor as Purchasing Agent in Counties of 41,680 to 42,100; Salary

In all counties having a population according to the last preceding Federal Census of not less than forty-one thousand, six hundred and eighty (41,680) inhabitants and not more than forty-two thousand, one hundred (42,100) inhabitants, the County Auditor, in addition to the regular duties performed by him as now required by law, shall act as Purchasing Agent for the County, and shall receive a salary of Thirty-seven Hundred and Fifty Dollars (\$3750) per annum, payable in twelve (12) equal monthly installments out of the General Revenues of the county.

[Acts 1941, 47th Leg., p. 386, ch. 217, § 1.]

Art. 1646. Auditors for Other Counties

When the Commissioners' Court of a county not mentioned and enumerated in the preceding Article shall determine that an Auditor is a public necessity in the dispatch of the county business, and shall enter an order upon the minutes of said Court fully setting out the reason for and necessity of an Auditor, and shall cause such order to be certified to the District Judge or District Judges having jurisdiction in the county, said Judge or Judges shall, if said reason be considered good and sufficient, appoint a County Auditor as provided in the preceding Article, who shall qualify and perform all the duties required of County Auditors by the laws of this State, and who shall receive as compensation for his services as County Auditor an annual salary of not more than the annual total compensation and/or salary allowed or paid the Assessor and Collector of Taxes in his county, and not less than the annual salary allowed such County Auditor under the General Law provided in Article 1645, Revised Civil Statutes, as said Article existed on January 1, 1940, such salary of the County Auditor to be determined and fixed by the District Judge or District Judges having jurisdiction in the county, a majority thereof ruling, said annual salary to be paid monthly out of the general fund of the county. The action of said District Judge or District Judges in determining and fixing the salary of the County Auditor shall be made by order and recorded in the minutes of the District Court of the county, and the Clerk thereof shall certify the same for observance to the Commissioners' Court which shall cause the same to be recorded in its minutes; after the salary of the County Auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county;

provided, however, any increase in the salary of any such County Auditor, over and above the annual salary allowed such County Auditor under the general law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the Commissioners' Court of the county whose County Auditor is affected or may be affected by the provisions of this Act; such consent and approval of such Commissioners' Court shall be made by order of such Court and recorded in the minutes of the Commissioners' Court of such County. Provided, said District Judge or District Judges shall have the power to discontinue the services of a County Auditor as provided for in this Article at any time after the expiration of one (1) year from the appointment, when it is clearly shown that such Auditor is not a public necessity, and his services are not commensurate with his salary.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 687, ch. 308, § 1; Acts 1941, 47th Leg., p. 1331, ch. 601, § 2.]

Art. 1646a. County Auditors

The commissioners' court of any county under twenty-five thousand population according to the last United States census may make an arrangement or agreement with one or more other counties whereby all counties, parties to the arrangement or agreement, may jointly employ and compensate a special auditor or auditors for the purposes specified in Articles 1645 and 1646. The county commissioners' court of every county affected by this article may have an audit made of all the books of the county, or any of them, at any time they may desire whether such arrangements can be made with other counties or not; provided the district judge or grand jury may order said audit if either so desires.

[Acts 1925, S.B. 84.]

Art. 1646b. Joint Employment of County Auditor in Counties Under 25,000 Population

Sec. 1. The Commissioners Court of any county under twenty-five thousand (25,000) population according to the last United States Census may make an arrangement or agreement with one or more other such counties whereby all counties, parties to the arrangement or agreement, may jointly employ and compensate an auditor for said counties, respectively.

After such agreement or arrangement has been entered into by and between the Commissioners Courts of said counties, and they shall have determined that an auditor is a public necessity in the disposition of county business, and shall have entered an order upon the minutes of the Courts to that effect, they shall cause said orders to be certified to the District Judge or District Judges having jurisdiction in the respective counties. Said Judge or Judges shall, if said orders be considered good and sufficient, appoint a qualified person who shall

act as county auditor for each of said counties. Such auditor shall qualify and perform all of the duties required of county auditors by the laws of this State, and in addition to the regular duties performed by him as required by law, shall act as purchasing agent for each of said counties.

Such county auditor shall be appointed for a term of two years from and after such appointment. The annual salary to be paid such county auditor by each county, shall be fixed by the District Judge or District Judges at a sum not in excess of Three Thousand (\$3,000.00) Dollars for each county. Provided, that where such county auditor serves more than two counties under such arrangement or agreement, his total annual compensation shall not exceed Seven Thousand Five Hundred (\$7,500.00) Dollars from all of said counties. Such annual salary shall be paid out of the General Fund of the counties in twelve equal monthly payments.

The action of the District Judge or District Judges in making such appointment and in determining and fixing the salary of the county auditor shall be made by order entered and recorded in the minutes of the District Courts of the counties entering into such arrangement or agreement, and the District Clerk of said counties shall certify the same for observance to the Commissioners Courts of said counties which shall cause the same to be recorded in their minutes. Provided, said District Judge or District Judges shall have the power to discontinue the services of the county auditor at any time after the expiration of one year from his appointment when in their opinion such county auditor is no longer a public necessity and his services are not commensurate with his salary. In all matters herein required to be done by the District Judges a majority action shall control.

Sec. 2. The provisions of this law shall be cumulative of all other provisions of the laws pertaining to county auditors.

[Acts 1949, 51st Leg., p. 414, ch. 221.]

Art. 1647. Appointment

The district judges having jurisdiction in the county, shall appoint the county auditor at a special meeting held for that purpose, a majority ruling; provided, that if a majority of such judges fail to agree upon the selection of some person as auditor, then either of said judges shall certify such fact to the Governor, who shall thereupon appoint some other district judge to act and vote with the aforesaid judges in the selection of such auditor. The action shall then be recorded in the minutes of the district court of the county and the clerk thereof shall certify the same to the commissioners court, which shall cause the same to be recorded in its minutes together with an order directing the payment of the auditor's salary.

[Acts 1925, S.B. 84.]

Art. 1648. Qualification

Said auditor shall be a citizen of the county of at least two years residence, and must be a man of unquestionable good moral character and intelligence, thoroughly competent in public business details; and he must be a competent accountant of at least two years experience in auditing and accounting. The judges making such appointment must first carefully investigate and consider the qualifications of said person. If no such qualified citizen of the county can be procured, said judges may appoint a qualified citizen from another county.

[Acts 1925, S.B. 84.]

Art. 1649. Bond and Oath

The Auditor shall within twenty days of his appointment and before he enters upon the duties of his office make bond with two or more good and sufficient personal sureties or a good and sufficient surety bond in the minimum sum of \$5,000 payable to the District Judge or District Judges conditioned for the faithful performance of his duties to be approved by the District Judge or District Judges having jurisdiction of the county, a majority ruling. He shall also take the official oath and an additional one in writing stating that he is in every way qualified under the provisions and requirements of this title and giving fully the positions of private or public trust he has heretofore held and the length of service under each. He shall further include in his oath that he will not be personally interested in any contracts with the county.

[Acts 1925, S.B. 84. Amended by Acts 1955, 54th Leg. p. 1117, ch. 414, § 2.]

Art. 1650. Organization

The County Auditor of any county of this State may, at any time, with the consent of the District Judge or District Judges having jurisdiction as hereinafter provided, appoint a first assistant and other assistants who shall be authorized to discharge such duties as may be assigned to them by the County Auditor and provided for by law. In counties where only one assistant is appointed, such assistant shall be authorized to act for the County Auditor during his absence or unavoidable detention with respect to such duties as are required by law of the County Auditor. In counties in which more than one assistant shall be appointed, the County Auditor may designate the assistant who shall be authorized to act for him during his absence or unavoidable detention. All of said assistants shall take the usual oath of office for faithful performance of duty and may be required to give such bond as the County Auditor may determine, which bond shall be paid for by the County and shall run in favor of the county and of the County Auditor as their interest may appear.

The County Auditor shall prepare a list of the number of deputies sought to be appointed, their duties, qualifications and experience, and the salaries to be paid each, and shall certify the list to the

District Judge, or in the event of more than one District Judge in the county, to the District Judges, and the District Judge or the District Judges shall then carefully consider the application for the appointment of said assistants and may make all necessary inquiries concerning the qualifications of the persons named, the positions sought to be filled and the reasonableness of the salaries requested, and if, after such consideration, the District Judge, or in the event of more than one District Judge, a majority of the District Judges shall approve the appointments sought to be made or any number thereof, he or they shall prepare a list of the appointees so approved and the salaries to be paid each and certify said list to the Commissioners Court of said county. The Commissioners Court shall thereupon order the amount paid from the General Fund of said county upon the performance of the services; and said Court shall appropriate adequate funds for the purpose. Temporary assistants as may be needed may be appointed in cases of bona fide emergencies, the number of such temporary assistants, their salaries and the duration of employment to be recommended by the County Auditor but to be determined by the District Judge or by a majority of the District Judges as the occasion may require; in like manner the District Judge or a majority of the District Judges may authorize the appointment of additional regular assistants when in their judgment a necessity exists therefor. The County Auditor shall have the right to discontinue the services of any assistant employed in accordance with the provisions of this Article, but no assistant shall be employed except in the manner herein provided. The District Judge or District Judges giving consent to the Auditor to appoint an assistant or assistants shall annually have the right to withdraw such consent and change the number of assistants permitted.

The County Auditor shall be authorized to provide himself with all necessary ledgers, books, records, blanks, stationery, equipment, telephone and postage at the county's expense, but all purchases thereof shall be made in the manner provided for by law.

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., p. 763, ch. 333, § 1; Acts 1963, 58th Leg., p. 1148, ch. 445, § 1, eff. June 10, 1963; Acts 1973, 63rd Leg., p. 765, ch. 339, § 1, eff. June 12, 1973.]

Art. 1650a. Mileage Expenses

The commissioners court may reimburse the county auditor for expenses incurred in traveling to and from the county seat in his personal automobile to perform his official duties and to attend conferences and seminars relating to the performance of his official duties. However, the commissioners court may not reimburse the auditor for expenses incurred in traveling between his personal residence and county office, or for expenses incurred in any other travel of a personal nature. The commissioners court by order shall fix the rate of reimburse-

ment at a reasonable rate. Reimbursement shall be made monthly from the appropriate county funds on submission of sworn expense reports by the county auditor.

In all counties having a population of 2,000,000 or more according to the last preceding or any future federal census, the commissioners court may reimburse the county auditor and his assistants for expenses incurred in traveling to and from the county seat in their personal automobiles to perform official duties and to attend conferences and seminars relating to the performance of official duties. However, the commissioners court may not reimburse the auditor or his assistants for expenses incurred in traveling between their personal residence and county office, or for expenses incurred in any other travel of a personal nature. The commissioners court by order shall fix the rate of reimbursement at a reasonable rate. Reimbursement shall be made monthly from the appropriate county funds on submission of sworn expense reports by the county auditor and his assistants.

[Acts 1967, 60th Leg., p. 852, ch. 361, § 1, eff. Aug. 28, 1967. Amended by Acts 1975, 64th Leg., p. 1190, ch. 447, § 1, eff. June 19, 1975; Acts 1979, 66th Leg., p. 1104, ch. 520, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 563, ch. 237, § 18, eff. Sept. 1, 1981.]

Art. 1651. General Duties

The Auditor shall have a general oversight of all the books and records of all the officers of the county, district or state, who may be authorized or required by law to receive or collect any money, funds, fees, or other property for the use of, or belonging to, the county; and he shall see to the strict enforcement of the law governing county finances.

[Acts 1925, S.B. 84. Amended by Acts 1959, 56th Leg., p. 539, ch. 241, § 1; Acts 1979, 66th Leg., p. 194, ch. 103, § 1, eff. Aug. 27, 1979.]

Art. 1652. Repealed by Acts 1969, 61st Leg., p. 514, ch. 178, § 1, eff. Sept. 1, 1969

Art. 1653. To Examine Accounts

He shall have continual access to and shall examine all the books, accounts, reports, vouchers and other records of any officer, the orders of the commissioners court, relating to finances of the county, and all vouchers given by the trustee of all common school districts of the county and shall inquire into the correctness of same.

[Acts 1925, S.B. 84.]

Art. 1654. To Examine Reports

All reports of collections of money for the county required to be made to the commissioners court shall also be carefully examined and reported on by him. He shall at least once in each quarter check the books and examine all the reports of the tax collector, the treasurer and all other officers, in detail, verifying the footings and correctness of

same, and shall stamp his approval thereon, or note any differences, errors or discrepancies. He shall carefully examine the quarterly report of the treasurer, of all the disbursements, together with the canceled warrants which have been paid, and shall verify the same with the register of warrants issued as shown on the books of the auditor.

[Acts 1925, S.B. 84.]

Art. 1655. To Count Cash

The auditor, without giving any notice beforehand, shall examine fully into the condition of, or inspect and count the cash in the hands of the county treasurer, or in the bank in which he may have placed same for safe keeping, not less than once in each quarter, and oftener if desired, and shall see that all balances to the credit of the various funds are actually on hand in cash, and that none of said funds are invested in any manner, except as the law may authorize.

[Acts 1925, S.B. 84.]

Art. 1656. To Prescribe Forms and Rules

He shall prescribe and prepare the forms to be used by all persons in the collection of county revenues, funds, fees and all other moneys, and the mode and manner of keeping and stating their accounts, and the time, mode and manner of making their reports to the auditor, also the mode and manner of making their annual report of office fees collected and disbursed, and the amount refunded to the county in excess of those allowed under the general fee bill law. He shall have power to adopt and enforce such regulations not inconsistent with the constitution and laws, as he may deem essential to the speedy and proper collection, checking and accounting of the revenues and other funds and fees belonging to the county.

[Acts 1925, S.B. 84.]

Art. 1656a. County Auditor in Certain Counties to Prescribe Accounting System; Deposit of Funds in County Depository

The County Auditor in counties having a population of one hundred ninety thousand (190,000) or more according to the last preceding or any future Federal Census shall prescribe the system of accounting for the county and the forms to be used by the District Clerk, the District Attorney and all county and precinct officers and by all persons in the collection and disbursement of county revenues, funds, fees, and all other moneys collected in an official capacity whether belonging to the county, its subdivisions or precincts, or to, or for the use or benefit of, any person, firm, or corporation; he shall prescribe the mode and manner in which the District Clerk, the District Attorney and all county and precinct officers shall keep their accounts, and he shall have the power to require all officers to furnish monthly, annual, or other reports under oath of all moneys, taxes, or fees of every nature received,

disbursed, or remaining on hand; and in connection with such reports he shall have the right to count the cash on hand with such officer, or to verify the amount on deposit in the bank in which such officer may have placed the same for safekeeping. He shall have the power to adopt and enforce such regulations not inconsistent with the Constitution and laws as he may deem essential to the speedy and proper collection and checking of, and accounting for, the revenues and other funds and fees belonging to the county or to any person, firm, or corporation for whom any of said officers may have made collections, or for whose use or benefit they may have received or may hold such funds. All of the fees, commissions, funds, and moneys herein referred to shall be turned over to the County Treasurer by such officer as collected, and such money shall be deposited in the county depository in a special fund to the credit of such officer and draw interest for the benefit of the county, which funds, when so deposited in such depository, shall be secured by the bond of such depository. Thereafter the officer may draw checks on the County Treasurer to disburse said funds in the payment of salaries and expenses authorized by law or in payment to the county or to the persons, firms, or corporations to whom said funds may belong. The Treasurer and the depository shall make no payment unless such check is countersigned by the County Auditor. The deposit of funds in the County Treasury shall not in any wise change the ownership of any fund so deposited except to indemnify said officer and his bondsmen or other owners of such funds for such funds during the period of deposit with the county. At the close of any fiscal year or accounting period now or hereafter fixed by law, the County Auditor shall audit, adjust, and settle the accounts of such officer. In the event the County Auditor shall be unable to obtain proper reports or an adequate accounting from any District Attorney, District Clerk, county or precinct officer as herein provided, either during or after his term of office, the County Auditor shall have authority to enforce an accounting thereof, and to take such steps at the expense of the county as are necessary in his judgment to protect the interests of the county or of the persons, firms, or corporations entitled to such funds.

[Acts 1933, 43rd Leg., p. 217, ch. 98. Amended by Acts 1935, 44th Leg., p. 330, ch. 122, § 1.]

Art. 1656b. Reports to County Auditor by County and District Clerks as to Trust Funds; Countersigning Checks

In all counties having a population of one hundred ninety thousand (190,000) or more, according to the last preceding or any future Federal Census, and in which the Commissioners Court may have provided, or shall hereafter provide, for a depository for the trust funds of the County Clerk and of the District Clerk, said officers shall each make to the County Auditor in such form as he may prescribe such monthly or other reports under oath as he may require to reflect properly all trust funds received

and disbursed by such officer, including all moneys remaining on hand at the time of such report. All checks issued for the disbursement of said funds shall be issued in accordance with the laws providing for trust fund depositories and such checks shall be submitted to the County Auditor for his counter-signature prior to delivery or payment, and said County Auditor shall countersign said checks only upon written evidence of the order of the Judge of the Court in which said funds have been deposited, authorizing the disbursement of such funds.

[Acts 1933, 43rd Leg., p. 217, ch. 98.]

Art. 1656c. State Comptroller of Public Accounts to Prescribe Uniform System of Accounts

Sec. 1. The State Comptroller of Public Accounts shall prescribe and prepare the forms to be used by all county officials in the collection of county revenues, funds, fees, and other moneys, and in the disbursement of all funds, and shall prescribe the mode and manner of keeping and stating their accounts, which forms shall be so prepared, as in the judgment of the Comptroller will meet the needs of counties of different sizes in the State.

Sec. 2. In order that a modern and uniform system of accounts, properly suited to the needs of the counties in keeping their financial records may be prescribed, the Comptroller is hereby authorized and directed to make a survey and study of the financial records, reports, books and forms now in use by the counties of this State and to make such revisions and prescribe such forms as he may deem necessary.

[Acts 1933, 43rd Leg., 1st C.S., p. 183, ch. 66.]

Art. 1657. Deposits

Sec. 1. Except as provided in Section 2 of this article, all deposits that are made in the county treasury shall be upon a deposit warrant issued by the county clerk in triplicate; said warrants shall authorize the treasurer to receive the amount named, for what purpose, and to which fund the same shall be applied. The treasurer shall retain the original; and the duplicate shall be signed and returned to the county clerk for the county auditor and the triplicate signed and returned to the depositor. The auditor shall then enter same upon his books, charging the amounts to the county treasurer and crediting the party depositing same. The treasurer shall not, under any circumstances, receive any money in any other manner than that named herein.

Sec. 2. The commissioners court of a county may adopt an order relieving the county clerk of all duties prescribed in Section 1 of this article. If an order of that type is adopted, the county treasurer shall receive all deposits that are made in the county treasury. The county treasurer shall prepare a triplicate receipt for all moneys received, retain one

copy of the receipt, and transmit the original to the county auditor and a copy to the depositor. The county auditor shall prescribe for the county treasurer a system for receiving and depositing all moneys received which is not inconsistent with this section.

[Acts 1925, S.B. 84. Amended by Acts 1973, 63rd Leg., p. 220, ch. 99, § 1, eff. Aug. 27, 1973.]

Art. 1657a. Relieving Clerk of Certain Duties Prescribed by Article 1657 in Counties of over 2,000,000

In counties containing a population in excess of 2,000,000 inhabitants according to the last preceding federal census, the county clerk is relieved of all duties prescribed by Article 1657, Revised Civil Statutes of the State of Texas, 1925. The county treasurer shall prepare a triplicate receipt for all moneys received, retain one copy of the receipt, and transmit the original and duplicate to the county auditor and the depositor, respectively. The county auditor shall prescribe for the county treasurer a system for receiving and depositing all moneys received; provided that such system shall not be inconsistent with the provisions of this Act.

[Acts 1967, 60th Leg., p. 540, ch. 235, § 1, eff. Aug. 28, 1967. Amended by Acts 1971, 62nd Leg., p. 1846, ch. 542, § 115, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 564, ch. 237, § 19, eff. Sept. 1, 1981.]

Art. 1658. Bids for Supplies

Bids shall be asked for all supplies of stationery, books, blanks, records, and other supplies for the various officers for which the county is required to pay, and the purchase made from the lowest bidder, after filing said bid with the auditor for record.

[Acts 1925, S.B. 84.]

Art. 1659. Bids for Material

Supplies of every kind, road and bridge material, or any other material, for the use of said county, or any of its officers, departments, or institutions must be purchased on competitive bids, the contract to be awarded to the party who, in the judgment of the commissioners court, has submitted the lowest and best bid. The county auditor shall advertise the bidding at least once a week for two consecutive weeks in at least one newspaper published and circulated in the county. The advertisements shall state where the specifications are to be found, and shall give the time and place for receiving the bids. Publication of the first advertisement shall precede the last day for receiving bids by at least 14 days. All such competitive bids shall be kept on file by the county auditor as a part of the records of his office, and shall be subject to inspection by any one desiring to see them. Copies of all bids received shall be furnished by the county auditor to the county judge and to the commissioners court; and when the bids received are not satisfactory to the said judge or county commissioners, the auditor shall reject said bids and readvertise for new bids. In cases of

emergency, purchases not in excess of \$1,000 may be made upon requisition to be approved by the commissioners court without advertising for competitive bids.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 115, ch. 66, § 1; Acts 1965, 59th Leg., p. 944, ch. 458, § 1, eff. Aug. 30, 1965; Acts 1977, 65th Leg., p. 331, ch. 161, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1437, ch. 582, § 1, eff. Aug. 29, 1977.]

Art. 1659a. Counties of 900,000 or More; Bids for Supplies or Materials; Advertising; Filing

In all counties having a population of nine hundred thousand (900,000) or more, according to the last preceding or any future Federal Census, supplies of every kind, road and bridge material, or any other material, for the use of said county, or any of its officers, departments, or institutions must be purchased on competitive bids, the contract to be awarded to the party who, in the judgment of the Commissioners Court, has submitted the lowest and best bid. Where the total expenditure for any such purchase or any such contract shall exceed Two Thousand Dollars (\$2,000), advertisements for bids for such supplies and material, according to specifications giving in detail what is needed, shall be made by the county purchasing agent once each week for two (2) successive weeks in a daily newspaper published and circulated in the county. Such advertisements shall state where the specifications are to be found, and shall state the time and place for receiving such bids. All bids shall be publicly opened on the day and time appointed. A copy of such competitive bids shall be kept on file after opening by the county auditor as a part of the records of his office, and shall be subject to inspection by anyone desiring to see them. All bids received shall be furnished by the county purchasing agent to the Commissioners Court; and when the bids received are not satisfactory to the Commissioners Court, the Commissioners Court shall reject that bid or bids and readvertise for new bids.

In the event of an emergency which precludes the obtaining of bids in accordance with the foregoing provisions, or in the case of a public calamity, where it becomes necessary to appropriate supplies or other materials to preserve the property of the county, or to relieve the necessity of its citizens, the Commissioners Court may by order specifically setting forth the nature of the emergency or public calamity permit the purchase of supplies, road and bridge materials, or any other materials without first taking bids in the manner described above.

All bids taken pursuant to the provisions of this article which shall exceed the amount of Two Thousand Dollars (\$2,000) may be secured by a certified check, cashiers check, or a bid bond, in the amount of 5 percent of the amount of the bid, payable to the county and conditioned in the case of a bid bond that the successful bidder will supply the materials or supplies described in the bid. In addition, if so

described in the specifications to which the bid is directed, a bidder shall condition the bid bond which shall be required in the specifications upon the further condition that the successful bidder will enter into a performance bond for the supplying of the supplies, road and bridge materials, or any other materials, if awarded the contract for which the bid is submitted. The bond, if one is required by the Commissioners Court, shall be in a sum equal to the amount of money to be paid by the county under the contract and shall be executed by a surety company authorized to do business in Texas and having an agent within the county, and having a capital stock of \$100,000 or more. All bonds which may be tendered hereunder shall be filed with the office of the County Clerk.

[Acts 1959, 56th Leg., p. 187, ch. 105, § 1. Amended by Acts 1975, 64th Leg., p. 1120, ch. 420, § 1, eff. June 19, 1975; Acts 1981, 67th Leg., p. 564, ch. 237, § 20, eff. Sept. 1, 1981.]

Art. 1659b. Counties of 800,000 to 900,000; Bids for Supplies or Materials; Advertising; Filing

In all counties having a population of not less than 800,000 nor more than 900,000, according to the last preceding federal census, and having an assessed valuation of \$800,000,000 or more, supplies of every kind, road and bridge material, or any other material, for the use of said county, or any of its officers, departments, or institutions must be purchased on competitive bids, the contract to be awarded to the party who, in the judgment of the commissioners court, has submitted the lowest and best bid. Where the total expenditure for any such purchase or any such contract shall exceed \$1,000, advertisements for bids for such supplies and material, according to purchasing specifications giving in detail what is needed, shall be made by the purchasing agent, if the county has no purchasing agent then by the county auditor, once each week for two successive weeks in a daily newspaper published and circulated in the county. Such advertisements shall state where the specifications are to be found, and shall give the time and place for receiving such bids. Where the amount to be expended shall be \$1,000, or less, it shall not be necessary to advertise for bids, but sealed bids shall be asked from as many as three persons, firms, or corporations, or as many more as shall offer to bid, based on written specifications filed with the purchasing agent or auditor as the case may be, at least 48 hours before the time of opening said sealed bids. All such competitive bids shall be kept on file by the purchasing agent or auditor, as the case may be, as a part of the records of his office, and shall be subject to inspection by anyone desiring to see them. Copies of all bids received shall be furnished by the purchasing agent or auditor to the commissioners court; and when the bids received are not satisfactory to the commissioners court, the purchasing agent or auditor shall reject said bids and readvertise for new bids, where the amount to be expended

exceeds \$1,000, or ask for new bids, where the amount to be expended shall be \$1,000 or less. In cases of emergency, purchases or contracts not in excess of \$1,000 may be made upon requisition to be approved by the commissioners court, without advertising for competitive bids or asking for competitive bids.

[Acts 1969, 61st Leg., p. 70, ch. 28, § 1, emerg. eff. March 26, 1969. Amended by Acts 1973, 63rd Leg., p. 614, ch. 261, § 1, eff. June 11, 1973; Acts 1981, 67th Leg., p. 565, ch. 237, § 21, eff. Sept. 1, 1981.]

Art. 1660. Approval of Claims

All claims, bills and accounts against the county must be filed in ample time for the auditor to examine and approve same before the meetings of the commissioners court. No claim, bill or account shall be allowed or paid until it has been examined and approved by the county auditor. The auditor shall examine the same and stamp his approval thereon. If he deems it necessary, all such accounts, bill, or claims must be verified by affidavit touching the correctness of the same. The auditor is hereby authorized to administer oaths for the purposes of this law.

[Acts 1925, S.B. 84.]

Art. 1661. Requisites of Approval

Sec. 1. He shall not audit or approve any such claim unless it has been contracted as provided by law, nor any account for the purchase of supplies or materials for the use of said county or any of its officers, unless, in addition to other requirements of law, there is attached thereto a requisition signed by the officer ordering same and approved by the county judge. Said requisition must be made out and signed and approved in triplicate by the said officers, the triplicate to remain with the officer desiring the purchase, the duplicate to be filed with the county auditor, and the original to be delivered to the party from whom said purchase is to be made before any purchase shall be made. All warrants on the county treasurer, except warrants for jury service, must be countersigned by the county auditor.

Sec. 2. The county judge of a county having an auditor may waive by his own written order the approval of the county judge on requisitions. The order shall be recorded in the minutes of the Commissioners Court. If the county judge's approval is waived, all claims must be approved by the Commissioners Court in open court.

[Acts 1925, S.B. 84. Amended by Acts 1973, 63rd Leg., p. 357, ch. 155, § 1, eff. May 23, 1973.]

Art. 1662. Register of Warrants

He shall keep a register of all warrants issued by the judges or the district or county clerks on the county treasurer, and their dates of payment by the treasurer. Such clerks or judges shall daily furnish the auditor an itemized report specifying the warrants that have been issued, their numbers, their

several amounts, the names of the persons to whom payable, and for what purpose, on forms prepared by the auditor.

[Acts 1925, S.B. 84.]

Art. 1663. Accounts with Officers

He shall keep an account with each person named in the preceding articles and in doing so he shall relieve the county clerk of keeping the finance ledger. His books shall show the detailed items of the indebtedness against all of said officers and the manner of discharging same. He shall require all persons who shall have received any moneys belonging to the county, or having the disposition or management of any property of the county to render statements to him.

[Acts 1925, S.B. 84.]

Art. 1663a. Penalty

A county official or other person from whom the county auditor is entitled to receive reports, statements, or other information under the provisions of Subdivision 2 of this Title who willfully refuses to comply with any reasonable request of the county auditor concerning those reports, statements, or other information is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200, removal from office, or both a fine and removal from office.

[Acts 1967, 60th Leg., p. 1766, ch. 668, § 1, eff. Aug. 28, 1967.]

Art. 1663b. Private Business Operation on Public Property; Records and Reports of Receipts and Disbursements

Sec. 1. No county official, his agents, servants, deputies, or employees shall operate a private business on public property unless he shall:

(a) keep an accurate and detailed record of all monies received and disbursed by him; and

(b) file with the county auditor, or the auditing authority of the county, a report covering all of said receipts and disbursements during the immediately preceding calendar year on or before January 1 of each year; and

(c) make available to the county auditor all records of said receipts and disbursements,

provided however that this Act shall not apply to compensation received by justices of the peace and official court reporters for performance of an act not required by law of such official.

Sec. 2. Any and all monies received and required to be reported under Section 1 of this Act together with any interest thereon which has been paid by any financial institution as a result of the deposit of said funds over and above any disbursements required to be reported under Section 1 of this Act shall be delivered to the county treasurer at the time of filing said report or at such other regular intervals throughout the year as may be

prescribed by the county auditor or auditing authority of the county, provided, however, that this section shall not be applicable to any person, firm or corporation operating or doing business under or by virtue of any written contract with the county.

Sec. 3. If any county official covered by Section 1 of this Act has not complied with Sections 1 and 2 of this Act by February 1 of each year the county auditor shall notify the county or district attorney. The county or district attorney shall, or any qualified voter of the county may, file in the district court of the county a petition for a writ of mandamus to compel compliance with Sections 1 and 2 of this Act.

Sec. 4. In addition to the remedies provided in Section 3 of this Act, any county official, his agents, servants, deputies, or employees, failing to comply with any provision of Section 1 or 2 of this Act or falsifying any records or reports required in Section 1 or 2 of this Act shall be guilty of official misconduct and subject to removal under Title 100, Revised Civil Statutes of Texas, 1925 as amended.¹

[Acts 1971, 62nd Leg., p. 2433, ch. 780, eff. Aug. 30, 1971.]

¹ Article 5961 et seq.

Art. 1664. General Accounts

He shall keep a general set of books showing all the transactions of the county relating to accounts, contracts, indebtedness of the county, and its receipts and disbursements of all kinds, and shall make tabulated reports of said funds and accounts for each regular meeting of the commissioners court.

[Acts 1925, S.B. 84.]

Art. 1665. Reports to Commissioners

The County Auditor shall make monthly and annual reports to the Commissioners Court and District Judge or District Judges of his county setting forth all the facts of interest and showing the aggregate amounts received and disbursed out of each fund, the condition of each account on the books, the amounts of county, district and school funds on deposit in the County Depository, showing further the amount of bonded and other indebtedness of the county, together with such other information and suggestions as he may deem proper or that said Commissioners Court or District Judge or District Judges may require. Said annual report shall be made to include all transactions during the year ending December 31st of each year and shall be completed and filed at a regular or special term of the Commissioners Court in the following April and copies of such reports shall be filed with the District Judge or District Judges of said county. Each time an annual audit is delivered to the Commissioners Court and the District Judge or District Judges, as the case may be, the County Auditor shall send a report to the bonding company of each

district, county or precinct officer showing the condition of that particular office.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 378, ch. 149; Acts 1955, 54th Leg., p. 1117, ch. 414, § 3.]

Art. 1666. Budget

He shall prepare an estimate of all the revenues and expenses, and annually submit it to the commissioners court, which court shall carefully make a budget of all appropriations to be set aside for the various expenses of the county government in each branch and department. He shall open an account with each appropriation in said budget, and all warrants drawn against same shall be entered to said account. He shall carefully keep an oversight of same to see that the expenses of any department do not exceed said budget appropriations, and keep said court advised of the condition of said appropriation accounts from time to time.

[Acts 1925, S.B. 84.]

Art. 1666a. Budget; Counties Over 225,000

(a) The County Auditor in all counties having a population in excess of two hundred and twenty-five thousand (225,000) as shown by the last preceding or any future United States Census shall serve as the budget officer for the Commissioners Courts in each county, and on or immediately after January 1st of each year he shall prepare a budget to cover all proposed expenditures of the county government for the current fiscal and calendar year. Such budget shall be carefully itemized so as to make possible as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget shall be so prepared as to show with reasonable accuracy each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of such projects. The budget shall contain a complete financial statement of the county, showing all outstanding obligations of the county, the cash on hand to the credit of every and each fund of the county government, the funds received from all sources during the previous year, the funds and revenue estimated by the Auditor to be received from all sources during the previous year, the funds and revenue estimated by the Auditor to be received from all sources during the ensuing year, together with a statement of all accounts and contracts on which sums are due to or by the county as of December 31st of the year preceding, except taxes and court costs. Until a budget has been adopted by the Commissioners Court no payments shall be made during the current year except for emergencies and for obligations legally incurred prior to January 1st of such year for salaries, utilities, materials, and supplies. A copy of the budget shall be filed with the Clerk of the County Court, and it shall be available for inspection by the taxpayer.

(b) The Commissioners Court in each county shall provide for a public hearing on the county budget, which hearing shall take place on some date to be named by the Commissioners Court within seven (7) calendar days after the filing of the budget and prior to January 31st of the current year. Public notice shall be given that on the date of said hearing the budget as prepared by the County Auditor will be considered by the Commissioners Court. Said notice shall name the hour, the date, and the place the hearing shall be conducted, and shall be published once in a newspaper of general circulation in said county. Any taxpayer of such county shall have the right to be present and participate in said hearing. At the conclusion of the hearing, the budget as prepared by the County Auditor shall be acted upon by the Commissioners Court. The Court shall have authority to make such changes in the budget as in its judgment the facts and the law warrant and the interest of the taxpayers demand, provided the amounts budgeted for current expenditures from the various funds of the county shall not exceed the balances in said funds as of January 1st plus the anticipated revenue for the current year for which the budget is made, as estimated by the County Auditor. Upon final approval of the budget by the Commissioners Court, a copy of such budget as approved shall be filed with the County Auditor, the Clerk of the Court, and the State Auditor, and no expenditures of the funds of the county shall thereafter be made except in strict compliance with said budget. Said Court may upon proper application transfer an existing budget surplus during the year to a budget of like kind and fund, but no such transfer shall increase the total of the budget.

(c) In like manner when any bond issue of the county is submitted at an election or anticipation warrants are to be issued against future revenues and a tax levied for said warrants a budget of proposed expenditures shall be adopted and upon the receipt of the proceeds of the sale of any bonds or warrants expenditures shall be made therefrom in the manner hereinafter provided for expenditures for general purposes.

(d) The County Auditor shall certify to the Commissioners Court receipt of all public or private grant or aid money available for disbursement but not included in the current budget. On certification, the Commissioners Court shall adopt a special budget for the limited purpose of expending the grant or aid money for its intended purpose.

(e) Upon the adoption of any general or special budget as hereinbefore provided and its certification, the County Auditor of each county thereupon shall open an appropriation account for each main budgeted or special item therein and it shall be his duty to charge all purchase orders or requisitions, contracts, and salary and labor allowances to said appropriations. Requisitions issued or contracts entered into conformably to the laws of the State of Texas by proper authority for work, labor, services, or materials and supplies shall nevertheless not

become effective and binding unless and until there has been issued in connection with such item the certificate of said County Auditor that ample budget provision has been made in the budget therefor and funds are, or will be, on hand to pay the obligation of the county or officer when due. The amount set aside in any budget for any purchase order or requisition, contract, special purpose, or salary and labor account shall not be available for allocation for any other purpose unless an unexpended balance remains in the account after full discharge of the obligation or unless the requisition, contract, or allocation has been cancelled in writing by the Commissioners Court or county officer for a valid reason.

(f) The County Auditor shall make to the Commissioners Court not less than monthly a complete report showing the financial condition of the county. Said report shall be in such form as may be prescribed by said County Auditor and shall set forth all facts of interest concerning the financial condition of the county and shall contain a consolidated balance sheet. The report shall contain a complete statement of the balances on hand at the beginning and close of the month and the aggregate receipts to and aggregate disbursements from each fund, the transfers to and from each fund, the bonded and warrant indebtedness with the rates of interest due thereon, a summarized budget statement showing for each officer, department, or institution budgeted the expenses paid from the budget during the month and for the period of the fiscal year inclusive of the month for which said report is made, also the encumbrances against said budgets, and the amounts available for further expenditures, together with such other information as such officer may deem necessary to reflect the true condition of the finances of such county or the Commissioners Court thereof may require. The County Auditor shall publish once in a daily newspaper published in said county a condensed copy of said report showing the condition of funds and budgets together with such recommendations as he may deem desirable.

(g) In the preparation of the budget, the County Auditor shall have authority to require of any district, county, or precinct officer of the county such information as may be necessary to properly prepare the budget.

[Acts 1939, 46th Leg., p. 144, § 1. Amended by Acts 1945, 49th Leg., p. 93, ch. 65, § 1; Acts 1983, 68th Leg., p. 4986, ch. 892, § 1, eff. June 19, 1983.]

Repeal of Conflicting Laws

Acts 1977, 65th Leg., p. 1278, ch. 500, classified as art. 1666b, and providing for a budget officer in certain counties over 1,200,000, provides in § 12 that to the extent that any provisions of the Act conflict with provisions in this article, such provisions in this article are repealed to the extent of the conflict.

**Art. 1666b. Budget Officers in Certain Counties
Over 1,200,000**

Authorization to Appoint

Sec. 1. In the preparation of the county budget, the commissioners court in counties having a population in excess of 1,200,000, as shown by the last preceding United States Census, may appoint a budget officer to prepare a county budget for the current fiscal and calendar year.

Abolition of Office

Sec. 2. A county which has established an office of county budget officer may abolish such office only by formal action of the commissioners court taken after February 1 and before June 1, at which time the county auditor shall assume all lawful responsibilities as the chief budget officer of the county.

Preparation of Budget

Sec. 3. Such budget shall be carefully itemized so as to make possible as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget shall be so prepared as to show with reasonable accuracy each of the various projects for which appropriations are set up in the budget and the estimated amount of money carried in the budget for each of such projects.

Contents of Budget

Sec. 4. The county budget officer shall obtain from the county auditor the necessary information so that the budget will contain a complete financial statement of the county showing all outstanding obligations of the county, the cash on hand to the credit of every and each fund of the county government, the funds received from all sources during the previous year, the funds and revenue estimated by the auditor to be received from all sources during the previous year, the funds and revenue estimated by the auditor to be received from all sources during the ensuing year, together with a statement of all accounts and contracts on which sums are due to or by the county as of December 31 of the year preceding, except taxes and court costs.

**Limitation on Payments; Budget Available for
Public Inspection**

Sec. 5. Until a budget has been adopted by the commissioners court, no payments shall be made during the current year except for emergencies and for obligations legally incurred prior to January 1 of such year for salaries, utilities, materials, and supplies. A copy of the budget shall be filed with the clerk of the county court and the county auditor, and it shall be available for inspection to the public.

Public Hearings; Changes in Budget

Sec. 6. The commissioners court in each county shall provide for a public hearing on the county budget, which hearing shall take place on some date to be named by the commissioners court within seven calendar days after the filing of the budget and prior to January 31 of the current year. Public notice shall be given that on the date of said hearing the budget as prepared by the county budget officer will be considered by the commissioners court. Said notice shall name the hour, the date, and the place the hearing shall be conducted and shall be published once in a newspaper of general circulation in said county. Any taxpayer of such county shall have the right to be present and participate in said hearing. At the conclusion of the hearing, the budget as prepared by the county budget officer shall be acted upon by the commissioners court. The court shall have authority to make such changes in the budget as in its judgment the facts and the law warrant and the interest of the taxpayers demand, provided the amounts budgeted for current expenditures from the various funds of the county shall not exceed the balances in said funds as of January 1, plus the anticipated revenue for the current year for which the budget is made as estimated by the county auditor.

Filing of Budget Upon Final Approval

Sec. 7. Upon final approval of the budget by the commissioners court, a copy of such budget as approved shall be filed with the county auditor, the clerk of the court, and the state auditor, and no expenditures of the funds of the county shall thereafter be made except in strict compliance with said budget. Said court may upon proper application transfer an existing budget surplus during the year to a budget of like kind and fund, but no such transfer shall increase the total of the budget.

Obtaining Necessary Information

Sec. 8. In the preparation and/or monitoring of the budget, the county budget officer shall have authority to require of the county auditor or any district, county, or precinct officer of the county such information as may be necessary to properly prepare and/or monitor the budget.

Assistance to Commissioners Court

Sec. 9. The county budget officer may also assist the commissioners court in the performance of their duties with regard to the efficiency and effectiveness of county operations.

Employment of Personnel

Sec. 10. The commissioners court of counties covered by this Act are hereby authorized to appoint and employ such other persons they deem necessary to assist the county budget officer in the performance of his duties.

County Auditor to Retain Certain Duties

Sec. 11. All duties heretofore conferred upon county auditors by Chapter 1, page 144, General Laws, Acts of the 46th Legislature, 1939, as amended (Article 1666a, Vernon's Texas Civil Statutes), not expressly conferred upon the county budget officer by this Act shall continue to be the duties of the county auditor and shall be performed by the county auditor.

Conflicting Provisions Repealed

Sec. 12. To the extent that any provisions of this Act conflict with provisions in Chapter 1, page 144, General Laws, Acts of the 46th Legislature, 1939, as amended (Article 1666a, Vernon's Texas Civil Statutes), concerning the preparation of the county budget, such provisions in Article 1666a, Vernon's Texas Civil Statutes, are repealed to the extent of the conflict.

[Acts 1977, 65th Leg., p. 1278, ch. 500, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 22, ch. 17, § 1, eff. March 24, 1981.]

Art. 1667. Improvement District Finances

In all counties which have or may have a County Auditor and containing a population of one hundred ten thousand (110,000) or more, as shown by the preceding Federal Census, and in all counties having a population of not less than thirty-eight thousand (38,000) nor more than thirty-eight thousand three hundred fifty (38,350), according to the last Federal Census, and in which counties there exists or in which there may be created any improvement, navigation, drainage, or road or irrigation district, or any other character of district having for its purpose the expenditure of public funds for improvement purposes, or for improvements of any kind whether derived from the issuance of bonds or through any character of special assessment, the County Auditor shall exercise such control over the finances of said district as hereinafter provided.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., 2nd C.S., p. 62, ch. 38; Acts 1933, 43rd Leg., p. 364, ch. 140; Acts 1939, 46th Leg., Spec.Laws, p. 610, § 1; Acts 1941, 47th Leg., p. 841, ch. 516, § 1.]

Art. 1668. Improvement Districts: Supplies

All purchases for supplies and materials, and all contracts for labor on behalf of any such districts shall be made in accordance with the law governing such districts, provided, that the commissioners or other governing body be authorized, without the taking of bids in cases of emergency to make purchases or contracts not to exceed the sum of fifty dollars, upon requisition signed by at least two members of the governing body of such district. A requisition shall be issued therefor, executed in triplicate, one copy to be delivered to the person or corporation from whom the purchase is made, one to be delivered to the county auditor, and one to

remain on file with the governing body of such district before any purchase shall be made.

[Acts 1925, S.B. 84.]

Art. 1669. Improvement Districts: Expenditures

All bills for supplies, materials, labor, work or anything necessary to the carrying out of the purposes of any such district shall be contracted in accordance with the law creating and governing such district, except as may be otherwise provided herein. The proper officers of said districts shall file all bills with the county auditor before payment, and he shall audit and approve the same, provided said bills have been contracted in accordance with law and are found by him to be correct, and no bill shall be paid until the same has been audited and approved by the county auditor as provided by this article. All warrants in payment of bills of any such districts shall be drawn and signed in accordance with the law governing the issuance of warrants of such district, and shall be countersigned by the county auditor, and no treasurer or other depository of any such districts shall pay out any money except upon warrants so duly countersigned. He shall countersign warrants for the investment of funds only when invested in the manner authorized by law. He shall keep an accurate account of all balances on hand in the various district funds.

[Acts 1925, S.B. 84.]

Art. 1670. Improvement Districts: Forms; Regulation of Collections and Disbursements

The county auditor, in counties having a population of 330,000 or more, as shown by the last preceding Federal Census, or which may hereafter have such population, shall be required to prescribe the accounting system for all navigation, drainage, and other improvement districts in such county and to revise such systems from time to time when he shall deem it necessary. He shall prescribe the forms to be used by the officers and employees of such districts in the payment of all bills, the collection and disbursement of moneys, the keeping of accounts, and he shall prescribe the time, mode, and manner of making reports to the auditor of collections, disbursements, and statistics. The county auditor shall have the power to adopt such regulations not inconsistent with the Constitution and Laws of this State as he may deem essential to the speedy and proper collection of, and accounting for, the revenues of such districts and the checking of their disbursements. He shall make monthly and annual reports similar in all respects to those required of him concerning county finances.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 544, ch. 175, § 1.]

Art. 1671. Improvement Districts: Reports

The county auditor shall check all reports required by law to be filed by any district officer, and within thirty days after the filing thereof shall

make a detailed report to the commissioners court showing his finding thereon and the condition of such district as shown by said report, and as shown by the records of his office. He shall keep a set of books, showing all receipts and expenditures of the funds of such districts. It shall not be lawful for the treasurer or other depository to receive money for said district without executing proper receipts upon forms to be provided by the county auditor. All books, accounts, records, bills and warrants in the possession of any officer of any such district, or in the possession of any other person legally charged with their custody, shall at all times be subject to the inspection of the county auditor.

[Acts 1925, S.B. 84.]

Art. 1672. Improvement Districts: Compensation

The county auditor shall receive for his services in auditing the affairs of such districts, such compensation as the commissioners court may prescribe, which shall be paid by the county out of the general fund and repaid to the county by such districts by warrants drawn upon the proper funds of such district. In such counties which have or may have as many as five such districts, the compensation allowed the county auditor for his services on behalf of such districts shall be not less than the sum of twelve hundred dollars per annum, to be prorated among the districts in such proportion as the commissioners court may determine.

[Acts 1925, S.B. 84.]

Art. 1673. Pay of Assistants

In all counties having a population of 330,000 or more, as shown by the preceding Federal Census, the county auditor is authorized to apply to the district judges of his county for such assistants as may be needed by him to enable him to properly keep the financial accounts of such districts, and to audit their receipts and disbursements, and to make such reports as are required by law, or as may be necessary. Said application shall be made under oath, stating the necessity for such assistants and the salaries authorized. The district judges shall hear such application and designate the number of assistants to be allowed and their rates of pay. Such assistants shall take the usual oath of office and shall be paid from the funds of the navigation district or from the funds of the other improvement districts, as may be designated in the order of the district judges allowing such assistants.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 544, ch. 175, § 2.]

Art. 1674. Provisions Controlling

The provisions of this subdivision are cumulative, and, where conflicting with any existing law, the provisions of this subdivision shall control.

[Acts 1925, S.B. 84.]

Art. 1675. County Clerk's Duties

Where the provisions of this subdivision impose upon the auditor like duties as are required of the county clerk, the provisions of this law shall prevail, and to such extent only is the county clerk relieved of his duties.

[Acts 1925, S.B. 84.]

Art. 1676. Removal of Auditor

An auditor appointed under the provisions of law, who has been sufficiently proven guilty of official misconduct, or has proven to be incompetent to faithfully discharge the duties required of him, after due investigation by the same power which appointed him, may be removed, and his successor appointed.

[Acts 1925, S.B. 84.]

Art. 1676a. Auditors in Certain Counties: Duties, Powers, Reports

Sec. 1. In all counties having a County Auditor and containing a population of not less than seventy-five thousand (75,000), and not more than eighty thousand (80,000), as shown by the last preceding Federal Census, and in which there are Navigation Districts, Water Improvement Districts and Water Control and Improvement Districts, the County Auditor shall not exercise control over the finances and affairs of such Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts (or other districts created for improvement or conservation purposes, which are not administered by the Commissioners Court of such counties), but he shall annually, between July 1st and October 1st, carefully audit all books, accounts, records, bills and warrants of any such District for the year ending the 30th of June preceding, and file his report of such audit with the County Clerk of such county.

Sec. 2. The officers and directors of each such District shall, on or before the 10th of each month, make and file with the County Auditor a report in writing, authenticated by such officers and directors, showing the total amount of moneys collected for and expended from the various funds of such District for the calendar month next preceding.

Sec. 3. The method of audit hereby provided for Navigation Districts, Water Improvement Districts, Water Control and Improvement Districts, and all other Districts created for improvement and conservation purposes in counties containing a population of not less than seventy-five thousand (75,000), nor more than eighty thousand (80,000), as shown by the last preceding Federal Census, and not directly administered by the Commissioners Court of such counties, shall supersede all other provisions for auditing the receipts and expenditures of such districts otherwise prescribed by law, and all laws and parts of laws in conflict herewith are hereby repealed.

Sec. 4. Only the provisions of this Act and of Articles 1672 and 1673 shall apply in counties having a population of not less than seventy-five thousand (75,000), and not more than eighty thousand (80,000), according to the last preceding Federal Census, which contain Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts.

Sec. 5. If any provision of this Act is held to be unconstitutional or otherwise invalid, same shall not affect the validity of any other provision hereof.

[Acts 1933, 43rd Leg., p. 306, ch. 118.]

Art. 1676b. Auditors in Counties of 83,000 to 83,350 Having Navigation Districts and Other Districts

Audit; Report

Sec. 1. In all counties having a County Auditor and containing a population of not less than eighty-three thousand (83,000) and not more than eighty-three thousand, three hundred and fifty (83,350), as shown by the last preceding Federal Census, and in which there are Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts, the County Auditor shall not exercise control over the finances and affairs of such Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts (or other districts created for improvement or conservation purposes, which are not administered by the Commissioners Courts of such counties), but he shall annually, between July 1st and October 1st, carefully audit all books, accounts, records, bills, and warrants of any such district for the year ending the 30th of June preceding, and file his report of such audit with the County Clerk of such county.

Monthly Report

Sec. 2. The officers and directors of each such district shall, on or before the 10th of each month, make and file with the County Auditor a report in writing, authenticated by such officers and directors, showing the total amount of moneys collected for and expended from the various funds of such district for the calendar month next preceding.

Other Laws Superseded—Repeal

Sec. 3. The method of audit hereby provided for Navigation Districts, Water Improvement Districts, Water Control and Improvement Districts, and all other districts created for improvement and conservation purposes in counties containing a population of not less than eighty-three thousand (83,000), nor more than eighty-three thousand, three hundred and fifty (83,350), as shown by the last preceding Federal Census, and not directly administered by the Commissioners Courts of such counties, shall supersede all other provisions for auditing the receipts and expenditures of such districts otherwise prescribed by law, and all laws and parts of laws in conflict herewith are hereby repealed.

Exclusiveness of Provisions

Sec. 4. Only the provisions of this Act and of Articles 1667, 1672, and 1673 of the Revised Civil Statutes of Texas of 1925, shall apply in counties having a population of not less than eighty-three thousand (83,000), and not more than eighty-three thousand, three hundred and fifty (83,350), according to the last preceding Federal Census, which contain Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts.

Partial Invalidity

Sec. 5. If any provision of this Act is held to be unconstitutional, or otherwise invalid, same shall not affect the validity of any other provision hereof.

[Acts 1941, 47th Leg., p. 409, ch. 238.]

TITLE 35

COUNTY LIBRARIES

1. COUNTY FREE LIBRARIES

Art.

- 1677. Authority to Establish.
- 1678. Territory.
- 1679. Tax for Maintenance.
- 1680. Gifts and Bequests.
- 1681. Existing Libraries.
- 1682, 1682a. Repealed.
- 1683. County Librarian.
- 1684. Salary and Expenses.
- 1685. Duty of Librarian.
- 1686. Report of Librarian.
- 1687. Supervision of Library.
- 1688. Repealed.
- 1689. Funds for Library.
- 1690. Joinder with City.
- 1691. Contract with City.
- 1692. Withdrawal of City.
- 1693. Contract with Another County.
- 1694. Contract with Established Library.
- 1695. Combined Counties.
- 1696. Termination of Library.
- 1696a. Acquisition of Land; Construction, Repair, Equipment and Improvement of Buildings; Bond Issues; Taxes.
- 1696b. Issuance of Bonds for Public Library.

2. LAW LIBRARY

- 1697 to 1702g. Repealed.
- 1702h. County Law Libraries in All Counties.
- 1702i, 1702j. Repealed.

1. COUNTY FREE LIBRARIES

Art. 1677. Authority to Establish

The commissioners court of any county may establish, maintain, and operate within their respective counties, county free libraries in the manner and with the functions prescribed in this title. The said court shall also have the power and authority to establish in co-operation with another county or counties a joint free county library for the benefit of the co-operative counties.

[Acts 1925, S.B. 84.]

Art. 1678. Territory

The commissioners court of any county may establish county free libraries for that part of such county lying outside of the incorporated cities and towns already maintaining free public libraries and for such additional parts of such counties as may elect to become a part of or to participate in such county free library system. On their own initiative, or when petitioned to do so by a majority of the voters of that part of the county to be affected, said court shall proceed to establish and provide for the

maintenance of such library according to the further provisions of this title. The county library shall be located at the county seat in the court house, unless more suitable quarters are available.

[Acts 1925, S.B. 84.]

Art. 1679. Tax for Maintenance

The Commissioners Courts are hereby authorized to set aside annually from the General Tax Fund, or the Permanent Improvement Fund of the county, as the said Court may determine, sums for the maintaining of free county libraries and for the erection of permanent improvements and the securing of land for free county libraries, but not to exceed twelve cents (12c) on the One Hundred Dollar (\$100) valuation of all property in such county outside of all incorporated cities and towns already supporting a free public library, and upon all property within all incorporated cities and towns already supporting a free library, and upon all property within all incorporated cities and towns already supporting a free public library which have elected to become a part of such free library systems provided in Title 35 of the Revised Civil Statutes, for the purpose of maintaining county free libraries and for purchasing property therefor.

[Acts 1925, S.B. 84. Amended by Acts 1947, 50th Leg., p. 765, ch. 378, § 1; Acts 1959, 56th Leg., p. 282, ch. 158, § 1.]

Art. 1680. Gifts and Bequests

The commissioners court is authorized and empowered to receive on behalf of the county any gift, bequest, or devise for the county free library, or for any branch or subdivision thereof. The title to all property belonging to the county free library shall be vested in the county, but where the gifts or bequests shall be made for the benefit of any branch or branches of the county free library, such gifts or bequests shall be administered as designed by the donor.

[Acts 1925, S.B. 84.]

Art. 1681. Existing Libraries

In any county where a farmers' county library has been established as provided by former laws the same shall continue to operate as a farmers' county library, unless a county free library shall be established as provided for in this title, in which case the former shall merge with and become a part of the latter.

[Acts 1925, S.B. 84.]

Arts. 1682, 1682a. Repealed by Acts 1981, 67th Leg., p. 2846, ch. 764, § 2, eff. Sept. 1, 1981

Section 3 of the 1981 repealing act provided:

"The State Board of Library Examiners is abolished and its records and other property are transferred to the Texas State Library and Archives Commission."

Art. 1683. County Librarian

Upon the establishment of a county free library the Commissioners Court shall biennially appoint a County Librarian who shall hold office for a term of two (2) years subject to removal for cause after a hearing by said Court. No person shall be eligible to the office of County Librarian unless prior to his appointment he has received from the Texas State Library and Archives Commission a certificate of qualification for office; and when any County Librarian has heretofore received a certificate of qualification for office from the Texas State Library and Archives Commission, and has served as County Librarian for any county in this State, said Librarian may be employed or reemployed by any county as Librarian without further examination and issuance of certificate from said Texas State Library and Archives Commission. The County Librarian shall, prior to entering upon the duties of his office, file with the county Clerk the official oath and make a bond upon the faithful performance of his duties with sufficient sureties approved by the County Judge of the county of which the Librarian is to be the County Librarian, in such sum as the Commissioners Court may determine.

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., p. 115, ch. 41, § 1; Acts 1981, 67th Leg., p. 2845, ch. 764, § 1, eff. Sept. 1, 1981.]

Art. 1684. Salary and Expenses

The salary of the librarian and assistants shall be fixed by said court at the time they fix the salary of the appointive county officers. The county librarian and assistants shall be allowed actual and necessary traveling expenses incurred in the business of the library.

[Acts 1925, S.B. 84.]

Art. 1685. Duty of Librarian

The librarian shall endeavor to give an equal and complete service to all parts of the county through branch libraries and deposit stations in schools and other locations where suitable quarters may be obtained, thus distributing printed matter, books, and other educational matter as quickly as circumstances will permit. The county librarian shall have the power to make rules and regulations for the county free library, to establish branches and stations throughout the county, to determine the number and kind of employes of such library, and, with the approval of the commissioners' court, to appoint and dismiss such employes. The county librarian shall, subject to the general rules adopted by the commissioners' court, build up and manage according to

accepted rules of library management, a library for the people of the county and shall determine what books and other library equipment shall be purchased.

[Acts 1925, S.B. 84.]

Art. 1686. Report of Librarian

The librarian of each county library shall, on or before the first day of October in each year, report to the commissioners court and to the State Librarian the operation of the county library during the year ending August 31st preceding. Such report shall be made on blanks furnished by the State Librarian, and shall contain a statement of the condition of the library, its operation during the year, and such financial and book statistics as are kept in well regulated libraries.

[Acts 1925, S.B. 84.]

Art. 1687. Supervision of Library

The county library shall be under the general supervision of the commissioners court. Such libraries shall also be under the supervision of the State Librarian, who shall, from time to time, either personally or by one of his assistants, visit the county free libraries and inquire into their condition, advising with the librarians and said court and rendering such assistance in all matters as he may be able to give.

[Acts 1925, S.B. 84.]

Art. 1688. Repealed by Acts 1969, 61st Leg., p. 362, ch. 130, § 1, eff. Sept. 1, 1969

Art. 1689. Funds for Library

All funds of the county free library shall be in the custody of the county treasurer, or other county official, who may discharge the duties commonly delegated to the county treasurer. They shall constitute a separate fund to be known as the county free library fund, and shall not be used except for library purposes. The Commissioners Court may contract with privately-owned libraries which serve areas within the county not adequately served by the county free library to provide county free library services in such areas, and may require by such contract that such library submit to such reasonable regulation as is required of governmental libraries.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 750, ch. 284, § 1, eff. Aug. 23, 1963.]

Art. 1690. Joinder with City

After the establishment of a county free library the governing body of any incorporated city or town in the county, maintaining a free public library, may notify the commissioners court that such city or town desires to become a part of the county free library system, and thereafter such city or town shall be a part thereof, and its inhabitants shall be entitled to the benefits of such county free library, and the property within such town or city shall be

included in computing the amount to be set aside as a fund for county free library purposes.

[Acts 1925, S.B. 84.]

Art. 1691. Contract with City

The commissioners court wherein a county free library has been established under the provisions of this title, shall have full power and authority to enter into contracts with any incorporated city or town maintaining a public free library, and such incorporated city or town shall through its governing body, have full power to enter into contracts with such county to secure to the residents of such incorporated city or town the same privileges of the county free library as are enjoyed by the residents of such county outside of such incorporated city or town, or such privileges as may be agreed upon in such contract, upon such consideration to be named in the contract as may be agreed upon, the same to be paid into the county library fund, and thereupon the residents of such incorporated city or town shall have the same privileges with regard to said county free library as are had by the residents of such county outside of such incorporated city or town, or such privileges as may be agreed upon by contract.

[Acts 1925, S.B. 84.]

Art. 1692. Withdrawal of City

The governing body of such incorporated city or town may at any time after two years notify the commissioners court that such city or town no longer desires to be a part of the county free library system and thereafter such city or town shall cease to participate in the benefits of such county free library system, and the property situated in said city or town shall no longer be assessed in computing the fund to be set aside for county free library purposes. The governing body of such city or town shall give the commissioners court six months notice and publish at least once a week for six successive weeks prior to either giving or withdrawing such notice in a county newspaper designated by the governing body, and circulated throughout such city or town, notice of such contemplated action, giving date and place of meeting at which such contemplated action is proposed to be taken.

[Acts 1925, S.B. 84.]

Art. 1693. Contract with Another County

The commissioners court of any county, wherein a county free library has been established under the provisions of this title, shall have full power and authority to enter into contracts or agreements with the commissioners court of any other county to secure to the residents of such other county such privileges of such county free library as may, by such contract, be agreed upon, the same to be paid into the county free library fund, and thereupon the inhabitants of such other county shall have the privilege of such county free library as may by such contract be agreed upon; and the commissioners court shall have full power and authority to enter

into a contract with the commissioners court of another county wherein a county free library has been established, under the provisions of this title and shall have power to provide for and to set aside a county free library fund, in the manner already set out, for the purpose of carrying out such contract. But the making of such contract shall not bar the commissioners court of such county from establishing a county free library therein, and upon the establishment of such county free library such contract may be terminated upon such terms as may be agreed upon by the parties thereto, or may continue for the term thereof.

[Acts 1925, S.B. 84.]

Art. 1694. Contract with Established Library

Instead of establishing a separate county free library, upon petition of a majority of the voters of the county, the commissioners court may contract for library privileges from some already established library. Such contract shall provide that such established library shall assume the functions of a county free library within the county with which the contract is made, including incorporated cities and towns therein, and shall also provide that the librarian of such established library shall hold or secure a county librarian's certificate from the Texas State Library and Archives Commission. Said court may contract to pay annually into the library fund of said established library such sum as may be agreed upon, to be paid out of the county library fund. Either party to such contract may terminate the same by giving six months notice of intention to do so. Property acquired under such contract shall be subject to division at the termination of the contract upon such terms as are specified in such contract.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 2845, ch. 764, § 1, eff. Sept. 1, 1981.]

Art. 1695. Combined Counties

Where found to be more practicable, two or more adjacent counties may join for the purposes of this law and establish and maintain a free library under the terms and provisions above set forth for the establishment and maintenance of a county free library. In such cases the combined counties shall have the same powers and be subject to the same liabilities as a single county as provided in this law. The commissioners courts of the counties which have combined for the establishment and maintenance of a free library shall operate jointly in the same manner as does the commissioners court of a single county in carrying out the provisions of this law. If any county desires to withdraw from such combination it shall be entitled to a division of property in such proportion as agreed upon in the terms of combination at the time such joint action was taken.

[Acts 1925, S.B. 84.]

Art. 1696. Termination of Library

A county free library may be disestablished upon petition of a majority of the voters of that part of the county maintaining a county free library, asking that said library system be no longer maintained. The commissioners court upon the termination of existing contracts shall call in all books and movable property of the defunct county free library, and have same inventoried and stored under lock and seal in some dry and suitable place in the county court house.

[Acts 1925, S.B. 84.]

Art. 1696a. Acquisition of Land; Construction, Repair, Equipment and Improvement of Buildings; Bond Issues; Taxes

Sec. 1. The Commissioners Court of any county in this State is hereby authorized to acquire land for and to purchase, construct, repair, equip and improve buildings, and other permanent improvements to be used for county library purposes. Such building or buildings and other permanent improvements may be located in the county at such place or places as the Commissioners Court may determine. Payment for such buildings and repairs and improvements and other permanent improvements shall be made from the Constitutional Permanent Improvement Fund.

Sec. 2. To pay the costs of acquiring land for and of purchasing, constructing, repairing, equipping and improving such buildings and other permanent improvements, the Commissioners Court is hereby authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, the issuance of such bonds and the levy and collection of taxes to be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ governing the issuance of bonds by cities, towns, and/or counties in this State.

[Acts 1955, 54th Leg., p. 585, ch. 194.]

¹ Article 701 et seq.

Art. 1696b. Issuance of Bonds for Public Library**Issuance of Bonds**

Sec. 1. The commissioners court of a county by order may authorize the issuance and sale of negotiable bonds in the name of the county to finance in whole or part the purchase or acquisition by any other method, construction, improvement, enlargement, equipment, or repair of a public library building.

Manner of Repayment of Bonds

Sec. 2. (a) The commissioners court shall provide for the payment of the principal of and interest on the bonds by pledging all or any part of designat-

ed revenues from the operation of the library building or from the lease of space in the building.

(b) The commissioners court shall charge rent for the lease of space in the library building and shall establish fees in connection with the operation of the building to provide sufficient revenue to pay all expenses related to the ownership and operation of the building, including the expense of paying the principal of and interest on the bonds and the expense of creating and maintaining any required bond reserve funds.

(c) The owners of the bonds do not have any right to demand payment of the principal of and interest on the bonds out of any funds raised by taxation.

Form of Bonds

Sec. 3. (a) A county may issue its bonds in various series or issues.

(b) Bonds may mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate permitted by the constitution and laws of the state.

(c) A county's bonds and interest coupons, if any, are investment securities under the terms of Chapter 8 of the Business & Commerce Code, and may be issued registrable as to principal or as to both principal and interest and may be made redeemable before maturity, at the option of the county, or may contain a mandatory redemption provision.

(d) A county's bonds may be issued in the form, denomination, and manner and under the terms, conditions, and details as provided by the commissioners court in the orders authorizing their issuance. The bonds shall be signed and executed as provided by the commissioners court in the orders authorizing their issuance.

Provisions of Bonds

Sec. 4. (a) In the orders authorizing the issuance of bonds, including refunding bonds, the commissioners court may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds, and may make additional covenants with respect to the bonds, the pledged revenues, and the operation and maintenance of the library building, the revenue of which is pledged.

(b) The orders authorizing the issuance of bonds may also prohibit the further issuance of bonds or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued.

(c) The orders may contain other provisions and covenants as the commissioners court may determine.

(d) The commissioners court may adopt and have executed any other proceedings or instruments necessary and convenient in the issuance of bonds.

Approval by Attorney General; Registration by Comptroller

Sec. 5. (a) The bonds must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds have been authorized in accordance with law, he shall approve them, and they shall be registered by the comptroller of public accounts.

(c) After the approval and registration of bonds, the bonds are incontestable in any court or other forum, for any reason, and are valid and binding obligations in accordance with their terms for all purposes.

Refunding Bonds

Sec. 6. (a) The commissioners court by order may authorize the issuance of bonds to refund all or any part of its outstanding bonds issued under this Act, including matured but unpaid interest coupons.

(b) Refunding bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate or rates permitted by the constitution and laws of the state.

(c) Refunding bonds may be payable from the same source as the bonds being refunded or from other additional sources.

(d) The refunding bonds must be approved by the attorney general as in the case of other bonds and shall be registered by the comptroller on the surrender and cancellation of the bonds being refunded.

(e) The orders authorizing the issuance of the refunding bonds may provide that they be sold and the proceeds deposited in the place or places at which the bonds being refunded are payable, in which case the refunding bonds may be issued before the cancellation of the bonds being refunded. If refunding bonds are issued before cancellation of the other bonds, an amount sufficient to pay the principal of and interest on the bonds being refunded to their maturity dates, or to their option dates if the bonds have been duly called for payment prior to maturity according to their terms, shall be deposited in the place or places at which the bonds being refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds being refunded.

(f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds and their interest coupons are investment securities under Chapter 8 of the Business & Commerce Code.

(g) In lieu of the method set forth in Subsections (a)-(f) of this section, a county may refund bonds, notes, or other obligations as provided by the general laws of the state.

Bonds as Investments

Sec. 7. The bonds are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

Bonds as Security for Deposits

Sec. 8. The bonds are eligible to secure deposits of public funds of the state and cities, counties, school districts, and other political subdivisions of the state. The bonds are lawful and sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.

Tax Status of Bonds

Sec. 9. Since the operation of a library building is an essential public function, the bonds issued by the county, any transaction relating to the bonds, and profits made in the sale of the bonds, are free from taxation by the state or by any city, county, special district, or other political subdivision of the state.

[Acts 1983, 68th Leg., p. 4982, ch. 891, eff. Aug. 29, 1983.]

2. LAW LIBRARY

Arts. 1697 to 1702. Repealed by Acts 1977, 65th Leg., p. 271, ch. 131, § 2, eff. May 11, 1977

See, now, art. 1702h.

Art. 1702a. Repealed by Acts 1943, 48th Leg., p. 297, ch. 192, § 4

Arts. 1702a-1 to 1702b-5. Repealed by Acts 1977, 65th Leg., p. 271, ch. 131, § 2, eff. May 11, 1977

See, now, art. 1702h.

Art. 1702b-6. Repealed by Acts 1949, 51st Leg., p. 98, ch. 58, § 4

Arts. 1702c to 1702g. Repealed by Acts 1977, 65th Leg., p. 271, ch. 131, § 2, eff. May 11, 1977

See, now, art. 1702h.

Art. 1702h. County Law Libraries in All Counties**Authority to Establish**

Sec. 1. The Commissioners Courts of all counties within this State shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a County Law Library.

Establishment on Initiative of Commissioners Court; Appropriations

Sec. 2. The Commissioners Court of any county may establish and provide for the maintenance of such County Law Library on its own initiative, and appropriate a sum not to exceed \$20,000 to establish properly such library, and shall appropriate each year such sum as may be necessary to properly maintain and operate such County Law Library, which shall be established, maintained and operated at the county seat.

Gifts and Bequests

Sec. 3. The Commissioners Court of such county is hereby authorized and empowered to receive on behalf of such county any gift or bequest for such County Law Library. The title of all of such property shall be vested in the county. Where any gift or bequest is made with certain conditions, and accepted by the county, these conditions shall be administered as designated by the donor.

Costs; Law Library Fund

Sec. 4. For the purpose of establishing County Law Libraries after the entry of such order, there shall be taxed, collected, and paid as other costs, a sum set by the Commissioners Court not to exceed \$10 in each civil case, except suits for delinquent taxes, hereafter filed in every county or district court; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the clerks of the respective courts in said counties and paid by said clerks to the County Treasurer to be kept by said Treasurer in a separate fund to be known as the "County Law Library Fund." Such fund shall not be used for any other purpose.

Managing Committee

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

Salaries

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

Administration of Fund; Space; Rules

Sec. 7. Such fund shall be administered by the Commissioners Court, or under its direction, for the purchase and lease of library materials, the maintenance of the Law Library, and the acquisition of all furniture, shelving and equipment necessary thereto, in a place convenient and accessible to the Judges and litigants of such county. The Commissioners Court shall provide suitable space for housing the law library and may, with the advice of the committee referred to in section 5 of this Act, use funds collected under this Act for the acquisition of such space. Priority in the use of such funds shall be given to providing books, periodicals, other library materials, and staff for the law library. The Commissioners Court of the counties affected by this Act shall make rules for the use of books in said library.

Custody and Use of Funds; Claims

Sec. 8. All funds for the County Law Library shall be in the custody of the County Treasurer of such county, or other official who may discharge the duties commonly delegated to county treasurers. They shall constitute a separate fund and shall not be used for any other purpose than those of such County Law Library. Each claim against the County Law Library shall be acted upon and allowed or rejected in like manner as other claims against the county.

Partial Invalidity

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

[Acts 1951, 52nd Leg., p. 777, ch. 429. Amended by Acts 1977, 65th Leg., p. 270, ch. 131, § 1, eff. May 11, 1977; Acts 1979, 66th Leg., p. 234, ch. 121, § 1, eff. May 9, 1979.]

Arts. 1702i, 1702j. Repealed by Acts 1977, 65th Leg., p. 271, ch. 131, § 2, eff. May 11, 1977

See, now, art. 1702h.

TITLE 36

COUNTY TREASURER

- Art.**
1703. Election and Term.
1704. Bond.
1704-A. Premium on Bond; Payment by Commissioners' Courts of Certain Counties.
1705. New Bond.
1705a. Continuing Education.
1706. Office Declared Vacant.
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eys.
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Art. 1703. Election and Term

A county treasurer shall be elected at each regular general election for a term of two years.

[Acts 1925, S.B. 84.]

Art. 1704. Bond

The county treasurer before entering upon the duties of his office, and within twenty days after he has received his certificate of election, shall give a bond payable to the county judge of his county, to be approved by the commissioners court, in such sum as such court may deem necessary, conditioned that such treasurer shall faithfully execute the duties of his office and pay over according to law all moneys which shall come into his hands as county treasurer, and render a true account thereof to said court at each regular term of said court.

[Acts 1925, S.B. 84.]

Art. 1704-A. Premium on Bond; Payment by Commissioners' Courts of Certain Counties

In every county in the State of Texas having a population of not less than nineteen thousand ten (19,010), nor more than nineteen thousand seventy (19,070), and not less than twenty-three thousand eight hundred (23,800), nor more than twenty-four thousand (24,000), and not less than fifty-four thousand (54,000), nor more than fifty-four thousand five hundred (54,500), according to the last preceding Federal Census, the Commissioners' Court of such counties is hereby authorized to pay out of the General Fund of such counties the premium on the official surety bond now required of such County Treasurers.

[Acts 1941, 47th Leg., p. 1316, ch. 590, § 1.]

Art. 1705. New Bond

The commissioners court, whenever they may consider the bonds, or either of the bonds, of a county treasurer, from any cause, insufficient or doubtful, shall require such treasurer to give another bond or bonds, or to give additional bond or bonds, as the case may be.

[Acts 1925, S.B. 84.]

Art. 1705a. Continuing Education

Sec. 1. Not later than two years after the day on which a person first takes office as county treasurer, the county treasurer must successfully complete a course of instruction in the performance of the duties of county treasurer.

Sec. 2. A county treasurer must successfully complete a continuing education course in the performance of the duties of county treasurer at least one time in any 24-month period.

Sec. 3. A course required by this article must include at least 20 classroom hours of instruction in an accredited public institution of higher education.

[Acts 1983, 68th Leg., p. 1732, ch. 330, § 1, eff. Aug. 29, 1983.]

Section 3 of the 1983 Act provides:

"A person who takes office as county treasurer before the effective date of this Act and is serving as county treasurer on the effective date of this Act must successfully complete a course of instruction required by Article 1705a, Revised Statutes, not later than two years after the effective date of this Act."

Art. 1706. Office Declared Vacant

If the person elected treasurer fails to give the bonds required by this title and take the official oath within twenty days after receiving his certificate of election, it shall be the duty of the county judge to declare the said office vacant; and, should a treasurer fail to give another or an additional bond or bonds when required to do so, as provided in the preceding article, within twenty days after notice of such requirement, he shall be removed from said office in the manner provided by law.

[Acts 1925, S.B. 84.]

Art. 1707. Vacancy, How Filled

In case of vacancy in the office of the county treasurer, the commissioners court of the county in which such vacancy occurs shall fill such vacancy by appointment, such appointment to be made by a majority vote of the commissioners present, at a regular or special term of such court. Such ap-

pointment shall continue in force until the next general election.

[Acts 1925, S.B. 84.]

Art. 1708. Appointee: Oath and Bond

The person appointed to fill the vacancy, as provided in the preceding article, shall, before entering upon the discharge of the duties of such office, and within twenty days after he has been notified of such appointment, take the oath and give the bonds required, as in the case of an election to such office.

[Acts 1925, S.B. 84.]

Art. 1709. Duties

The County Treasurer, as chief custodian of county finance, shall receive all moneys belonging to the county from whatever source they may be derived; keep and account for the same in a designated depository or depositories; and pay and apply or disburse the same, in such manner as the Commissioners Court may require or direct, not inconsistent with constituted law. Said court may provide funds for adequate personnel and proper media that would enable the treasurer to perform such constituted duties. Upon failure to perform such duties the treasurer shall be guilty of dereliction of duty and subject to prosecution.

[Acts 1925, S.B. 84. Amended by Acts 1971, 62nd Leg., p. 1654, ch. 467, § 1, eff. May 27, 1971.]

Art. 1709a. Receipt, Safekeeping and Disbursement of Moneys

Sec. 1. [Amends article 1709].

Sec. 2. From and after the effective date of this Act, the County Treasurer in each county of this State shall receive all moneys belonging to the county from whatever source they may be derived. Clarification as to moneys and mode and manner of receipt thereof not inconsistent with existing laws follows:

(a) All fees, commissions, funds and moneys belonging to the county shall be turned over to the County Treasurer by the officer who collected them, in the manner prescribed in Chapter 98, Acts of the 43rd Legislature, 1933, as amended (Article 1656a, Vernon's Texas Civil Statutes). Such deposit of funds in the county treasury shall not in any wise change the ownership of any fund so deposited, except to indemnify said officer and his bondsman or other owners of such funds during the period of deposit with the county.

(b) All deposits that are made in the county treasury shall be upon deposit warrant issued by the County Clerk in triplicate; said warrants shall authorize the treasurer to receive the amount named, for what purpose, and to which fund the same shall be applied. The treasurer shall retain the original; the duplicate shall be signed and returned to the clerk and the triplicate signed and returned to the depositor as provided in Article 1657, Revised Civil

Statutes of Texas, 1925. In each county of this State having a County Auditor the County Clerk shall give his copy to the auditor, who then shall enter same upon his books as a check and balance, charging the amounts to the County Treasurer and crediting the same to the depositing party. The treasurer shall not under any circumstances receive any money in any other manner than that named herein; except that in counties of whose population exceeds 1,200,000 the County Clerk is relieved of all duties prescribed by Article 1657, Revised Civil Statutes of Texas, 1925. In such counties the County Treasurer shall prepare a triplicate receipt for all moneys received, retain one copy of the receipt and transmit the original and the duplicate to the county auditor and the depositor respectively, as provided in Chapter 235, Acts of the 60th Legislature, 1967 (Article 1657a, Vernon's Texas Civil Statutes).

Sec. 3. From and after the effective date of this Act, the County Treasurer in each county of this State shall safekeep and account for all moneys belonging to the county; clarification as to mode and manner of safekeeping not inconsistent with existing laws follows:

(a) All moneys deposited with the County Treasurer by such officer as collected shall be deposited in the county depository, in a special fund to the credit of such officer as provided in Chapter 98, Acts of the 43rd Legislature, 1933, as amended (Article 1656a, Vernon's Texas Civil Statutes); any interest accrued therefrom shall benefit the county in accordance with all laws. All such funds so deposited shall be secured by the bond of such depository.

(b) Liability of Treasurer. The County Treasurer shall not be responsible for any loss of the county funds through failure or negligence of any depository; but nothing in this Act shall release any County Treasurer, for any loss resulting from any official misconduct or negligence on his part, nor from any responsibility for the funds of the county until a depository shall be selected and the funds deposited therein, nor for any misappropriation of such funds by him (Article 2557, Revised Civil Statutes of Texas, 1925, as amended).

(c) The County Treasurer before entering upon the duties of his office, and within twenty days after he has received his certificate of election, shall give a bond payable to the County Judge of his county, to be approved by the Commissioners Court, in such sum as such court may deem necessary, conditioned that such treasurer shall faithfully execute the duties of his office and pay over according to law all moneys which shall come into his custody as County Treasurer and render a true account thereof to said court in accordance with Article 1704, Revised Civil Statutes of Texas, 1925.

(d) In counties having auditors, all reports of collections of moneys for the county required to be made to the Commissioners Court shall also be carefully examined and reported on by the auditor

as provided in Article 1654, Revised Civil Statutes of Texas, 1925. He shall at least once in each quarter check the books and examine all reports of the treasurer, in detail, verifying the footings and correctness of same, and shall stamp his approval thereon, or note any difference, errors or discrepancies; he shall carefully examine the quarterly report of the treasurer, of all the disbursements, together with the cancelled warrants which have been paid, and shall verify the same with the register of warrants issued, as shown in the accounts of the auditor.

(e) Furthermore, the auditor, without giving any notice beforehand, shall examine fully into the condition of, or inspect and count the cash in the hands of the treasurer, or in the banks in which he may have placed same for safekeeping, not less than once each quarter and oftener if desired in accordance with Article 1655, Revised Civil Statutes of Texas, 1925; and shall see that all balances to the credit of the various funds are actually on hand in cash and that none of said funds are invested in any manner except as the law may authorize.

Sec. 4. From and after the effective date of this Act the County Treasurer in each county shall disburse all moneys belonging to the county, for whatever purpose they may be claimed, and shall pay and apply the same as required by law. No moneys shall be expended or withdrawn from the county treasury except by checks or warrants drawn on the county treasury, whether such moneys are in a county depository as required by law or not. Clarification of mode and manner of disbursement not inconsistent with existing laws follows:

(a) Claims: The County Treasurer shall enter each claim in a permanent bound register, in the manner provided in Article 1627, Revised Civil Statutes of Texas, 1925, stating the class, the name of the payee, and the number of the claim. On the face of such claim shall be placed the word "Registered," the date actually registered, and the official signature or approved facsimile of the County Treasurer.

(b) The treasurer shall pay no such claim, nor shall any part thereof be received by any officer in payment of any indebtedness to the county, until it has been duly registered, in accordance with the provisions of Article 1625, Revised Civil Statutes of Texas, 1925. All claims in each class shall be paid in the order in which they are registered.

(c) In counties having a County Auditor, all claims, bills, and accounts against the county must be filed in ample time for the auditor to examine and approve same before the meetings of the Commissioners Court. No claim, bill, or account shall be allowed or paid until it has been examined and approved by the County Auditor as provided in Article 1660, Revised Civil Statutes of Texas, 1925. Said auditor shall examine the same and stamp his approval thereon.

(d) Warrants: It shall be the duty of the County Treasurer, upon presentation to him of any warrant, check, voucher, or order drawn by the proper authority, if there be funds sufficient for payment thereof on deposit in the account against which such warrant is drawn, to endorse upon the face of such instrument his order to pay same to the payee named therein and to charge the same on his books to the fund upon which it is drawn as provided in Article 2554, Revised Civil Statutes of Texas, 1925, as amended. The County Treasurer is not authorized to issue nor is the county depository authorized to pay a check drawn on the county depository to take up a warrant drawn by a proper authority, but the County Treasurer must, when such a warrant is presented to him, endorse it and deliver it to the payee for the payee to present to the county depository for payment. The County Treasurer shall not make any endorsement upon any instrument designated as a "time deposit" until after the notice is duly given and the time has expired as required in the contract with said depository which designated said funds as "time deposits." In case any bonds, coupons, or other instruments of any county by the terms thereof are payable at any place other than the county treasury nothing herein contained shall prevent the Commissioners Court of such county from so ordering the treasurer to place a sufficient sum at the place where such debts shall be payable at the time and place of their maturity, provided such payments shall be made in the manner prescribed by law. All warrants issued or drawn by any officer under the provisions of this Act shall be subject to all laws and regulations providing for auditing and countersigning and all such laws and regulations are hereby continued in full force and effect.

(e) All warrants issued against the County Treasurer by any judge or court shall be signed and attested by the clerk or judge of the court issuing the same under his official seal as provided in Article 1643, Revised Civil Statutes of Texas, 1925. No Justice of the Peace shall have authority to issue warrants against the County Treasurer for any purpose whatever, except as provided in the Code of Criminal Procedure.

(f) In each county having an auditor, the County Treasurer and the depository shall make no payment unless such warrant is countersigned by the auditor as provided in Chapter 98, Acts of the 43rd Legislature, 1933, as amended (Article 1656a, Vernon's Texas Civil Statutes) to validate the same as a proper and budgeted item of expenditure.

(g) The only exception to the auditors' countersigning is that of warrants for jury service, as provided in Article 1661, Revised Civil Statutes of Texas, 1925.

Sec. 5. All existing laws pertaining to the duties and responsibilities of the County Auditors of the State of Texas shall in no way be affected or changed by this law. Reference to various articles

mentioned herein pertaining to County Auditors is intended for the purpose of clarification only and for no other reason.

Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications thereto, and the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 1654, ch. 467, §§ 2 to 6, eff. May 27, 1971.]

Art. 1710. Accounts

The county treasurer shall keep a true account of the receipts and expenditures of all moneys which shall come into his hands by virtue of his office, and of the debts due to and from his county; and direct prosecutions according to law for the recovery of all debts that may be due his county, and superintend the collection thereof.

[Acts 1925, S.B. 84.]

Art. 1711. Report to Commissioners Court

He shall render a detailed report at every regular term of the commissioners court of his county of all the moneys received and disbursed by him, of all debts due to and from his county, and of all other proceedings in his office, and shall exhibit to said court at every such term all his books and accounts for their inspection and all vouchers relating to the same, to be audited and allowed.

[Acts 1925, S.B. 84.]

Art. 1712. Deliver Money, etc., to Successor

He shall deliver the moneys, securities, and all other property of the county in his hands, together with all documents, instruments of writing, papers and books belonging to, or for the use of the county, to his successor in office, and perform all such other acts as may be required of him by said commissioners court.

[Acts 1925, S.B. 84.]

Art. 1713. Shall Not Pay Out Money, Except

The county treasurer shall not pay any money out of the county treasury except in pursuance of a certificate or warrant from some officer authorized by law to issue the same; and, if such treasurer shall have any doubt of the legality or propriety of any order, decree, certificate or warrant presented to him for payment, he shall not pay the same, but shall make report thereof to the commissioners court for their consideration and direction.

[Acts 1925, S.B. 84.]

Art. 1714. To Examine Dockets, Accounts, etc.

He shall examine the accounts, dockets and records of the clerks, sheriff, justices of the peace, constables and tax collector of his county, for the purpose of ascertaining whether any moneys of right belonging to his county are in their hands which have not been accounted for and paid over according to law, and shall report the same to the commissioners court at their next term, to the end that suit may be instituted for the recovery thereof.

[Acts 1925, S.B. 84.]

TITLE 37

COURT—SUPREME

Chapter	Article
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CHAPTER ONE. JUDGES

- Art.
 1715. Judges.
 1716. Qualifications.
 1717. Disqualification.

Art. 1715. Judges

The Supreme Court shall consist of the Chief Justice and eight Justices, any five of whom shall constitute a quorum. The concurrence of five Justices shall be necessary to a decision of a case. Three Justices shall be elected every two years by the qualified voters of the state at a general election and shall hold their offices six years, or until their successors are elected and qualified. In case of a vacancy in the Supreme Court, the Governor shall fill such vacancy until the next general election, and at such election the vacancy for the unexpired term shall be filled by election by the qualified voters of the State.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 772, ch. 291, § 14, eff. Sept. 1, 1981.]

Art. 1716. Qualifications

No person shall be eligible to serve in the office of Chief Justice or Justice of the Supreme Court unless the person is licensed to practice law in this state and, at the time of election, is a citizen of the United States and of this State, has attained the age of thirty-five years, and has been a practicing lawyer, or a lawyer and judge of a court of record together, at least ten years.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 772, ch. 291, § 15, eff. Sept. 1, 1981.]

Art. 1717. Disqualification

When the Court or any five of its members shall be disqualified to hear and determine any cause in said Court, or when the Justices of said Court shall be equally divided in opinion by reason of the absence or disqualification of one of its members, the same shall be certified by the Chief Justice to the Governor who shall immediately commission the requisite number of persons possessing the qualifi-

cations prescribed for Justices of the Supreme Court to try and determine said cause.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 772, ch. 291, § 16, eff. Sept. 1, 1981.]

CHAPTER TWO. CLERK, EMPLOYÉS AND REPORTER

- Art.
 1718. Appointment of Clerk.
 1719. Vacancy in Vacation.
 1720. Duties of Clerk.
 1721. Deputy Clerks.
 1722. Repealed.
 1723. Stenographers and Bailiff.
 1724. Reporter.
 1725. Reports.

Art. 1718. Appointment of Clerk

The Supreme Court shall appoint for a term of four years one clerk who shall reside at Austin. Such appointment shall be recorded in the proceedings of the Court. Such appointee shall first give bond in the sum of five thousand dollars, to be approved by the Court, payable to the Governor and conditioned for the faithful performance of the duties of his office. He may be removed by the Court for neglect of duty or misconduct in office, after ten days' previous notice of the motion specifying the particular charges of negligence or misconduct in office preferred, and the Court shall determine the law and facts. The Court may whenever necessary appoint a clerk pro tempore.

[Acts 1925, S.B. 84.]

Art. 1719. Vacancy in Vacation

If the office of clerk becomes vacant in vacation, an appointment shall be made by the Chief Justice and one of the Associates. The appointee shall give the prescribed bond and oath, the bond to be approved by any judge of the Court. Such appointment shall continue until a regular appointment shall be made.

[Acts 1925, S.B. 84.]

Art. 1720. Duties of Clerk

The clerk shall:

1. Collect and pay into the State Treasury all fees and costs collected by him over and above the salaries allowed him and his deputies, under rules prescribed by the Comptroller and approved by the Judges of the Supreme Court and recorded in the minutes of the Court.

2. Procure a seal for the use of the Court, which shall have a star of five points, with the words, "Supreme Court of the State of Texas" engraved thereon.

3. File and carefully preserve the transcripts of all records certified to said Court, and all papers relative thereto, and shall docket all causes in the order in which the Court shall direct, and shall faithfully record the proceedings and decisions of said Court, and certify its judgments to the courts from which the cases were brought.

[Acts 1925, S.B. 84.]

Art. 1721. Deputy Clerks

When authorized by the Court by an order recorded in the minutes, the clerk may appoint three deputies, who may discharge the duties required by Law of the clerk, and who shall give bond in like sum and conditions required by the clerk, to be approved by the Court. The compensation of such deputies shall be unanimously agreed upon by the Judges and their action recorded in the Minutes of the Court, such compensation not to exceed Two Thousand Dollars a year for each of said deputies, to be paid out of the fees collected by the clerk of the Supreme Court. The Court in its discretion may dispense with the services of one or more of such deputies, temporarily or permanently.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 468, ch. 218, § 1.]

Art. 1722. Repealed by Acts 1971, 62nd Leg., p. 2360, ch. 722, § 10, eff. June 8, 1971

See, now, article 5444b.

Art. 1723. Stenographers and Bailiff

The Court may appoint not more than three stenographers, at a salary to be fixed by the Court, not exceeding one hundred and fifty dollars per month, and may appoint a bailiff to attend the sitting of the Court.

[Acts 1925, S.B. 84.]

Art. 1724. Reporter

The Court shall appoint to serve at the will of the Court one or more licensed attorneys to report the decisions of the Supreme Court. The reporter shall obtain from the proper clerk the records of cases to be reported, with the briefs and opinions therein, as soon as such cases are finally disposed of and the opinions are recorded, which shall be returned after the report thereof is completed. He shall under the direction of the Court, without delay, prepare for publication such decisions with appropriate syllabus and statements when necessary, with proper index, table of cases cited and cases reported, and shall, from time to time, deliver the same to the Board of Control for publication.

[Acts 1925, S.B. 84.]

Art. 1725. Reports

The Court shall designate the cases to be reported; and only those designated shall be reported and published. Only the main propositions made in the briefs and considered by the Court in the opinion, with the authorities cited in support of such propositions, shall be incorporated in the report. Each volume shall be copyrighted in the name of the reporter, who shall immediately on delivery of the edition transfer and assign the same to the State. It shall be electrotyped, and the plates shall be owned by the State and preserved by the Board of Control.

[Acts 1925, S.B. 84.]

CHAPTER THREE. TERMS AND JURISDICTION

- Art.
 1726. Terms of Supreme Court.
 1727. Adjournment.
 1728. Appellate Jurisdiction.
 1729. Writ of Error or Certificate.
 1730. Court to Make Rules.
 1731. Rules of Practice.
 1731a. Rules of Practice; Power of Supreme Court in Civil Judicial Proceedings.
 1732. Jurisdictional Facts.
 1733. May Issue Writs.
 1734. May Issue Mandamus, etc.
 1735. To Issue Only by Supreme Court.
 1735a. Mandamus in Connection with Elections and Political Party Conventions.
 1736. Repealed.
 1737. Habeas Corpus.
 1738. Transfer of Causes.
 1738a. Direct Appeals in Injunction Cases Involving Validity of Statute.

Art. 1726. Terms of Supreme Court

The Supreme Court shall hold one term each year at the city of Austin, commencing on the first Monday in October, and ending on the last Saturday in the next June.

[Acts 1925, S.B. 84.]

Art. 1727. Adjournment

The Court may adjourn from day to day, or for such period as it deems necessary to the ends of justice and the determination of the business before them; and there shall be no discontinuance of any suit, process or matter returned to, or pending in, the Supreme Court, although a quorum of the Court may not be in attendance at the commencement or on any other day of the term. If a sufficient number of the judges shall not attend on any day of the term, any judge of the Court, or the bailiff attending, may adjourn the Court from time to time.

[Acts 1925, S.B. 84.]

Art. 1728. Appellate Jurisdiction

The Supreme Court shall have appellate jurisdiction, except in criminal law matters, co-extensive

with the limits of the State, extending to all questions of law arising in the following cases when same have been brought to the Court of Appeals from appealable judgment of trial courts:

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

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

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

4. Those involving the revenues of the State.

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

6. In any other case in which it is made to appear that an error of substantive law has been committed by the Court of Appeals which affects the judgment, but excluding those cases in which the jurisdiction of the Court of Appeals is made final by statute.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 214, ch. 144, § 1; Acts 1953, 53rd Leg., p. 1026, ch. 424, § 1; Acts 1981, 67th Leg., p. 773, ch. 291, § 17, eff. Sept. 1, 1981.]

Art. 1729. Writ of Error or Certificate

All causes mentioned in the preceding article may be carried to the Supreme Court either by writ of error or by certificate from the Court of Appeals, but the Court of Appeals may certify any question of law arising in any such case at any time they may choose, whether before or after the decision of the case in said Court.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 773, ch. 291, § 18, eff. Sept. 1, 1981.]

Art. 1730. Court to Make Rules

The Supreme Court shall from time to time make and promulgate suitable rules, forms and regulations for carrying into effect the articles in this title relating to the jurisdiction and practice of said Court.

[Acts 1925, S.B. 84.]

Art. 1731. Rules of Practice

The Court may make and enforce all necessary rules of practice and procedure, not inconsistent with the law, for the government of said Court and all other courts of the State, so as to expedite the dispatch of business in said courts.

[Acts 1925, S.B. 84.]

Art. 1731a. Rules of Practice; Power of Supreme Court in Civil Judicial Proceedings

Repeal of Practice and Procedure Laws

Sec. 1. In order to confer upon and relinquish to the Supreme Court of the State of Texas full rule-making power in civil judicial proceedings, all laws and parts of laws governing the practice and procedure in civil actions are hereby repealed, such repeal to be effective on and after September 1, 1941. Provided, however, that no substantive law or part thereof is hereby repealed.

Supreme Court to Make Rules for Practice and Procedure

Sec. 2. The Supreme Court is hereby invested with the full rule-making power in the practice and procedure in civil actions. Such rules shall not abridge, enlarge or modify the substantive rights of any litigant. Such rules, after promulgation by the Supreme Court, shall be filed with the Secretary of State and a copy thereof mailed to each elected member of the Legislature on or before December 1st immediately preceding the next Regular Session of the Legislature and shall be reported by the Secretary of State to the Legislature, and, unless disapproved by the Legislature, such rules shall become effective upon September 1, 1941; provided, however, the Supreme Court may, from time to time after September 1, 1941, promulgate any specific rule or rules or any amendment or amendments to any specific rule or rules and make the same effective, except as hereinafter provided, at such time as the Supreme Court may deem expedient in the interest of a proper administration of justice, the same to remain in effect unless and until disapproved by the Legislature. Any such specific rule or rules, or any such amendment or amendments to any specific rule or rules, shall be filed by the Clerk of the Supreme Court with the Secretary of State, and a copy thereof mailed by the said Clerk to each registered member of the State Bar of Texas, at least sixty (60) days before the effective date thereof, and reported by the Secretary of State to the next succeeding Regular Session of the Legislature in the same manner as hereinabove provided.

Supreme Court to File List of Laws Repealed by Its Rules

Sec. 3. At the time it files the rules, the Supreme Court shall file with the Secretary of State a list of all articles or sections of the General Laws of the State of Texas, and parts of articles and sections of such General Laws, which, in its judgment, are repealed by Section 1 of this Act. Such list giving the construction of the Supreme Court as to the General Laws and parts of laws repealed by Section 1 shall constitute, and have the same weight and effect, as any other decision of the Supreme Court.

Rules to be Published with Supreme Court Reports

Sec. 4. Such rules shall be published in the official reports of the Supreme Court; and the Supreme Court is authorized to adopt such method as it may deem expedient for the printing and distributing of such rules.

Severability of this Act

Sec. 5. If any sentence, paragraph or section of this Act shall be held invalid or unconstitutional, such holding shall not invalidate any other sentence, paragraph or section hereof, and the Legislature hereby expressly declares that it would have passed such remaining sentences, paragraphs, and sections despite such invalidity.

[Acts 1939, 46th Leg., p. 201.]

Art. 1732. Jurisdictional Facts

It shall have the power upon affidavit or otherwise, as the Court may determine, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

[Acts 1925, S.B. 84.]

Art. 1733. May Issue Writs

The Supreme Court or any Justice thereof, shall have power to issue writs of procedendo, certiorari and all writs of quo warranto or mandamus agreeable to the principles of law regulating such writs, against any district judge, or Court of Appeals or justices thereof, or any officer of the State Government, except the Governor or the Court of Criminal Appeals or the judges thereof.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 773, ch. 291, § 19, eff. Sept. 1, 1981.]

Art. 1734. May Issue Mandamus, etc.

Said Court or any judge thereof in vacation may issue the writ of mandamus to compel a judge of the district court to proceed to trial and judgment in a cause agreeably to the principles and usages of law, returnable to the Supreme Court on or before the first day of the term, or during the session of the same, or before any judge of the said Court as the nature of the case may require.

[Acts 1925, S.B. 84.]

Art. 1735. To Issue Only by Supreme Court

The Supreme Court only shall have power, authority or jurisdiction to issue the writ of mandamus or injunction or any other mandatory or compulsory writ or process against any of the officers of the executive departments of the government of this state and also the Board of County and District Road Indebtedness to order or compel the performance of any act or duty which, by the laws of this state, they, or either of them, are authorized to

perform, whether such act or duty be judicial, ministerial or discretionary.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 354, ch. 232, § 1.]

Art. 1735a. Mandamus in Connection with Elections and Political Party Conventions

The Supreme Court or any court of appeals shall have jurisdiction and authority to issue the writ of mandamus, or any other mandatory or compulsory writ or process, against any public officer or officer of a political party, or any judge or clerk of an election, to compel the performance, in accordance with the laws of this state, of any duty imposed upon them, respectively, by law, in connection with the holding of any general, special, or primary election or any convention of a political party. Any proceeding seeking to obtain such a writ shall be conducted in accordance with the rules pertaining to original proceedings in the court wherein the petition is filed. When presented to a court of appeals, any petition pertaining to an election on an office or proposition which is voted on by the voters of the entire state shall be presented to the court of the supreme judicial district in which the respondent resides, or in which one of the respondents resides, if there is more than one, and any petition pertaining to an election on an office or proposition which is voted on by the voters of only a portion of the state shall be presented to the court of a supreme judicial district in which the territory covered by the election or a portion thereof is located. A petition presented to a court of appeals which pertains to a precinct or county convention shall be presented to the court of the supreme judicial district in which the precinct or county is located; a petition pertaining to a district convention shall be presented to the court of a supreme judicial district in which the district or a portion thereof is located; and a petition pertaining to a state convention shall be presented to the court of a supreme judicial district in which the respondent resides, or in which one of the respondents resides, if there is more than one.

[Acts 1930, 41st Leg., 4th C.S., p. 4, ch. 4, § 1. Amended by Acts 1967, 60th Leg., p. 1932, ch. 723, § 76, eff. Aug. 28, 1967; Acts 1981, 67th Leg., p. 773, ch. 291, § 20, eff. Sept. 1, 1981.]

Art. 1736. Repealed by Acts 1971, 62nd Leg., p. 2536, ch. 831, § 6, eff. Aug. 30, 1971

See, now, article 1911a.

Art. 1737. Habeas Corpus

The Supreme Court or any of the Justices thereof, either in term time or in vacation, may issue writs of habeas corpus in any case where any person is restrained in his liberty by virtue of any order, process or commitment issued by any court or judge on account of the violation of any order, judgment or decree theretofore made, rendered or entered by such court or judge in any civil cause. Said Court or any Justice thereof, either in term time or in

vacation, pending the hearing of application for such writ, may admit to bail any person to whom the writ of habeas corpus may be so granted.

[Acts 1925, S.B. 84.]

Art. 1738. Transfer of Causes

The Supreme Court may, at any time, order cases transferred from one Court of Appeals to another, when, in the opinion of the Supreme Court, there is good cause for such transfer. And the Courts of Appeals to which such cases shall be transferred shall have jurisdiction over all such cases so transferred, without regard to the District in which the cases were originally tried and returnable upon appeal. Provided that the Justices of the Court to which such cases are transferred shall, after due notice to the parties or their counsel, hear oral argument on such cases at the place from which the cases have been originally transferred. All opinions, orders and decisions in such transferred cases shall be delivered, entered and rendered at the place where the Court to which such cases are transferred regularly sits as the law provides. The actual and necessary travelling and living expenses of the Justices of said Courts in hearing oral arguments at the place from which such cases are transferred shall be borne by the state, and for payment thereof the Legislature shall make appropriation. If requested by all parties or their attorneys, a transferred case may be heard in the regular place of the court to which said case has been transferred.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 115, ch. 76, § 1; Acts 1927, 40th Leg., 1st C.S., p. 148, ch. 51, § 1; Acts 1933, 43rd Leg., p. 380, ch. 151, § 1; Acts 1941, 47th Leg., p. 762, ch. 476, § 1; Acts 1963, 58th Leg., p. 10, ch. 8, § 1, eff. Aug. 23, 1963; Acts 1981, 67th Leg., p. 774, ch. 291, § 21, eff. Sept. 1, 1981.]

Art. 1738a. Direct Appeals in Injunction Cases Involving Validity of Statute

Appeals may be taken direct to the Supreme Court of this State from any order of any trial court granting or denying an interlocutory or permanent injunction on the ground of the constitutionality or unconstitutionality of any statute of this State. It shall be the duty of the Supreme Court of this State to prescribe the necessary rules of procedure to be followed in perfecting such an appeal.

[Acts 1943, 48th Leg., p. 14, ch. 14, § 1. Amended by Acts 1983, 68th Leg., p. 4768, ch. 839, § 2, eff. June 19, 1983.]

CHAPTER FOUR. WRIT OF ERROR

Art.

- 1739 to 1747. Repealed.
- 1748. Designation of Appeals Justices.
- 1749. Justices to Assemble.
- 1750. Effect of Granting or Denying Writ.
- 1751. Disqualification of Justice.
- 1752. Supreme Court May Also Act.
- 1753. Powers.
- 1754. Expenses of Designated Justices.

Arts. 1739 to 1747. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1748. Designation of Appeals Justices

The Chief Justice of the Supreme Court or any two Justices thereof may, by a writing recorded in the minutes of the Supreme Court, designate three of the Justices of the Courts of Appeals to act as hereinafter provided. Such powers may be exercised from time to time in the same manner as long as reason therefor may exist, and the personnel of the designated Justices of the Courts of Appeals may be changed as often as may be advisable, by relieving one, or more, and designating another, or others, in order to interfere as little as possible with the work of the Courts of Appeals. Not more than one Justice shall be designated to serve at any one time from any one of these courts.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 774, ch. 291, § 22, eff. Sept. 1, 1981.]

Art. 1749. Justices to Assemble

The Justices of the Courts of Appeals so designated, upon receiving notice thereof, shall assemble together at Austin and take up, consider and act upon applications for writs of error as may be so referred to them, by granting, refusing or dismissing the same in accordance with the practice of the Supreme Court; and then such designated Justices may make such orders and give such directions, incidental to the consideration and disposition of the application.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 775, ch. 291, § 23, eff. Sept. 1, 1981.]

Art. 1750. Effect of Granting or Denying Writ

The granting of an application shall admit the cause into the Supreme Court to be proceeded with by the Court as provided by law. The refusal or dismissal of an application shall have the effect of denying the admission of the cause into the Supreme Court, except that motions for rehearing may be made to such designated Justices in the same way as such motions to the Supreme Court have been heretofore allowed. The refusal or dismissal of any application shall not be regarded as a precedent or authority.

[Acts 1925, S.B. 84.]

Art. 1751. Disqualification of Justice

No one of such Justices shall participate in acting upon an application in a cause decided during his incumbency by the court of which he is a member.

[Acts 1925, S.B. 84.]

Art. 1752. Supreme Court May Also Act

The Supreme Court shall still have power to act upon applications for writs of error, when deemed by it expedient. In any cause in which the Justices of the Courts of Appeals shall have disagreed or

shall have declared void a statute of the State, the application for writ of error shall be passed upon by the Supreme Court.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 775, ch. 291, § 24, eff. Sept. 1, 1981.]

Art. 1753. Powers

The powers herein conferred upon the Justices of the Supreme Court and of the Courts of Appeals are declared to be incidental to the offices held by them respectively.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 775, ch. 291, § 25, eff. Sept. 1, 1981.]

Art. 1754. Expenses of Designated Justices

Such designated Justices shall have all actual and necessary expenses incurred in the discharge of such additional duties, paid out of the State Treasury from warrants drawn by the Comptroller, upon itemized accounts of such expenses, verified by the affidavit of the claimant.

[Acts 1925, S.B. 84.]

CHAPTER FIVE. PROCEEDINGS IN THE SUPREME COURT

Art.

1755 to 1759. Repealed.
1760. Death of Parties No Abatement.
1761 to 1765. Repealed

Arts. 1755 to 1759. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1760. Death of Parties No Abatement

If any party to the record in a cause pending in the Supreme Court dies after the writ of error has been served and before such cause has been decided by the Supreme Court, such cause shall not abate by such death; but the court shall proceed to adjudicate such cause and render judgment therein as if all the parties thereto were living, and such judgment shall have the same force and effect as if rendered in the life time of all the parties thereto.

[Acts 1925, S.B. 84.]

Arts. 1761 to 1765. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SIX. JUDGMENT

Arts. 1766 to 1780. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SEVEN. COMMISSION OF APPEALS

Art.

1781 to 1800. Expired or Repealed.

Art.

1800a. Appointment of Members of Commission of Appeals; Salaries.

Arts. 1781 to 1788. Expired

Arts. 1789 to 1791. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Arts. 1792 to 1798. Expired

Art. 1799. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1800. Expired

Art. 1800a. Appointment of Members of Commission of Appeals; Salaries

Composition; Qualifications; Duties; Salaries

Sec. 1. The Supreme Court of this State is hereby authorized to appoint a Commission, to be composed of six attorneys at law, having those qualifications fixed by the laws and Constitution of this State for the judges of the Supreme Court of Texas, which Commission shall be for the aid and assistance of said court in disposing of the business before it; and such Commission shall discharge such duties as may be assigned it by said Court. Each member of said Commission shall receive for his services the same salary, paid in the same manner as are the salaries of the members of the present Commission of Appeals.

Present Members Continued Until Expiration of Terms; Appointments by Supreme Court

Sec. 2. The present members of the Commission of Appeals shall continue in office until the expiration of the terms for which each of them has been appointed. Upon the expiration of the terms of office of the present members of the Commission of Appeals the Supreme Court of this State shall appoint six Commissioners hereinbefore provided for, two of whom shall serve for a period of two years, two for four years and two for six years from the date of their appointment, such terms to be designated by the Supreme Court, and thereafter the Supreme Court shall every two years appoint two Commissioners whose terms of office shall be for a period of six years.

Vacancy Filled by Supreme Court

Sec. 3. In case of a vacancy on said Commission of Appeals by the death, resignation or removal of any member thereof, it shall be the duty of the Supreme Court to fill the same by appointment, and the person so appointed shall continue in office for the unexpired portion of the term for which the Commissioner so vacating his office had been appointed.

Supreme Court to Prescribe Rules and Regulations and Adopt Opinions

Sec. 4. The Commission of Appeals shall hear the submission of causes under such rules and regulations as may be prescribed by the Supreme Court and such court may adopt the opinion prepared by any member of the said Commission and make the same the judgment of the Supreme Court.

Hearing Applications for Writs of Error

Sec. 5. Two of said Commissioners designated by the Supreme Court acting with one member of the Supreme Court shall be authorized to pass upon all applications for writs of error presented from the Courts of Civil Appeals, and the action of said two Commissioners and one member of the Supreme Court in passing upon such applications shall be given the same force and effect as if the same were passed upon by the Supreme Court; provided, upon any application in which the three judges are not unanimous, the same shall be determined by the Supreme Court.

Additional Costs

Sec. 6. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Vernon's Texas Rules of Civil Procedure, Rule 519 (Repealed, effective Feb. 1, 1946).

Term and Place of Sessions

Sec. 7. The Commission shall hold its sessions in Austin at the same time and place as the Supreme Court, but it shall continue work during the vacation of the Supreme Court in midsummer. The judges of the Commission may take a vacation, not to exceed eight weeks during said period.

Stenographers; Salaries

Sec. 8. The Commission shall appoint stenographers not exceeding four, each of whom shall receive an annual salary not to exceed Fifteen Hundred Dollars, to be paid in monthly installments, on warrants approved by the Chief Justice of the Supreme Court.

Additional Compensation of Clerk of Supreme Court

Sec. 9. The Clerk of the Supreme Court shall perform the duties of clerk of said Commission and shall be allowed for services rendered to said Commission by him and his deputies, an additional compensation of Fifteen Hundred Dollars per annum, to be paid out of the fees of his office.

Seal

Sec. 10. Said Commission of Appeals shall have a seal, being a star with five points and the words "Commission of Appeals of the State of Texas" around the same.

Dockets; Certiorari; Procedure

Sec. 11. Regular dockets and minutes of all proceedings by or before said Commission of Appeals shall be kept and the records and proceedings of courts of record and all cases shall be docketed in the order in which they are transferred or referred by the Supreme Court. Said Commission shall have the right to issue writs of certiorari to perfect the record, and such process as the Supreme Court might issue to make parties, and shall have power to punish for contempt. All laws and rules regulating practice and procedure in the Supreme Court shall be of force in the practice and proceedings of the Commission of Appeals so far as applicable. It is the intention of this Act to make more elastic the operation of the Commission of Appeals in order to expedite the disposition of causes in the Supreme Court and the Supreme Court is given full authority to assign such duties to the Commission of Appeals or the members thereof as it may deem proper in order to facilitate the dispatch of business before the Supreme Court.

Salaries of Commissioners and Clerical Help

Sec. 12. The salaries of the six Commissioners, stenographers, porters, clerical help and other expenses essential to carry on the work of the Commission of Appeals shall be paid out of the appropriation made to take care of the salaries and expenses of the present Commission as it now exists.

[Acts 1930, 41st Leg., 5th C.S., p. 112, ch. 2.]

Abolition

Const. Art. 5, § 2, as amended Aug. 25, 1945, in effect, abolished the Commission of Appeals and provided that the "judges of the Commission of Appeals who may be in office at the time this amendment takes effect shall become Associate Justices of the Supreme Court and each shall continue in office as such Associate Justice of the Supreme Court until January 1st next preceding the expiration of the term to which he has been appointed and until his successor shall be elected and qualified."

TITLE 38

COURT OF CRIMINAL APPEALS

Art.
1801. Judges.
1802. Presiding Judge.
1803. Disqualification of Judge.
1804. Term of Court.
1805. Seal of Court.
1806. May Ascertain Facts.
1807. Mandate.
1808. Clerk.
1809. Deputy Clerk.
1810. Reporter and Reports.
1811. State Prosecuting Attorneys.
1811a. Repealed.
1811aa. Application of Sunset Act.
1811b. Repealed.
1811bb. Vacancy Filled by Court of Criminal Appeals.
1811c, 1811d. Repealed.
1811e. Appointment of Commissioners and Commission
of Court of Criminal Appeals.

Art. 1801. Judges

(a) The Court of Criminal Appeals shall consist of eight judges and one presiding judge. The judges shall have the same qualifications and receive the same salaries as the justices of the Supreme Court, and the presiding judge shall have the same qualifications and receive the same salary as the Chief Justice of the Supreme Court. The presiding judge and the Judges shall be elected by the qualified voters of the state at a general election and shall hold their offices for a term of six years. In case of a vacancy in the office of a judge of the Court of Criminal Appeals, the governor shall, with the advice and consent of the Senate, fill said vacancy by appointment until the next succeeding general election.

(b) For the purpose of hearing cases, the Court of Criminal Appeals may sit in panels of three judges, the designation thereof to be under rules established by the court. In a panel of three judges, two judges shall constitute a quorum and the concurrence of two judges shall be necessary for a decision. The presiding judge, under rules established by the court, shall convene the court en banc for the transaction of all other business and may convene the court en banc for the purpose of hearing cases. The court must sit en banc during proceedings involving capital punishment and other cases as required by law. When convened en banc, five judges shall constitute a quorum and the concurrence of five judges shall be necessary for a decision.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 775, ch. 291, § 26, eff. Sept. 1, 1981.]

Art. 1802. Presiding Judge

All writs and processes issuing from said court shall bear test in the name of the presiding judge and the seal of the court.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 776, ch. 291, § 27, eff. Sept. 1, 1981.]

Art. 1803. Disqualification of Judge

When any member thereof shall be disqualified under the Constitution and laws of this State to hear and determine any case in said court, the same shall be certified to the Governor who shall immediately commission a person learned in the law to act instead.

[Acts 1925, S.B. 84.]

Art. 1804. Term of Court

The Court of Criminal Appeals may sit for the transaction of business at any time during the year and each term shall begin and end with each calendar year.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 776, ch. 291, § 28, eff. Sept. 1, 1981.]

Art. 1805. Seal of Court

The court shall use a seal having thereon a star with five points with the words, "Court of Criminal Appeals of Texas" engraved thereon.

[Acts 1925, S.B. 84.]

Art. 1806. May Ascertain Facts

Said court shall have power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

[Acts 1925, S.B. 84.]

Art. 1807. Mandate

When the court from which an appeal has or may be taken has been or shall be deprived of jurisdiction over any case pending such appeal, and when such case has or may be determined by a court of appeals or the Court of Criminal Appeals, the mandate of said appellate court shall be directed to the court to which jurisdiction has been, or may be, given over such case.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 776, ch. 291, § 29, eff. Sept. 1, 1981.]

Art. 1808. Clerk

Said court shall appoint a clerk for said court, who shall:

1. Hold his office for four years unless sooner removed by the court for good cause, entered in its minutes.

2. Take and subscribe the official oath and give the same bond to be approved by said court as may be required of the clerk of the Supreme Court.

3. Perform as such clerk the like duties and be subject to the same liabilities as may be required of or prescribed for the clerk of the Supreme Court. [Acts 1925, S.B. 84.]

Art. 1809. Deputy Clerk

The court, or such clerk with the approval of the court, may designate any stenographer employed by said court to act as deputy clerk during the absence, illness or disability of said clerk. Such stenographer shall receive no extra compensation for such services, and shall discharge the duties of the clerk in the name of his principal as deputy clerk, signing his name after that of said principal as deputy clerk. [Acts 1925, S.B. 84.]

Art. 1810. Reporter and Reports

Said court shall appoint a reporter of such of its decisions as the law requires to be published, and may remove him for inefficiency or neglect of duty. The clerk shall deliver to the reporter the original opinions when recorded and the record in each case to be reported, taking receipt therefor, and the reporter shall return them when he finishes using them. The volumes of such decisions shall be numbered in continuation of the present reports, styled Texas Criminal Reports, and be printed and disposed of in like manner as the reports of the Supreme Court.

[Acts 1925, S.B. 84.]

Art. 1811. State Prosecuting Attorneys

The Court of Criminal Appeals shall appoint an attorney to represent the State in all proceedings before said Court, to be styled "State Prosecuting Attorney," who shall take and subscribe the official oath, hold office for a term of two (2) years and until his successor is appointed and qualified, and who shall have had at least five (5) years experience as a practicing attorney in this State in criminal cases. The State Prosecuting Attorney may also appoint one or more Assistant State Prosecuting Attorneys. Assistant State Prosecuting Attorneys shall have the same duties and the same term of office as the State Prosecuting Attorney. For good cause, the Court of Criminal Appeals shall have power to remove from office State Prosecuting Attorneys. District and county attorneys may provide assistance to the State Prosecuting Attorney in representing the State before the Court of Criminal Appeals. The State Prosecuting Attorney may provide assistance to district and county attorneys in representing the State before the Courts of Appeals when requested to do so by the district or county attorney. The State Prosecuting Attorney may also

represent the State in any stage of a criminal case before the Courts of Appeals when, in his judgment, the interests of the State so require.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 234, ch. 139, § 1; Acts 1973, 63rd Leg., p. 1328, ch. 498, § 1, eff. June 14, 1973; Acts 1977, 65th Leg., p. 675, ch. 256, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 776, ch. 291, § 30, eff. Sept. 1, 1981.]

Art. 1811a. Repealed by Acts 1971, 62nd Leg., p. 1647, ch. 462, § 3, eff. May 27, 1971

The subject matter of this article is now covered by article 1811e.

Art. 1811aa. Application of Sunset Act

The office of State Prosecuting Attorney is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the office is abolished effective September 1, 1987.

[Acts 1977, 65th Leg., p. 1852, ch. 735, § 2.142, eff. Aug. 29, 1977.]

¹ Article 5429k.

Art. 1811b. Repealed by Acts 1971, 62nd Leg., p. 1647, ch. 462, § 3, eff. May 27, 1971

The subject matter of this article is now covered by article 1811e.

Art. 1811bb. Vacancy Filled by Court of Criminal Appeals

In case of a vacancy on said Commission in aid of the Court of Criminal Appeals of Texas by the death, resignation, or removal of any member thereof, it shall be the duty of the Court of Criminal Appeals to fill the same by appointment, and the person so appointed shall continue in office for the unexpired portion of the term for which the Commissioner so vacating his office has been appointed.

[Acts 1934, 43rd Leg., 3rd C.S., p. 14, ch. 9, § 3.]

Arts. 1811c, 1811d. Repealed by Acts 1971, 62nd Leg., p. 1647, ch. 462, § 3, eff. May 27, 1971

The subject matter of these articles is now covered by article 1811e.

Art. 1811e. Appointment of Commissioners and Commission of Court of Criminal Appeals

Sec. 1. (a) The presiding judge of the Court of Criminal Appeals may, with the concurrence of a majority of the judges of the Court of Criminal Appeals, designate and appoint a retired appellate judge or district judge who has consented to be subject to appointment, or an active appellate judge or district judge, to sit as a commissioner of the Court of Criminal Appeals, with the designated judge's consent. The presiding judge of the Court of Criminal Appeals may designate and appoint as many commissioners as he deems necessary to aid and assist the court in disposing of the business before it.

(b) A commissioner shall discharge the duties which may be assigned him by the court and may be

appointed to serve either for a certain period of time or for a particular case or cases.

(c) All opinions of the commissioner shall be submitted to the Court of Criminal Appeals and shall receive the approval of the court, or a majority of the court. When approved by the court, the opinion shall have the same weight and legal effect as if prepared by the Court of Criminal Appeals of Texas.

(d) The compensation of a judge while sitting as a commissioner of the court shall be paid out of moneys appropriated from the General Revenue Fund for such purpose in an amount equal to the salary of the judges of the Court of Criminal Appeals, in lieu of retirement allowance or in lieu of the compensation he receives as an active judge of another court. A judge sitting as a commissioner of the court also shall receive his actual travel expense to and from Austin, Texas, and per diem of \$25 per day while he is assigned to the Court of Criminal Appeals in Austin.

Sec. 1a. (a) In addition to the authority granted under the provisions of Section 1 of this Act, the Court of Criminal Appeals of this State may appoint a Commission to be composed of two attorneys-at-law, having those qualifications fixed by the laws and Constitution of this State for the Judges of the Court of Criminal Appeals of Texas, which Commission shall be for the aid and assistance of said Court

in disposing of the business before it; and such Commission shall discharge such duties as may be assigned it by the said Court. On September 1, 1971, and thereafter every two years, the Court of Criminal Appeals may appoint two Commissioners for terms of two years each. Each member of said Commission shall receive for his services such salary as is now or may hereafter be provided by law. Two stenographers for said Commission shall be appointed by the court.

(b) In case of a vacancy on said Commission in aid of the Court of Criminal Appeals of Texas by the death, resignation, or removal of any member thereof, the Court of Criminal Appeals may fill the same by appointment, and the person so appointed shall continue in office for the unexpired portion of the term for which the Commissioner so vacating his office has been appointed.

(c) All opinions of said Commissioners shall be submitted to the Court of Criminal Appeals and shall receive the approval of said Court, or a majority of them, before handed down as opinions of said Court, and when so approved and handed down, shall have the same weight and legal effect as if originally prepared and handed down by said Court of Criminal Appeals of Texas.

[Acts 1971, 62nd Leg., p. 1646, ch. 462, § 1, eff. May 27, 1971. Amended by Acts 1971, 62nd Leg., 1st C.S., p. 14, ch. 2, § 1, eff. Sept. 3, 1971.]

TITLE 39

COURTS OF APPEALS

Chapter	Article
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CHAPTER ONE. TERMS AND JURISDICTION

Art.	
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1812a.	Second Supreme Judicial District; Membership.
1813.	Election and Term of Office; Special Commissioner Appointed When Justice Disabled or Called into Active Military Service.
1814.	Qualifications of Judges.
1815.	Special Judge.
1816.	Terms of Court.
1817.	Location of Courts.
1817a.	First and Fourteenth Judicial Districts, Places Where Business Transacted: Dockets Equalized.
1817a-1.	First and Fourteenth Supreme Judicial Districts; Reimbursement of Harris County.
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1817f.	Second Supreme Judicial District, Places Where Business Transacted.
1818.	Adjournment.
1819.	Civil Jurisdiction Defined.
1820.	Judgment Conclusive on Facts.
1821.	Judgment Conclusive on Law.
1822.	Inquiry into Jurisdiction.
1823.	Writs of Mandamus, etc.
1824.	May Mandamus District Courts.
1824a.	May Issue Writs of Habeas Corpus.
1825, 1826.	Repealed.

Art. 1812. Membership

(a) Each Court of Appeals shall consist of a Chief Justice and, in each respective district, the following number of Associate Justices:

(1) First	8
(2) Second	5
(3) Third	2
(4) Fourth	6
(5) Fifth	12

(i) The transition from a six judge court to a 13 judge court shall be as follows:

(1) September 1, 1981. Six additional justices shall be added by appointment by the Governor with the advice and consent of the Senate making a total at that time of 12 justices. The justices elected to this position in 1982 shall serve an initial term to end December 31, 1984, or when their successors have qualified.

(2) January 1, 1983. One additional justice shall be added by appointment by the Governor with the advice and consent of the Senate making a total at that time of 13 justices. The justice elected to this position in 1984 shall serve an initial term to end December 31, 1984, or when his successor has qualified.

(ii) In no event shall the total justices authorized by this Act exceed a total of 13 justices in this particular court.

(6) Sixth	2
(7) Seventh	3
(8) Eighth	3
(9) Ninth	2
(10) Tenth	2
(11) Eleventh	2
(12) Twelfth	2
(13) Thirteenth	5
(14) Fourteenth	8

(b) Each Court of Appeals shall sit in panels of not less than three Justices. A majority of a panel shall be a quorum for the transaction of business, and the concurrence of a majority of a panel shall be necessary for a decision. If more than one panel is used, the Justices of the court shall periodically rotate among the panels as provided by rules established by the respective courts. Permanent civil and criminal panels without rotation shall not be established. The Chief Justice of each respective court, under rules established by the court, shall convene the court en banc for the transaction of all other business and may convene the court en banc for the purpose of hearing cases. When convened en banc, a majority of the membership of the court shall constitute a quorum and the concurrence of a majority of the court sitting en banc shall be necessary for a decision. Effective September 1, 1982, the Court of Appeals for the Third Supreme Judicial District shall consist of a Chief Justice and five Associate Justices and may sit in panels of not less than three Justices.

(c) When additional Justices of a Court of Appeals are elected and qualified, they shall draw lots for their terms of office, as provided by law for Justices of the Courts of Appeals after the initial creation of such courts.

(d) A Justice of the Court of Appeals may be assigned temporarily to another Court of Appeals by the Chief Justice of the Supreme Court regardless of whether a vacancy exists in the Court of Appeals to which he is assigned. A qualified retired Justice or Judge of the Supreme Court, of the Court of Criminal Appeals, or of a Court of Appeals may be assigned by the Chief Justice of the Supreme Court to a Court of Appeals for active service regardless of whether a vacancy exists. When a regular or retired Justice or Judge is assigned pursuant to this paragraph out of the county of his residence, he shall, in addition to all other compensation permitted or authorized by law, receive the same expenses and per diem as that allowed a District Judge assigned pursuant to Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), to be paid by the state upon certificates of approval by the Chief Justice of the Supreme Court or the Chief Justice of the Court of Appeals to which the Justice is assigned. A regular Justice assigned to a Court of Appeals sitting out of the county of his residence shall receive pro rata for the time serving on assignment, additional compensation from the county or counties paying additional compensation pursuant to Chapter 297, Acts of the 62nd Legislature, Regular Session, 1971 (Article 6819a-18a, Vernon's Texas Civil Statutes), to an Associate Justice of the Court of Appeals to which the regular Justice is assigned. A retired Justice or Judge shall receive pro rata for the time serving on assignment from money appropriated from the general revenue fund for such purpose an amount representing the difference between all of the judicial retirement benefits of such Justice or Judge and the salary paid by the state to an Associate Justice of a Court of Appeals, and from the county or counties paying additional compensation pursuant to Chapter 297, Acts of the 62nd Legislature, Regular Session, 1971 (Article 6819a-18a, Vernon's Texas Civil Statutes), to an Associate Justice of the Court of Appeals to which assigned a pro rata amount of that additional compensation for the time serving on assignment.

[Acts 1925, S.B. 84. Amended by Acts 1977, 65th Leg., p. 1531, ch. 624, § 1; Acts 1981, 67th Leg., p. 776, ch. 291, § 31, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 1912, ch. 354, § 1, eff. June 16, 1983.]

Section 2 of the 1977 amendatory act provided:

"This Act takes effect on approval by the qualified voters of this state of an amendment to the Texas Constitution providing that each court of civil appeals shall consist of a chief justice and not less than two associate justices."

S.J.R. No. 45 proposing such amendment was approved by the voters in an election held November 7, 1978.

WTSC Civil Statutes—3

Art. 1812a. Second Supreme Judicial District; Membership

Notwithstanding Section (a), Article 1812, Revised Statutes, the Court of Appeals for the Second Supreme Judicial District is composed of a chief justice and six associate justices.

[Acts 1983, 68th Leg., p. 5446, ch. 1022, § 1, eff. Sept. 1, 1983.]

Art. 1813. Election and Term of Office; Special Commissioner Appointed When Justice Disabled or Called into Active Military Service

(a) The Justices of each Court of Appeals shall be elected at the general election by the qualified voters of their respective districts. Upon their qualification, after the first election after the creation of any Court of Appeals, the Justices shall draw lots for the terms of office; those drawing number one (1) shall hold for the term of two (2) years; those drawing number two (2) shall hold for a term of four (4) years; and those drawing number three (3) shall hold office for six (6) years. Each of said offices shall be filled by election at the next general election before the respective terms expire; and the person elected shall thereafter hold his office for six (6) years.

(b) After any Justice of any Court of Appeals has become totally disabled to discharge any of the duties of his office, by reason of illness, physical or mental, and has remained in such condition continuously for a period of not less than one (1) year, and if it is probable that such illness will be permanent, and is of such a nature that it will probably continue to incapacitate such Justice for the balance of his term of office, it shall be the duty of the other Justices of the Court of which such incapacitated Justice is a member to certify such facts to the Governor. Upon receipt of such certificate by the Governor, he shall make proper investigation touching the matters therein contained and if he shall determine that the facts contained in such certificate are true, and that a necessity exists therefor, he shall forthwith appoint a Special Commissioner having the requisite qualifications of a member of such Court to assist the same. Such Special Commissioner, when so appointed, may sit with such Court, hear arguments on submitted cases, and write opinions thereon if directed to do so by the Court; and said opinions, if adopted by the Court, shall become thereupon the opinions of the Court.

(c) The Commissioner herein provided for, when appointed by the Governor, shall receive the same compensation as the regular Justices of the Court of Appeals, and he shall serve until the death or expiration of the term of the disabled member; provided that in no event shall the term of service continue for a longer time than two (2) years under the same appointment; and provided further, that in the event the disabled Justice shall recover from his disability, the term of such Special Commissioner

shall immediately end. In the event of such recovery, a majority of the Justices of said Court shall certify such fact to the Governor, and such certificate shall be conclusive evidence of the recovery of said disabled Justice.

(d) Whenever any Justice of any Court of Appeals is called or ordered into the active military service of the United States, it shall be the duty of the other Justices of the Court of which such Justice is a member, to certify that fact to the Governor. Upon receipt of such certificate by the Governor, he shall make proper investigation touching the matters therein contained, and if he shall determine that the facts contained in such certificate are true, and that a necessity exists therefor, he shall forthwith appoint a Special Commissioner having the requisite qualifications of a member of such Court to assist the same. Such Special Commissioner, when so appointed, may sit with such Court, hear arguments on submitted cases, and write opinions thereon if directed to do so by the Court; and said opinions, if adopted by the Court, shall become thereupon the opinions of the Court.

(e) Such Special Commissioner, when so appointed by the Governor, shall receive the same compensation as the regular Justices of the Court of Appeals, and shall serve until the Justice who has been so called or ordered into the active military service of the United States is discharged from such military service, or until the expiration of the term of office of such Justice; provided that in no event shall the term of service of such Special Commissioner continue for a longer period than two (2) years under the same appointment; and provided further that when such Justice so called or ordered into the active military service of the United States is discharged from such active military service, the term of such Special Commissioner shall immediately end. When the active military service of such Justice shall have terminated, the other Justices of such Court of Appeals shall certify that fact to the Governor, and their certificate shall be conclusive evidence of the facts so certified.

(f) Nothing in this Act shall be considered as giving any members of any Court of Appeals, or the Governor, the power or authority to remove or suspend any member of the Court of Appeals from office, or to in any manner interfere with him in his Constitutional rights and powers.

[Acts 1925, S.B. 84. Amended by Acts 1936, 44th Leg., 3rd C.S. p. 2108, ch. 509, § 1; Acts 1937, 45th Leg., p. 297, ch. 154, § 1; Acts 1941, 47th Leg., p. 170, ch. 123, § 1; Acts 1981, 67th Leg., p. 778, ch. 291, § 32, eff. Sept. 1, 1981.]

Art. 1814. Qualifications of Judges

No person shall be eligible to serve in the office of Justice of a Court of Appeals unless the person is licensed to practice law in this state and at the time of election is a citizen of the United States and of this state, has attained the age of thirty-five years, is a resident of the district from which he is elected,

and has been a practicing lawyer, or a lawyer and judge of a court of record together, at least ten years.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 779, ch. 291, § 33, eff. Sept. 1, 1981.]

Art. 1815. Special Judge

If all or any two members of any Court of Civil Appeals shall be disqualified to determine any cause in such court, that fact shall be certified to the Governor, who shall immediately commission the requisite number of persons, learned in the law, to try and determine said cause.

[Acts 1925, S.B. 84.]

Art. 1816. Terms of Court

The term of each Court of Appeals of the State of Texas shall begin and end with each calendar year.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 120, ch. 79, § 1; Acts 1927, 40th Leg., 1st C.S., p. 147, ch. 50, § 1; Acts 1981, 67th Leg., p. 779, ch. 291, § 34, eff. Sept. 1, 1981.]

Art. 1817. Location of Courts

A Court of Appeals shall be held at the following places, respectively:

1. In the First Supreme Judicial District, in the city of Houston;
2. In the Second Supreme Judicial District, in the city of Fort Worth;
3. In the Third Supreme Judicial District, in the city of Austin;
4. In the Fourth Supreme Judicial District, in the city of San Antonio;
5. In the Fifth Supreme Judicial District, in the city of Dallas;
6. In the Sixth Supreme Judicial District, in the city of Texarkana;
7. In the Seventh Supreme Judicial District, in the city of Amarillo;
8. In the Eighth Supreme Judicial District, in the city of El Paso;
9. In the Ninth Supreme Judicial District, in the city of Beaumont;
10. In the Tenth Supreme Judicial District, in the city of Waco;
11. In the Eleventh Supreme Judicial District, in the city of Eastland;
12. In the Twelfth Supreme Judicial District, in the city of Tyler;
13. In the Thirteenth Supreme Judicial District, in the city of Corpus Christi; and
14. In the Fourteenth Supreme Judicial District, in the city of Houston.

The cities of Beaumont and Waco, and Eastland County, respectively, shall furnish and equip suit-

able rooms for the respective Courts of Appeals therein, and the justices thereof, and the County of Harris shall furnish and equip suitable rooms in Houston for the Courts of Appeals for the First and Fourteenth Supreme Judicial Districts, and for the justices thereof, all without cost or expense to the state. The city of Tyler and Smith County and the city of Corpus Christi and Nueces County, respectively, shall furnish and equip suitable rooms and a library for the respective Courts of Appeals located therein, and for the justices thereof, all without cost or expense to the state.

[Acts 1925, S.B. 84. Amended by Acts 1957, 55th Leg., p. 1263, ch. 421, § 1; Acts 1963, 58th Leg., p. 539, ch. 198, § 2; Acts 1967, 60th Leg., p. 1953, ch. 728, § 2, eff. Sept. 1, 1967; Acts 1981, 67th Leg., p. 779, ch. 291, § 35, eff. Sept. 1, 1981.]

Art. 1817a. First and Fourteenth Judicial Districts, Places Where Business Transacted: Dockets Equalized

(a) The Courts of Appeals for the First and the Fourteenth Supreme Judicial Districts may transact their business in any county in the First Supreme Judicial District as each court shall determine it necessary and convenient.

(b) All civil and criminal cases directed to a Court of Appeals within the First Supreme Judicial District shall be filed in either the First or Fourteenth Court of Appeals as provided by this Act. The trial clerk shall write the numbers of the two Courts of Appeals on identical slips of paper and place the slips in a container. When a notice of appeal or appeal bond is filed, the trial court clerk shall draw a number from the container at random, in a public place, and shall assign the case and any companion cases to the Court of Appeals for the corresponding number drawn. Subject to the provisions of Article 1738, Revised Statutes, the clerks of the First and the Fourteenth Supreme Judicial Districts may from time to time equalize the dockets of the two courts by transferring cases from one court to the other. The court to which the case is transferred has jurisdiction over the matter.

(c) The First and Fourteenth Courts of Appeals shall establish a central clerk's office and offices for judges and other support personnel in Houston. The Courts of Appeals may establish offices for the clerks, judges, and other support personnel of the courts in other counties in the courts' district as each court determines necessary and convenient.

(d) Each of the judges on the Courts of Appeals shall designate on the records of the court in which the judge serves the county of his permanent residence. The county of a judge's permanent residence is the judge's permanent post of duty.

[Acts 1957, 55th Leg., p. 1263, ch. 421, § 2. Amended by Acts 1967, 60th Leg., p. 1954, ch. 728, § 3, eff. Sept. 1, 1967; Acts 1981, 67th Leg., p. 780, ch. 291, § 36, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 4148, ch. 653, § 1, eff. Sept. 1, 1983.]

Acts 1967, 60th Leg., p. 1952, ch. 728, §§ 1, 2 amended articles 198 and 1817; sections 4 to 6 of the act provided:

"Sec. 4. (a) On or before the 10th day after this Act takes effect, the Governor shall, by and with the consent of the Senate if in session, appoint one chief and two associate justices for the Fourteenth Supreme Judicial District.

"(b) To be eligible for appointment to the court, a person must possess the qualifications prescribed by Article 1814, Revised Civil Statutes of Texas, 1925.

"(c) The justices appointed hold their offices until the next general election at which justices shall be elected and qualify in accordance with Article 1813, Revised Civil Statutes of Texas, 1925, as amended.

"Sec. 5. The following sums or as much of them as may be necessary for the objectives and purposes shown are appropriated from the General Revenue Fund for the expenses of the Fourteenth Supreme Judicial District for the fiscal year ending August 31, 1968.

Fourteenth District, Houston	
Personal Services—	
1. Judges, 3 at \$24,000	\$72,000
2. Clerk	10,000
3. Deputy Clerk	5,616
4. Stenographer III	<u>5,616</u>
Subtotal, Personal Services	\$93,232
5. Consumable supplies and materials, current and recurring operating expenses (excluding travel expense), and capital outlay	<u>3,400</u>
Total, Fourteenth District, Houston	<u>\$96,632</u>

"Sec. 6. This Act takes effect on September 1, 1967."

Art. 1817a-1. First and Fourteenth Supreme Judicial Districts; Reimbursement of Harris County

Sec. 1. The counties other than Harris County composing the First and Fourteenth Supreme Judicial Districts shall annually reimburse Harris County for the costs incurred by Harris County during its previous fiscal year for:

(1) supplemental salaries and fringe benefits for the justices for those courts; and

(2) furnishings, equipment, supplies, and utility expenses for those courts.

Sec. 2. (a) Each county shall pay a share based on the proportion its population bears to the total population of all the counties in those districts according to the most recent federal census.

(b) A county shall pay its share not later than the 60th day after the beginning of the county's fiscal year.

Sec. 3. The Commissioners Court of Harris County shall provide each county liable for the expenses with a statement of that county's share. The statement must be approved by the chief justices of the courts of appeal of the First and Fourteenth Supreme Judicial Districts.

Sec. 4. This Act applies to reimbursement of expenses incurred in the fiscal year 1984 and thereafter.

[Acts 1983, 68th Leg., p. 4085, ch. 642, §§ 1 to 4, eff. Aug. 29, 1983.]

Art. 1817b. Thirteenth Supreme Judicial District, Places Where Business Transacted

The Court of Appeals for the Thirteenth Supreme Judicial District may transact its business at the county seat of any of the counties within its district, as the Court shall determine is necessary and convenient, providing that all cases originating in Nueces County shall be heard and transacted in such county.

[Acts 1975, 64th Leg., p. 2357, ch. 726, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 780, ch. 291, § 37, eff. Sept. 1, 1981.]

Section 2 of the 1975 Act provided: "All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

Art. 1817c. Place for Transaction of Business by Sixth Supreme Judicial District

The Court of Appeals for the Sixth Supreme Judicial District may transact its business either in the city of Texarkana or in the courthouse building of the county seat of any of the counties within its district, as the court determines is necessary or convenient, except that all cases originating in Bowie County shall be heard and transacted in the city of Texarkana.

[Acts 1981, 67th Leg., p. 1873, ch. 449, § 1, eff. June 11, 1981.]

Art. 1817d. Eighth Supreme Judicial District, Places Where Business Transacted

The Court of Civil Appeals for the Eighth Supreme Judicial District may transact its business at the county seat of any of the counties within its district, as the court shall determine it necessary and convenient, providing that all cases originating in El Paso County shall be heard and transacted in said county.

[Acts 1981, 67th Leg., p. 864, ch. 308, § 1, eff. June 8, 1981.]

Section 2 of the 1981 Act provides:

"All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

Art. 1817e. Place for Transaction of Business by the Third Supreme Judicial District

The Court of Appeals for the Third Supreme Judicial District may transact its business at the county seat of any of the counties within its district, as the court determines is necessary and convenient, except that all cases originating in Travis County shall be heard and transacted in that county.

[Acts 1983, 68th Leg., p. 2164, ch. 399, § 1, eff. Aug. 29, 1983.]

Art. 1817f. Second Supreme Judicial District, Places Where Business Transacted

The Court of Appeals for the Second Supreme Judicial District may transact its business in any county in the district as the court determines is necessary or convenient.

[Acts 1983, 68th Leg., p. 4149, ch. 653, § 2, eff. Sept. 1, 1983.]

Art. 1818. Adjournment

Such courts may adjourn from day to day or for such time as they may deem proper. If a quorum is not present at the first or any day of the term, any judge of the court or the bailiff thereof may adjourn the court from time to time until a quorum shall be in attendance, but the court shall not be finally adjourned for the term.

[Acts 1925, S.B. 84.]

Art. 1819. Civil Jurisdiction Defined

The appellate jurisdiction of the Courts of Appeals shall extend to all civil cases within the limits of their respective districts of which the District Courts and County Courts have or assume jurisdiction when the amount in controversy or the judgment rendered shall exceed One Hundred Dollars (\$100) exclusive of interest and costs; provided, however, that if any Court of Appeals having jurisdiction of a cause, matter or controversy requiring immediate action shall, by reason of the illness or absence or unavailability of such number of judges that reduces the membership of the court below three (3), be unable to take such immediate action, then the nearest available Court of Appeals may take such action as may be required in regard to said cause, matter or controversy under such rules as the Supreme Court may prescribe.

[Acts 1957, 55th Leg., p. 1279, ch. 426, § 1. Amended by Acts 1981, 67th Leg., p. 780, ch. 291, § 38, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides, in part: "This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction."

Art. 1820. Judgment Conclusive on Facts

The judgments of the Courts of Appeals in civil cases shall be conclusive in all cases on the facts of the case.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 781, ch. 291, § 39, eff. Sept. 1, 1981.]

Art. 1821. Judgment Conclusive on Law

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

1. Any civil case appealed from the County Court or from a District Court, when, under the Constitution a County Court would have had origi-

nal or appellate jurisdiction to try it, except in probate matters, and in cases involving the Revenue Laws of the State or the validity or construction of a Statute.

2. All cases of slander.

3. All cases of divorce or child custody, support, or reciprocal support.

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

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

6. In all appeals from orders or judgments in suits where a temporary injunction has been granted or refused or when a motion to dissolve has been granted or overruled.

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

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

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 68, ch. 33, § 1; Acts 1953, 53rd Leg., p. 1026, ch. 424, § 2; Acts 1981, 67th Leg., p. 781, ch. 291, § 40, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 4767, ch. 839, § 1, eff. June 19, 1983.]

Art. 1822. Inquiry into Jurisdiction

Said courts shall have power, upon affidavit or otherwise as by the courts may be thought proper, to ascertain such matters of fact as may be necessary to the proper exercise of their jurisdiction.

[Acts 1925, S.B. 84.]

Art. 1823. Writs of Mandamus, etc.

Said courts and the judges thereof may issue writs of mandamus and all other writs necessary to enforce the jurisdiction of said courts.

[Acts 1925, S.B. 84.]

Art. 1824. May Mandamus District Courts

Said Courts or any Justice thereof, in vacation, may issue all writs of Mandamus agreeable to the principles of law regulating such writs, against any Judge of a District or County Court.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 68, ch. 33, § 1; Acts 1983, 68th Leg., p. 4768, ch. 839, § 3, eff. June 19, 1983.]

Art. 1824a. May Issue Writs of Habeas Corpus

Whenever any person is restrained in his liberty within a supreme judicial district, the court of appeals of such district, or any of the justices thereof, shall have concurrent jurisdiction with the supreme court to issue the writ of habeas corpus whenever it appears that such restraint of liberty is by virtue of any order, process, or commitment issued by any court or judge on account of the violation of any order, judgment, or decree theretofore made, rendered, or entered by such court or judge in a divorce case, wife or child support case, or child custody case. Said court or any justice thereof, pending the hearing of application for such writ, may admit to bail any person to whom the writ of habeas corpus may be so granted.

[Acts 1969, 61st Leg., p. 249, ch. 96, § 1, eff. April 28, 1969. Amended by Acts 1981, 67th Leg., p. 781, ch. 291, § 41, eff. Sept. 1, 1981.]

Art. 1825. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1826. Repealed by Acts 1971, 62nd Leg., p. 2536, ch. 831, § 6, eff. Aug. 30, 1971

See, now, article 1911a.

CHAPTER TWO. CLERKS AND EMPLOYES

Art.

1827. Appointment of Clerk.

1828. Bond

1829. Removal.

1830. Seal of Court.

1831. Records and Judgments.

1831a. Repealed.

1831b. Reproduction, Recording, and Retention of Records.

1832. Librarian.

1833. Deputy Clerks.

1834. Disposition of Costs.

1835. Report of Costs Collected.

1836. Stenographers.

1836a. Purchase of Law Books From Fees.

1836b, 1836c. Repealed.

Art. 1827. Appointment of Clerk

Each Court of Appeals shall appoint for a term of two years one Clerk who shall reside within a county which is a part of the Supreme Judicial District of the Court of Appeals making the appointment. Such appointment shall be recorded in the minutes of the court. Whenever the necessity occurs, the court may appoint a Clerk Pro Tem.

[Acts 1925, S.B. 84. Amended by Acts 1957, 55th Leg., 2nd C.S., p. 173, ch. 16, § 1; Acts 1981, 67th Leg., p. 782, ch. 291, § 42, eff. Sept. 1, 1981.]

Art. 1828. Bond

The clerk shall first make a bond for five thousand dollars payable to the Governor, conditioned

for the faithful performance of the duties of his office, to be approved by any judge of his court. [Acts 1925, S.B. 84. Amended by Acts 1957, 55th Leg., 2nd C.S., p. 173, ch. 16, § 1.]

Art. 1829. Removal

The clerk may be removed by the court for neglect of duty or malfeasance in office on motion specifying the particular charge preferred. In such case the court shall determine the law and the facts after having given such clerk ten days previous notice of the hearing.

[Acts 1925, S.B. 84. Amended by Acts 1957, 55th Leg., 2nd C.S., p. 173, ch. 16, § 1.]

Art. 1830. Seal of Court

Each clerk shall procure a seal for the use of the court, which shall have a star of five points with "Court of Appeals of the State of Texas" engraved thereon.

[Acts 1925, S.B. 84. Amended by Acts 1957, 55th Leg., 2nd C.S., p. 173, ch. 16, § 1; Acts 1981, 67th Leg., p. 782, ch. 291, § 43, eff. Sept. 1, 1981.]

Art. 1831. Records and Judgments

(a) Each clerk shall file and carefully preserve all records certified to his court and all papers relative thereto; docket all causes in the order in which they are filed; record the proceedings of said court, except opinions and orders on motions, and certify their judgments to the proper courts.

(b) Upon the issuance of the mandate in each case, the clerk shall notify the attorneys of record in the case that:

(1) exhibits submitted to the court by a party may be withdrawn by that party or the party's attorney of record;

(2) exhibits on file with the court will be destroyed 10 years after final disposition of the case or at such earlier time as may be ordered by the court.

(c) No sooner than 60 and no later than 90 days after final disposition of a case, the clerk shall remove and destroy all duplicate papers in the file on record of that case.

(d) The clerk shall, after any civil case in said court has been finally disposed of for a period of ten years, destroy all records filed in said court in connection therewith except:

(1) those records which contain highly concentrated, unique, and valuable information unlikely to be found in any other source available to researchers, as determined by the clerk or other person designated by the court, which records may be transferred to a public or private library or other agency concerned with the preservation of historical documents, which library or agency may then determine which records to preserve; and

(2) indexes, original opinions, minutes, and general court dockets, unless these documents are microfilmed, microfiched, or otherwise reduced for permanent retention, in which case the original documents shall be destroyed.

(e) The clerk shall retain other records of the court, such as financial records, administrative correspondence, and other materials not related to particular cases for the period of time specified by order of the court.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 540, ch. 263, § 1; Acts 1971, 62nd Leg., p. 2350, ch. 713, § 1, eff. June 8, 1971; Acts 1981, 67th Leg., p. 782, ch. 291, § 44, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 4091, ch. 645, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5447, ch. 1023, § 1, eff. June 19, 1983.]

Art. 1831a. Repealed by Acts 1983, 68th Leg., p. 4094, ch. 645, § 3, eff. Aug. 29, 1983

Art. 1831b. Reproduction, Recording, and Retention of Records

Plan for Reproduction

Sec. 1. The clerks of the courts of appeals may, pursuant to their duty to preserve indexes, original opinions, minutes, and general court dockets, provide a plan for the reproduction by microfilm or other process which correctly and legibly reproduces or which forms a medium of copying or reproducing these records. The plan shall be in writing and shall include provisions for maintenance, retention, security, and retrieval of all records so microfilmed or otherwise duplicated.

Contents of Plan; Standards

Sec. 2. The plan shall include setting standards for:

(1) organizing, identifying, coding, and indexing so that the image produced during the microfilming or other duplicating process can be certified as a true and correct copy of the original and may be retrieved rapidly;

(2) materials used in the microfilming or other process which correctly and legibly reproduces or which forms a medium of copying or reproducing all records as authorized by this Act, and all processes of development, fixation, and washing of the photographic duplicates to be of quality approved for permanent photographic records by the United States Bureau of Standards; and

(3) permanent retention of the records and security provisions to guard against physical loss, alterations, and deterioration.

Adoption of Plan

Sec. 3. The clerk or clerks may present the plan in writing to the justices of the court of appeals. If a majority of such justices determine that the plan meets the requirements set forth in Section 2 of this Act, they shall so inform the clerks in writing, and the clerks may adopt the plan. The decision of the justices shall be entered in the minutes of the court, and thereafter all reproductions of original documents of the court made in accordance with the plan shall be considered to be the original records for all purposes and shall be so accepted by courts and administrative agencies in this state. All transcripts, exemplifications, copies, or reproductions on paper or on film of an image or images of any microfilmed or otherwise duplicated record shall be

deemed to be certified copies of the original for all purposes.

Destruction of duplicated originals

Sec. 4. Upon certification of the clerk to the court that all requirements have been met and are on record as provided by this plan, the clerk may destroy the indexes, original opinions, minutes, and general court dockets which have been microfilmed or otherwise duplicated.

[Acts 1977, 65th Leg., p. 342, ch. 169, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 783, ch. 291, § 46, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 4092, ch. 645, § 2, eff. Aug. 29, 1983.]

Art. 1832. Librarian

Each clerk shall be librarian in charge of the library of his court, and shall take charge of, keep in good order and make catalogs of the books thereof.

[Acts 1925, S.B. 84.]

Art. 1833. Deputy Clerks

With the approval of the court, each clerk may appoint such deputies as may be provided by the appropriations act of the legislature. Each deputy shall give bond to the clerk for the faithful discharge of his duty.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 784, ch. 291, § 47, eff. Sept. 1, 1981.]

Art. 1834. Disposition of Costs

Each clerk of a Court of Appeals shall collect and pay into the State Treasury all costs collected by him, under such regulations as the Comptroller may prescribe and the justices of said Court approve.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 784, ch. 291, § 48, eff. Sept. 1, 1981.]

Art. 1835. Report of Costs Collected

Each clerk shall, within ten days after the first day of January and July, make a sworn report to his court showing the amount of costs collected by him during the previous six months, the causes in which the same were collected, and the disposition made of such costs. This report shall be filed with the financial records of said court.

[Acts 1925, S.B. 84. Amended by Acts 1983, 68th Leg., p. 5448, ch. 1023, § 2, eff. June 19, 1983.]

Art. 1836. Stenographers

Each court may appoint one stenographer who shall be sworn to keep secret all matters which may come to his knowledge as such stenographer, and who shall give bond for two thousand dollars payable to the State of Texas, conditioned for the faithful performance of his duties, to be approved by the Chief Justice of said Court.

[Acts 1925, S.B. 84.]

Art. 1836a. Purchase of Law Books From Fees

Sec. 1. Deleted by Acts 1981, 67th Leg., p. 785, ch. 291, § 49, eff. Sept. 1, 1981.

Sec. 1-a. The Clerks of the Courts of Appeals shall be and are hereby authorized to purchase additional law books for the use of said Courts out of the fees collected by said Courts; such expendi-

tures shall not exceed annually the specific amounts of such fees additionally authorized for such purpose in the General Appropriation Acts of the Legislature made biennially for the support and maintenance of the Judiciary Department of the State Government. Provided, however, that all such fees collected by any clerk or other officer of any Court of Appeals within this State shall be deposited in the State Treasury to the credit of the court so collecting and depositing same, and the expenditures out of said fund for the foregoing purposes shall be upon a warrant drawn upon the State Treasury by the State Comptroller, as may be provided for in the General Appropriation Bill for the Judiciary of this State.

[Acts 1929, 41st Leg., p. 233, ch. 98, § 1. Amended by Acts 1935, 44th Leg., p. 287, ch. 104, § 1; Acts 1981, 67th Leg., p. 785, ch. 291, § 49, eff. Sept. 1, 1981.]

Arts. 1836b, 1836c. Repealed by Acts 1981, 67th Leg., p. 785, ch. 291, §§ 50, 51, eff. Sept. 1, 1981

CHAPTER THREE. PROCEEDINGS

Art.

1837 to 1840. Repealed.

1840-A. Amendment of Appeal Bonds.

1841 to 1850. Repealed.

Arts. 1837, 1838. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1839. Repealed by Acts 1981, 67th Leg., p. 785, ch. 291, § 52, eff. Sept. 1, 1981

Art. 1840. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1840-A. Amendment of Appeal Bonds

When an appeal has been or shall be taken from the judgment of any of the courts of this State by filing a bond or entering into a recognizance within the time prescribed by law in such cases, and it shall be determined by the court to which appeal is taken that such bond or recognizance is defective in form or substance; such Appellate Court may allow the appellant to amend such bond or recognizance by filing a new bond on such terms as the court may prescribe.

[Acts 1981, 42nd Leg., p. 315, ch. 187, § 1.]

Partial Repeal

Repealed insofar as article relates to the Civil Appellate Courts, see Vernon's Texas Rules of Civil Procedure, Rule 430.

Arts. 1841 to 1849. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1850. Repealed by Acts 1981, 67th Leg., p. 785, ch. 291, § 53, eff. Sept. 1, 1981

CHAPTER FOUR. CERTIFICATION OF QUESTIONS

Art.

1851, 1851a. Repealed.

1852 to 1855. Repealed.

Art. 1851. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1851a. Repealed by Acts 1981, 67th Leg., p. 785, ch. 291, § 54, eff. Sept. 1, 1981

Arts. 1852 to 1855. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER FIVE. JUDGMENT OF THE COURT

Arts. 1856 to 1872. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SIX. CONCLUSIONS OF FACT AND LAW

Arts. 1873 to 1876. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SEVEN. REHEARING

Arts. 1877 to 1880. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER EIGHT. WRIT OF ERROR TO SUPREME COURT

Art. 1881 to 1883. Repealed.
1883a. Transferred to Article 2249a.

Arts. 1881 to 1883. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1883a. Transferred to Article 2249a

TITLE 40

COURTS—DISTRICT

Chapter	Article
1. The Judge	1884
2. District Clerk	1894
3. Powers and Jurisdiction	1906
4. Terms of Court	1919
4A. Family District Courts	1926a
5. Criminal District Courts	1926-1

CHAPTER ONE. THE JUDGE

Art.

- 1884. Election and Qualification.
- 1885. Disqualification.
- 1886. Record of Agreement.
- 1887. Special Judge, When.
- 1888. Voting for Special Judge.
- 1889. Election for Special Judge.
- 1890. Failure of Officers to Act.
- 1891. Record of the Election.
- 1892. Effect of Such Record.
- 1893. Other Elections for Special Judge.

Art. 1884. Election and Qualification

For each judicial district there shall be elected at the general election for a term of four years a judge who shall be at least twenty-five years of age, a practicing attorney or a judge of a court in this State for four years and a resident of the district in which he is elected for two years next before his election. He shall reside in his district during his term of office.

[Acts 1925, S.B. 84.]

Art. 1885. Disqualification

No change of venue shall be necessary because of the disqualification of a district judge, but he shall immediately certify his disqualification to the Governor, whereupon the Governor shall designate some district judge in an adjoining district to exchange and try such case or cases, and he shall notify both of said judges of such order; and such judges shall exchange districts for the purpose of disposing of such case or cases. If said judges be prevented from exchanging districts, the parties or their counsels may agree upon an attorney of the court for the trial thereof, and failing to agree, such fact shall be certified to the Governor by the district judge, or the special judge, whereupon the Governor shall appoint a person legally qualified to act as judge in the trial of the case.

[Acts 1925, S.B. 84.]

Art. 1886. Record of Agreement

Whenever a special judge is agreed upon for the trial of a particular cause, the clerk shall enter in

the minutes of the court, as a part of the proceedings in such cause, a record showing:

1. That the judge of the court was disqualified to try the cause; and
2. That such special judge (naming him) was, by consent agreed upon by the parties to try the cause; and
3. That the oath prescribed by law has been duly administered to him.

[Acts 1925, S.B. 84.]

Art. 1887. Special Judge, When

Should the judge of a district court on the first or any future day of a term, fail or refuse to hold the court, the practicing lawyers of the court present may elect from among their number a special judge who shall hold the court and proceed with the business thereof.

[Acts 1925, S.B. 84.]

Art. 1888. Voting for Special Judge

Such election shall be by ballot, and each practicing lawyer in attendance at such court shall be entitled to participate in such election and shall be entitled to one vote. A majority of the votes of the lawyers participating shall be necessary to the election of such special judge.

[Acts 1925, S.B. 84.]

Art. 1889. Election for Special Judge

The election shall be conducted as follows: The sheriff or constable shall make proclamation at the court house door that the election of a special judge of the court is about to be made by the practicing lawyers present; the clerk shall then make a list of the practicing lawyers present; and such lawyers shall then organize and hold the election.

[Acts 1925, S.B. 84.]

Art. 1890. Failure of Officers to Act

Should the sheriff, constable, and clerk, or either of them, fail or refuse to act, the said practicing lawyers may nevertheless proceed to organize themselves into such electoral body, and appoint a sheriff and clerk pro tempore to do the duties of such officers respectively.

[Acts 1925, S.B. 84.]

Art. 1891. Record of the Election

The clerk shall enter upon the minutes of the court a record of the election of such special judge, showing:

1. The names of all the practicing lawyers present and participating in such election.

2. The fact that the public proclamation was made at the court house door that such election was about to take place.

3. The number of ballots polled at such election and the number polled for each person, and the result of the election.

4. That the oath prescribed by law has been duly administered to the special judge.

[Acts 1925, S.B. 84.]

Art. 1892. Effect of Such Record

The record of such proceedings, substantially complying with the requirements of the law, shall be conclusive evidence of the election and qualification of such special judge.

[Acts 1925, S.B. 84.]

Art. 1893. Other Elections for Special Judge

Like elections may be held from time to time during the term of the court to supply the absence, failure or inability of the judge, or of any special judge, to perform the duties of the office.

[Acts 1925, S.B. 84.]

CHAPTER TWO. DISTRICT CLERK**Art.**

- 1894. Election and Power.
- 1895. Vacancy.
- 1896. Clerk Pro Tem.
- 1897. Bond, Oath, and Insurance.
- 1898. Deputies.
- 1899. To Record Proceedings.
- 1899a. Records of District Clerk.
- 1899b. Recording Proceedings of More Than One Court.
- 1899c. Record of Drug-Related Felony Convictions and Periodic Notification of Licensing Boards.
- 1900. Report of Fines and Jury Fees.
- 1901. Custody and Care of Records; Removal of Old Records; Deposit in Museum.
- 1901a. Destruction of Records by Shredding.
- 1902. Indexes to Judgments.
- 1903. Joint Clerk; Separation of County and District Clerk Offices; Election.
- 1904. Use of Court Seal.
- 1905. Seal of the Court.

Art. 1894. Election and Power

A clerk of the district court of each county shall be elected at each general election for a term of two years. Each such clerk shall have power to administer oaths and affirmations required in the discharge of their official duties, to take the deposi-

tions of witnesses, and generally to perform all such duties as are or may be imposed upon them by law.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 572, ch. 277, § 1.]

Increase in Term of Office

Const. Art. 5, § 9 was amended in November, 1954, to increase the term of office of clerks of district court from two to four years.

Art. 1895. Vacancy

Whenever a vacancy occurs in the office of district clerk, it shall be filled by the district judge of such county; and such appointee shall give bond and qualify and may hold his office until the next general election. Where a vacancy occurs in a county having two or more district courts, the vacancy shall be filled by the judges of such courts; and if they fail to agree, the Governor, upon the certificate of such judges, shall order a special election to fill such vacancy.

[Acts 1925, S.B. 84.]

Art. 1896. Clerk Pro Tem

Where a district clerk is a party to any pending or proposed suit, motion or proceeding in his court, the district judge in whose court the same may be pending or proposed, shall, on application of any person interested, or on his own motion, appoint a clerk pro tempore for the purposes of such suit, motion or proceeding. Such temporary clerk shall take an oath to faithfully and impartially perform the duties of such appointment, and shall also enter into bond, payable to the State of Texas, in an amount to be fixed by the judge and to be approved by him, conditioned for the faithful performance of his duties under such appointment. Such appointee shall perform each duty required by law of the clerk in the particular suit, motion or proceeding in which he may be appointed.

[Acts 1925, S.B. 84.]

Art. 1897. Bond, Oath, and Insurance**Bond and Oath**

Sec. 1. Each district clerk shall, before entering upon the duties of his office, give bond either with two or more good and sufficient sureties or with a surety company authorized to do business in Texas as a surety to be approved by the commissioners court in an amount equal to not less than \$5,000 nor less than 20 percent of the maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which the bond is to be given, but in no event to exceed \$100,000, conditioned for the faithful discharge of the duties of his office. Said clerk shall also take and subscribe the official oath which shall be endorsed on the bond, and the bond and oath so taken and approved shall be filed and recorded in the office of the county clerk.

Deputies and Employees; Bond

Sec. 2. Each district clerk shall obtain a surety bond covering his deputy or a schedule surety bond or a blanket surety bond covering his deputies, if more than one, and all employees of his office. Each deputy and each employee shall be covered for the same conditions and in the same amount as the district clerk.

Beneficiaries of Bonds

Sec. 3. The bond covering the district clerk shall be made payable to the governor and the bond or bonds covering the deputies and the employees of the district clerk shall be made payable to the governor for the use and benefit of the district clerk.

Errors and Omissions Insurance

Sec. 4. (a) Each district clerk shall obtain an errors and omissions insurance policy, covering the district clerk and the deputy or deputies of the district clerk against liabilities incurred through errors and omissions in the performance of the official duties of said district clerk and the deputy or deputies of said district clerk; with the amount of the policy being in an amount equal to a maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which said insurance policy is to be obtained, but in no event shall the amount of the policy be for less than \$10,000 or more than \$700,000.

(b) Commissioners courts of each county may establish a contingency fund for the purpose of providing coverage to the extent required by this article where it is determined by the district clerk that insurance coverage is unavailable to provide such coverage. District clerks of those counties where a contingency fund is established may collect an additional filing fee to be determined by the commissioners court in an amount not to exceed \$5 for each suit filed. When the contingency fund has reached an amount equal to that required by Subsection (a) of this section, the contingency fee shall no longer be collected.

Burglary, Theft, Robbery, etc. Insurance

Sec. 5. Each district clerk shall obtain an insurance policy to cover any loss due to burglary, theft, robbery, counterfeit currency, and destruction, with the amount of policy being in an amount not to exceed \$20,000.

Payment of Premiums

Sec. 6. The premiums for the bonds and the insurance policies required by this article to be given or to be obtained by the district clerk of each

county shall be paid by the commissioners court of the county out of the general fund of the county.

[Acts 1925, S.B. 84. Amended by Acts 1969, 61st Leg., p. 1711, ch. 561, § 1, eff. Sept. 1, 1969; Acts 1979, 66th Leg., p. 1506, ch. 650, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2071, ch. 462, § 1, eff. June 11, 1981.]

Art. 1898. Deputies

The district clerk may, in writing, under his hand and the seal of his court, appoint one or more deputies. The appointment shall be recorded in the office of the county clerk. Such deputies shall take the official oath, and shall act in the name of their principal, and may do and perform all such official acts as may be lawfully done and performed by such clerk in person. If the clerk does not reside at the county seat he shall have a deputy residing there.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 277, ch. 123, § 1.]

Art. 1899. To Record Proceedings

Such clerks shall keep a fair record of all the acts done, and proceedings had, in their respective courts; enter all judgments of the court, under direction of the judge, and keep a record of all executions issued and the returns thereon, in record books to be kept for the purpose.

[Acts 1925, S.B. 84.]

Art. 1899a. Records of District Clerk

Sec. 1. The District Clerk may, pursuant to his duty to keep a fair record of acts and proceedings, provide a plan for the reproduction by microfilm or other process which correctly and legibly reproduces or which forms a medium of copying or reproducing all records, acts, proceedings held, minutes of the court or courts, and including all registers, records, and instruments for which the District Clerk is or may become responsible by law. The plan shall be in writing and shall include provisions for maintenance, retention, security, and retrieval of all records so microfilmed or otherwise duplicated.

Sec. 2. Any such plan shall provide for the following requirements:

(1) All original instruments, records, and minutes shall be recorded and released into the file system within a specified minimum time period after presentation to the clerk;

(2) Original paper records may be used during the pendency of any legal proceeding;

(3) The plan shall include setting standards for organizing, identifying, coding, and indexing so that the image produced during the microfilming or other duplicating process can be certified as a true and correct copy of the original and may be retrieved rapidly.

(4) All materials used in the microfilming or other process which correctly and legibly reproduces or which forms a medium of copying or reproducing all

public records, as herein authorized, and all processes of development, fixation, and washing of said photographic duplicates, shall be of quality approved for permanent photographic records by the United States Bureau of Standards.

(5) The plan shall provide for permanent retention of the records and shall provide security provisions to guard against physical loss, alterations, and deterioration.

Sec. 3. The clerk may present such plan in writing to the District Judge or Judges of the county in which the clerk is located. If the Judge, or a majority of the Judges, determine that the plan meets the requirements set forth in Section 2 of this Act, they shall so inform the clerk in writing, and the clerk may adopt the plan. The decision of the Judge or Judges shall be entered in the minutes of the court or courts, and thereafter all recordings and orders of the court in accordance with the plan shall be considered to be the original records for all purposes and shall be so accepted by courts and administrative agencies in this State. All transcripts, exemplifications, copies, or reproductions on paper or on film of an image or images of any microfilmed or otherwise duplicated record shall be deemed to be certified copies of the original for all purposes.

Sec. 4. In any hearing, proceeding, or trial in which instruments and records have been filed with or left in the possession of the District Clerk, and upon certification of the clerk to the Librarian of the State that all requirements have been met and are on record as provided by this plan, the clerk may destroy such instruments and records after one year has elapsed following the time at which the judgment has become final and times for appeal, writ of error, bill of review under Rule 329, Texas Rules of Civil Procedure and certiorari has expired without having been perfected, or mandate which is finally decisive of such matters has been issued, further providing, that after these requirements are reached and prior to the actual destruction of the instruments and records by the clerk, any party or parties or the State Librarian by petitioning the court may move for the return of such instruments and records.

[Acts 1971, 62nd Leg., p. 2831, ch. 926, § 1, eff. June 15, 1971.]

Art. 1899b. Recording Proceedings of More Than One Court

Combining the Minutes: Civil and Criminal Separate

Sec. 1. (a) All district clerks who have duties in more than one district court are authorized to combine all the minutes of the civil business of the several courts into one record book.

(b) All aforesaid district clerks are also authorized to combine the criminal minutes in the same manner.

(c) The civil minutes are to be kept in a book separate from the criminal minutes.

Manner of Entry

Sec. 2. Entry of all business in the minutes of both the civil book and the criminal book are to be made sequentially, regardless of the district court from which the business originates.

[Acts 1975, 64th Leg., p. 1183, ch. 441, § 1, eff. June 19, 1975.]

Art. 1899c. Record of Drug-Related Felony Convictions and Periodic Notification of Licensing Boards

Sec. 1. Each district clerk shall maintain, in addition to other required records, a current listing of the full names of all persons convicted of felonies under the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), or Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), in the county in which the district clerk holds office. Such listing shall include the names of all persons whose convictions are on appeal or have not become final, as well as those who have received suspended sentences or probation following an adjudication or plea of guilt, but shall not include the name of any defendant whose prosecution is deferred during a period of probation with no plea or adjudication of guilt.

Sec. 2. At least once each calendar month, the district clerk shall send two certified copies each to the Texas State Board of Medical Examiners, the Texas State Board of Podiatry Examiners, the State Board of Dental Examiners, the State Board of Pharmacy, and the State Board of Veterinary Medical Examiners, of all names added to the listing maintained pursuant to Section 1 of this article since the last previous such transmittal of certified copies.

[Acts 1981, 67th Leg., p. 110, ch. 52, § 11, eff. Sept. 1, 1981.]

Art. 1900. Report of Fines and Jury Fees

On the last day of each term of the court, the clerk shall make a written statement showing all moneys received by him for jury fees and fines, with the name of each party from whom received, up to the date of such statement, and since his previous statement; and also the name of each juror who has served at such term, the number of days he served, and the amount due him for such services. Such statement shall be examined, corrected, approved, and signed by the presiding judge. Such statement, when so approved and signed shall be recorded in the minutes of the court.

[Acts 1925, S.B. 84.]

Art. 1901. Custody and Care of Records; Removal of Old Records; Deposit in Museum

District Clerks shall have the custody of records pertaining to or lawfully deposited in their offices and shall carefully attend to the arrangement and preservation of the same; provided however, that records dated before 1860 in counties having a population of not less than ninety-eight thousand, two hundred and ten (98,210) and not more than ninety-nine thousand, two hundred and ten (99,210) according to the last preceding Federal Census may be removed under the following conditions:

That upon the application of the curator of any museum located in the county where the records are deposited, said museum to be maintained and operated by or in connection with a recognized higher educational institution of learning and upon the proper substitution of certified copies by the curator making application to the District Clerk, said records may be removed and placed in the care and custody of such curator, or his successor, all of which shall be without expense to the State.

[Acts 1925, S.B. 84. Amended by Acts 1939, 46th Leg., p. 219, § 1.]

Art. 1901a. Destruction of Records by Shredding

Any records, ballots, stubs, lists, or papers which the district clerk or county clerk of any county in this state is required or authorized to destroy by burning may alternatively be destroyed by shredding at the discretion of the clerk.

[Acts 1971, 62nd Leg., p. 2452, ch. 792, eff. June 8, 1971.]

Art. 1902. Indexes to Judgments

They shall provide and keep in well bound books, as part of the records, full and complete alphabetical indexes of the names of the parties to all suits filed in their courts; showing in full the names of all the parties, indexed and cross-indexed, so as to show the name of each party under the proper letter; and a reference shall be made opposite each name to the page of the minute book upon which is entered the judgment in each case.

[Acts 1925, S.B. 84.]

Art. 1903. Joint Clerk; Separation of County and District Clerk Offices; Election

Sec. 1. Except as provided by Section 2 of this Article, in counties having a population of less than eight thousand (8,000), according to the last preceding Federal Census, there shall be elected a single clerk who shall perform the duties of the district clerk and the county clerk, unless a majority of the qualified voters of the county who participate in a special election, called by the Commissioners Court for that purpose, vote to keep the offices of county and district clerk separate. The Commissioners Court may submit to the qualified voters of such counties, at an election held at least thirty (30) days before any regular primary election immediately

preceding the expiration of the constitutional term of office of said clerk, the question of whether the offices of district and county clerk shall be separate or joint. The same question may again be submitted immediately prior to the expiration of each subsequent constitutional term of office of the separate clerk. Notice of such special election shall be published in a newspaper of general circulation in the county at least twenty (20) days prior to such election. No special election as provided herein shall prevent any county clerk, district clerk or joint clerk from serving the full term of office to which he was elected.

Sec. 2. The Commissioners Court of a county having a population of more than seven thousand, six hundred (7,600) and less than eight thousand (8,000), according to the most recent federal census, shall determine whether the county is to have a separate district clerk and county clerk or is to have a single clerk to perform the duties of the district clerk and county clerk. However, the commissioners court may not take any action to prevent a district clerk, county clerk, or joint clerk from serving the full term of office to which he was elected.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 73, ch. 49, § 1; Acts 1962, 57th Leg., 3rd C.S., p. 159, ch. 54, § 1; Acts 1981, 67th Leg., p. 2527, ch. 668, § 1, eff. June 15, 1981.]

Art. 1904. Use of Court Seal

When a joint clerk has been elected, he shall, in performing the duties of district clerk use the seal of said court to authenticate his official acts as clerk of the district court.

[Acts 1925, S.B. 84.]

Art. 1905. Seal of the Court

Each district court shall be provided with a seal, having engraved thereon a star of five points in the center and the words, "District Court of _____ County, Texas." The impress of which shall be attached to all process, except subpoenas, issued out of such court, and shall be kept by the clerk and used to authenticate his official acts.

[Acts 1925, S.B. 84.]

CHAPTER THREE. POWERS AND JURISDICTION

Art.

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Art. 1906. Original Jurisdiction

The district court shall have original jurisdiction in civil cases of:

1. Suits in behalf of the State to recover penalties, forfeitures and escheats.
2. Cases of divorce and dissolution of marriage.
3. Suits to recover damages for slander or defamation of character.
4. Suits for the trial of title to land and for the enforcement of liens thereon.
5. Suits for trial of right to property levied on by virtue of any writ of execution, sequestration or attachment, when the property levied on shall be equal to or exceed in value five hundred dollars.
6. Suits, complaints or pleas, without regard to any distinction between law and equity, when the matter in controversy [controversy] shall be valued at or amount to five hundred dollars exclusive of interest.
7. Contested elections.

[Acts 1925, S.B. 84.]

Art. 1906a. Computation of Amount in Controversy Where Parties Properly Joined

Where two or more persons originally and properly join in one suit, the suit for jurisdictional purposes shall be treated as if one party were suing for the aggregate amount of all their claims added together, exclusive of interest and cost; provided that this statute shall not prevent jurisdiction from attaching on any other ground. Provided further, that the passage of this Act shall not affect any pending litigation.

[Acts 1945, 49th Leg., p. 543, ch. 329, § 1.]

Art. 1907. Repealed by Acts 1975, 64th Leg., p. 2197, ch. 701, § 7, eff. June 21, 1975

See, now, Probate Code, § 5.

Art. 1908. Over Commissioners Courts

Such court shall also have appellate jurisdiction and general supervisory control over the commis-

sioners court, with such exceptions and under such regulations as may be prescribed by law.

[Acts 1925, S.B. 84.]

Art. 1909. General Jurisdiction

Such court shall have general original jurisdiction over all causes of action, for which a remedy or jurisdiction is not provided by law or the constitution, and such other jurisdiction, original and appellate as may be provided by law.

[Acts 1925, S.B. 84.]

Art. 1910. Motions Against Sheriffs, Attorneys, etc.

The district court shall have power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys, collected under the process of said court, or other defalcation of duty in connection with such process and of motions against attorneys for moneys collected by them and not paid over.

[Acts 1925, S.B. 84.]

Art. 1911. Repealed by Acts 1971, 62nd Leg., p. 2536, ch. 831, § 6, eff. Aug. 30, 1971**Art. 1911a. Contempt; Power of Courts; Penalties****Inherent Power and Authority of Courts**

Sec. 1. A court possesses inherently all powers necessary for the exercise of its jurisdiction and the enforcement of its lawful orders, including authority to issue such writs and orders as may be necessary or proper in aid of its jurisdiction. It has the duty to require that proceedings shall be conducted with dignity and in an orderly and expeditious manner and to so control the proceedings that justice is done. A court has the power to punish for contempt.

Penalties for Contempt

Sec. 2. (a) Every court other than a justice court or municipal court may punish by a fine of not more than \$500, or by confinement in the county jail for not more than six months, or both, any person guilty of contempt of the court.

(b) A justice court or municipal court may punish by a fine of not more than \$100, or by confinement in the county or city jail for not more than three days, or both, any person guilty of contempt of the court.

(c) Provided, however, an officer of a court held in contempt by a trial court, shall, upon proper motion filed in the offended court, be released upon his own personal recognizance pending a determination of his guilt or innocence by a judge of a district court, other than the offended court. Said judge to be appointed for that purpose by the presiding judge of the Administrative Judicial District wherein the alleged contempt occurred.

Confinement to Enforce Order

Sec. 3. Nothing in this Act affects a court's power to confine a contemner in order to compel him to obey a court order.

Work-Release Sentence or Probation

Sec. 4. Section 5, Article 42.03, Code of Criminal Procedure, 1965, as amended, and Section 14.12, Family Code, as amended, apply when a person is punished by confinement for contempt of court for disobedience of court order to make periodic payments for the support of a child.

[Acts 1971, 62nd Leg., p. 2535, ch. 831, §§ 1 to 3, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1784, ch. 657, § 1, eff. Aug. 27, 1973; Acts 1977, 65th Leg., p. 2076, ch. 827, § 2, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 2537, ch. 674, § 4, eff. Sept. 1, 1981.]

Art. 1912. Judgments Transferred and Enforced

When a district clerk shall receive from the county clerk a certified copy of a judgment rendered in any civil or criminal case in the county court where the civil and criminal jurisdiction, or either, of the county court has been transferred to the district court, he shall immediately record such judgments in the minutes of the district court; and the said district court shall enforce said judgments by execution or otherwise, as other judgments rendered in said district court are enforced.

[Acts 1925, S.B. 84.]

Art. 1913. Other Jurisdiction

Subject to the limitations stated in this chapter, the district court is authorized to hear and determine any cause which is cognizable by courts, either of law or equity, and to grant any relief which could be granted by said courts, or either of them.

[Acts 1925, S.B. 84.]

Art. 1914. To Grant All Remedial Writs

Judges of the district courts may either in term time or in vacation, grant writs of mandamus, injunction, sequestration, attachment, garnishment, certiorari and supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the court.

[Acts 1925, S.B. 84.]

Art. 1915. Powers in Vacation

Judges of the district courts may in vacation, by consent of the parties, exercise all powers, make all orders, and perform all acts, as fully as in term time, and may, by consent of the parties, try any civil case, except divorce cases, without a jury and enter final judgment. All such proceedings shall be conducted under the same rules as if done in term time; and the right of appeals and writ of error shall apply as if the acts had been done in term time.

[Acts 1925, S.B. 84.]

Art. 1916. May Alternate, etc.

A judge of the district court may hold court for or with any other district judge; and the judges of such courts may exchange districts whenever they deem it expedient.

[Acts 1925, S.B. 84.]

Art. 1916a. Exchange of Benches by Judges of the 51st, 119th and 340th Judicial Districts

Sec. 1. The provisions of this Act authorize the exchange of benches without formal order by the judges of the 51st Judicial District, the 119th Judicial District, and the 340th Judicial District and are applicable in each county in those districts, including the counties in which the districts do not overlap.

Sec. 2. The judges of those courts may, in their discretion, exchange benches from time to time, and any of the judges may, in his own courtroom, try and determine any case or proceeding pending in any of the other courts without having the case transferred, or may sit in any of the other courts and there hear and determine any case there pending, and each judgment and order shall be entered in the minutes of the court in which the case is pending. The judges may try different cases filed in the same court at the same time and each may occupy his own courtroom or the room of any other court. In case of absence, sickness, or disqualification of any of those judges, any of the other of those judges may hold court for him. Any of the judges may hear any part of any case or proceeding pending in any of those courts and determine the same or may hear and determine any question in any case, and any other of those judges may complete the hearing and render judgment in the case. Any of those judges may hear and determine motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement, all dilatory pleas, motions for new trials and all preliminary matters, questions, and proceedings and may enter judgment or order thereon in the court in which the case is pending without having the case transferred to the court of the judge acting, and the judge in whose court the case is pending may thereafter proceed to hear, complete, and determine the case or other matter or any part thereof and render final judgment thereon. Any of the judges of those courts may issue restraining orders and injunctions returnable to any of the other judges or courts.

[Acts 1977, 65th Leg., p. 656, ch. 246, §§ 1, 2, eff. May 25, 1977. Amended by Acts 1983, 68th Leg., p. 4971, ch. 889, § 16, eff. Sept. 1, 1983.]

Art. 1917. Appointing Attorney

Judges of district courts may appoint counsel to attend to the cause of any party who makes affida-

vit that he is too poor to employ counsel to attend to the same.

[Acts 1925, S.B. 84.]

Art. 1918. Repealed by Rules of Civil Procedure
(Acts 1939, 46th Leg., p. 201, § 1)

Art. 1918a. Court Coordinator System in Counties over 700,000

The criminal district courts and the district courts of general jurisdiction giving preference to criminal cases in counties with a population in excess of 700,000 according to the last preceding federal census may establish and maintain a court coordinator system. The district courts shall, by rule, designate the duties to be performed by the coordinators to improve criminal justice and expedite the processing of criminal cases through the district courts. The court coordinators in each county shall cooperate with administrative judges and state agencies having duties in the area of the operation of the courts to promote uniform and efficient administration of justice in the state. The court coordinators serve by appointment of the district courts and at the pleasure of the district courts, and shall receive reasonable compensation to be determined by the judges of those courts, not to exceed 70 percent of the salary paid by the state to the judges of those courts. The district courts may appoint appropriate staff and supporting personnel according to the needs of each local jurisdiction. The commissioners court of each county shall provide from the fines and fees collected by these courts the necessary funding for the court coordinator system on order and directive of the district courts to be served, provided that if said fines or fees are insufficient to provide the total funding for this program the county shall provide the additional funds needed.

[Acts 1975, 64th Leg., p. 589, ch. 240, § 1, eff. May 20, 1975.]

Art. 1918b. Masters in Suits Affecting Parent-Child Relationship and Certain Contempt Proceedings

Appointment of Master

Sec. 1. (a) The judge of a district court, court of domestic relations, or other court having jurisdiction of suits affecting the parent-child relationship under Title 2, Family Code, as amended,¹ may appoint a master to perform the duties authorized by this Act if the commissioners court of a county in which the court has jurisdiction authorizes the employment of a master. Except as provided by Subsection (d) of this section, the master shall be appointed by the judge and serves at the will of the judge.

(b) If the court exercises jurisdiction in more than one county, the master may serve only in a county in which the commissioners court has authorized the master's appointment.

(c) If more than one district court, court of domestic relations, or other court having jurisdiction

of suits affecting the parent-child relationship has jurisdiction in a county, the commissioners court may authorize the appointment of a master for each court or may authorize one or more masters to share service with two or more courts.

(d) If a master serves more than one court, the master's appointment must be made with the unanimous approval of all the judges under whom the master serves, and the master's services may be terminated by a majority vote of all the judges for whom the master serves.

¹ Family Code, § 11.01 et seq.

Qualifications of Master

Sec. 2. To be eligible for appointment as a master under this Act, a person must be a resident of Texas and must be licensed to practice law in this state.

Compensation of Master

Sec. 3. The master is entitled to a salary as determined by the commissioners court of the county in which he or she serves. If the master serves in more than one county, the master's salary shall be determined by agreement of the commissioners courts of the counties. The salary shall be paid from the county fund available for payment of officers' salaries.

Referral of Cases to Master

Sec. 4. (a) The judge of a court having a master appointed as provided in this Act may refer to the master any civil case involving motions:

(1) for contempt for the failure or refusal to pay child support, temporary support, or separate maintenance or for failure or refusal to comply with court orders concerning the possession of or access to children who have been the subjects of suits affecting the parent-child relationship; or

(2) to modify the decree in a suit affecting the parent-child relationship providing for the support, conservatorship, or possession of or access to a child.

(b) To refer a case to a master, the judge shall issue an order of referral specifying the duties of the master.

Powers of Master

Sec. 5. (a) Except as provided by Subsection (b) of this section, a master to whom a case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel the production of relevant evidence;
- (4) rule on the admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;

- (7) swear witnesses for the hearing;
- (8) make findings of fact on the evidence;
- (9) formulate conclusions of law;
- (10) recommend the judgment to be made in the case;
- (11) regulate all proceedings in a hearing before the master; and
- (12) do all acts and take all measures necessary and proper for the efficient performance of the duties required in the order of referral.

(b) The order of referral may limit the powers of the master and direct the master to report only on specific issues, do particular acts, or receive and report on evidence only. The order may set the time and place for the hearing, prescribe a closing date for the hearing, and provide for a date for the filing of the master's report.

Witnesses Appearing Before Master

Sec. 6. (a) A witness appearing before the master is subject to the penalties of perjury if the witness is duly sworn.

(b) If a witness after being duly summoned fails to appear or having appeared refuses to answer questions, on certification of the refusal to the referring court, the court may issue attachment against the witness and may fine or imprison the witness.

Findings; Notice

Sec. 7. On the conclusion of the hearing in each case, the master shall transmit to the referring judge all papers relating to the case, together with the findings and a statement that notice of the findings and of the right to a hearing before the judge has been given to all adult principals, minors, or parents, guardians, or custodians of any minor whose case has been heard by the master. This notice may be given at the hearing or otherwise as the referring court directs.

Action on Master's Report

Sec. 8. After the master's report is filed, the referring court may adopt, modify, correct, reject, or reverse the master's report or recommit it for further information, as the court may deem proper and necessary in the particular circumstances of the case. If judgment has been recommended, the court in its discretion may approve the recommendation and hear further evidence before rendition of judgment.

Hearing

Sec. 9. Adult principals or a minor child or his parents, guardians, or custodians are entitled to a hearing by the judge of the referring court if within three days after receiving notice of the findings of the master they file a request with the court for a

hearing. The referring court may allow the hearing at any time.

Decree Upon Adoption by Court

Sec. 10. If no hearing before the judge of the referring court is requested or the right to such hearing is waived, the findings and recommendations of the master become the decree of the court when adopted by an order of the judge.

Notice of Time and Place of Hearing

Sec. 11. Prior to the hearing by the master, the parties litigant shall be given due notice as provided by law of the time and place of the hearing.

Jury Trial

Sec. 12. In a proceeding in which a jury trial has been demanded, the master shall refer the case back to the referring court for a full hearing before the court and jury, subject to the usual rules of the court in such cases.

[Acts 1979, 66th Leg., p. 1771, ch. 719, §§ 1 to 12, eff. Aug. 27, 1979.]

Section 13 of the 1979 Act provided:

"In the event of the passage of S.B. No. 785 [vetoed] and H.B. No. 467, [this article] 66th Legislature, Regular Session, 1979, the provisions of S.B. No. 785 shall apply to the district courts in Dallas County."

Art. 1918c. Magistrates in District Courts of Dallas County

Appointment of Magistrates

Sec. 1. (a) The judges of the district courts of Dallas County that give preference to criminal cases and the judges of the criminal district courts of Dallas County may appoint magistrates to perform the duties authorized by this Act. Each magistrate shall be appointed by the judges and serves at the will of the judges.

(b) The judges of the district courts designated in Subsection (a) of this section may appoint magistrates only with the consent and approval of the Commissioners Court of Dallas County.

(c) The judges may authorize one or more magistrates to share service with two or more courts as the judges deem appropriate and necessary.

(d) Each magistrate's appointment must be made with the unanimous approval of all the judges under whom the magistrate serves, and the magistrate's services may be terminated by a majority vote of all the judges for whom the magistrate serves.

Qualifications of Magistrates

Sec. 2. To be eligible for appointment as a district court magistrate under this Act, a person must be a resident of Texas and must be licensed to practice law in this state, for at least four years.

Compensation of Magistrates

Sec. 3. Each district court magistrate for criminal cases is entitled to a salary to be determined by the Commissioners Court of Dallas County, which salary shall not be less than the salary authorized to be paid to masters for family law cases appointed under Chapter 719, Acts of the 66th Legislature, Regular Session, 1979 (Article 1918b, Vernon's Texas Civil Statutes). The salary shall be paid from the county fund available for payment of officers' salaries.

Referral of Cases to Magistrates

Sec. 4. (a) The judge of a court having a magistrate appointed as provided by this Act may refer to the magistrate any criminal case for proceedings involving:

- (1) negotiated pleas of guilty before the court;
- (2) bond forfeitures;
- (3) pretrial motions;
- (4) postconviction writs of habeas corpus;
- (5) conducting examining trials;

(6) any other matters that the judge deems necessary and proper, except as otherwise provided by Subsection (b) of this section.

(b) In no event may a judge refer to a magistrate a criminal case permitting the magistrate to preside over a trial on the merits, either with or without a jury.

(c) To refer a case to a magistrate, the judge shall issue an order of referral specifying the duties of the magistrate.

Powers of Magistrates

Sec. 5. (a) Except as provided by Subsections (b) and (c) of this section, a magistrate to whom a case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel the production of relevant evidence;
- (4) rule on the admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for the hearing;
- (8) make findings of fact on the evidence;
- (9) formulate conclusions of law;
- (10) rule on pretrial motions;
- (11) recommend the rulings, orders, or judgment to be made in the case;
- (12) regulate all proceedings in a hearing before the magistrates; and

(13) do all acts and take all measures necessary and proper for the efficient performance of the duties required in the order of referral.

(b) The order of referral may limit the powers of the magistrate and direct the magistrate to report only on specific issues, do particular acts, or receive and report on evidence only. The order may set the time and place for the hearing, prescribe a closing date for the hearing, and provide for a date for the filing of the magistrate's findings.

(c) A magistrate appointed under this Act to whom a case is referred may not enter a ruling on any issue of law or fact of which the determination thereon could result in dismissal or require the dismissal of a pending criminal prosecution. A magistrate may, however, make findings, conclusions, and recommendations on such issues, within the scope of the order of referral.

(d) An order of referral may designate proceedings for more than one case over which the magistrate shall preside, may direct the magistrate to call the court's docket, and may set forth general powers and limitations of authority of the magistrate applicable to all such cases.

(e) Upon the request of either party to the case to be considered, a court reporter shall be provided by the court to record the proceedings before the magistrate.

Witnesses Appearing Before Magistrates

Sec. 6. A witness appearing before a magistrate is subject to the penalties of perjury if the witness is duly sworn. If a witness after being duly summoned fails to appear or having appeared refuses to answer questions, on certification of the refusal to the referring court, the court may issue attachment against the witness and may fine or imprison the witness.

Adoption of Action by Magistrates

Sec. 7. (a) On the conclusion of the proceedings, the magistrate shall transmit to the referring court all papers relating to the cases involved, together with the findings, conclusions, orders, recommendations, or other actions taken.

(b) The referring court may modify, correct, reject, or reverse any action taken by the magistrate, or recommit it for further information, as the court may deem proper and necessary in the particular circumstances of the case.

(c) If no modification, correction, rejection, reversal, or recommitment is made by the referring court, the actions taken by the magistrate become the decree of the court.

(d) The referring court shall, at the conclusion of each term during which the services of a magistrate are used, enter a decree upon the minutes adopting the actions of the magistrate with respect to all cases of which the court approves of the magistrate's actions. The court shall determine whether

or not the nonprevailing party is able to defray the costs of the magistrate and, if it is determined that the party can, shall tax as costs the fees of the magistrate, against the nonprevailing party.

Judicial Immunity

Sec. 8. The magistrate shall enjoy the full judicial immunity of a district judge.

Savings Provisions

Sec. 9. Nothing in this Act is intended to violate any provision of the Constitution of the United States or the Constitution of Texas, and all acts done under this Act shall be done in a manner that conforms to the constitutions. If any word, phrase, paragraph, subparagraph, sentence, clause, part, portion, or provision of this Act or the application thereof to any person, situation, or circumstances is held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be valid, and the legislature declares that this Act would have been enacted without the invalid or unconstitutional word, phrase, paragraph, subparagraph, sentence, clause, part, portion, or provision. All of the terms and provisions of this Act are to be liberally construed to effectuate the purposes, powers, rights, functions, and authorities set forth in this Act.

[Acts 1981, 67th Leg., p. 2546, ch. 678, eff. Aug. 31, 1981.]

Art. 1918d. Masters in Certain Courts in Travis County

Appointment

Sec. 1. (a) A majority of the judges of the courts in Travis County having jurisdiction of suits arising under Title 1, 2, or 4, Family Code,¹ or having jurisdiction of suits brought in connection with Rule 308-A, Texas Rules of Civil Procedure, or Chapter 46, Human Resources Code, may determine that one or more full-time or part-time masters are needed to serve those courts.

(b) The judges shall issue an order reflecting that determination and specifying the number of masters needed.

¹ Family Code, § 1.01 et seq., 11.01 et seq., or 71.01 et seq.

Compensation

Sec. 2. The commissioners court shall set the compensation for masters and shall determine the total amount to be paid by the county as compensation for masters.

Appointment by Individual Judge

Sec. 3. Subject to the determinations of need and to available funds from the county, each judge may appoint one or more masters to serve his court. Judges may act together in making an appointment for a master to serve their courts.

Qualifications

Sec. 4. A master must be a citizen and resident of this state who has been licensed to practice law in this state for at least four years.

Order

Sec. 5. The order appointing a master shall be entered in the minutes of the district court and must state:

- (1) the master's name and state bar identification number;
- (2) the court or courts the master will serve; and
- (3) the date the master's services are to begin.

Termination of Employment

Sec. 6. (a) A master who serves a single court serves at the will of the judge.

(b) The employment of a master who has been appointed to serve two courts may be terminated by either of the judges.

(c) The employment of a master who has been appointed to serve more than two courts may be terminated by a majority of the judges of the courts which the master serves.

(d) A master's employment may be terminated only by written order signed by the appropriate judges. The order must state:

- (1) the master's name and state bar identification number;
- (2) the court or courts ordering termination; and
- (3) the date the master's employment is to end.

Withdrawal of Appointment for a Particular Court

Sec. 7. At the discretion of the judge of a court for which a master has been appointed, the appointment to serve that court may be withdrawn by written order. The order must state:

- (1) the master's name and state bar identification number;
- (2) the court ordering the withdrawal of the master's services; and
- (3) the date the master's services are to end as to that court.

Case That May be Referred

Sec. 8. A judge may refer to a master any civil case or portion of a civil case brought:

- (1) under Title 1, 2, or 4, Family Code;
- (2) in connection with Rule 308-A, Texas Rules of Civil Procedure; or
- (3) in connection with Chapter 46, Human Resources Code.

Method of Referral

Sec. 9. A case may be referred as provided by published local rules or by written orders. A referral may limit the power or uses of a master.

Effect on Temporary Restraining Order

Sec. 10. A referral of a case or a portion of a case to a master does not affect a party's right to have a court grant or extend a temporary restraining order and does not prevent a temporary restraining order from expiring. Until a judge signs an order concerning the findings and recommendations of a master, the findings and recommendations do not affect an existing temporary restraining order or the expiration or extension of that order.

Masters in Chancery

Sec. 11. This Act does not prohibit a court from appointing masters in chancery as provided by Rule 171, Texas Rules of Civil Procedure.

Powers

Sec. 12. (a) Unless limited by published local rule or written order, a master may perform all acts and take all measures necessary and proper to perform the tasks assigned in a referral.

(b) A master may administer oaths.

Failure to Comply With Summons or Order

Sec. 13. If a person, attorney, party, or witness fails to comply with a summons or order, the master may certify in writing that failure to the referring court for appropriate action.

Referees

Sec. 14. A master appointed under this Act may serve as a referee in accordance with Subsection (g) of Section 51.04 and Section 54.10, Family Code. A referee appointed in accordance with Subsection (g), Section 51.04, Family Code, may be appointed to serve as a master under this Act.

Judicial Immunity

Sec. 15. A master appointed as provided by this Act has the same judicial immunity as that of a district judge.

Court Reporter

Sec. 16. A court reporter need not be provided during hearings conducted by a master, except that a referring judge may require a reporter at contempt hearings. A party may provide a reporter or electronic recording device at the party's expense.

Findings and Recommendations

Sec. 17. Before a hearing conducted by a master is concluded, the master shall announce in open session the findings and recommendations he will make to the court and shall write the findings and recommendations on the docket sheet of the case.

Notice of Right to Trial De Novo

Sec. 18. Immediately after announcing and recording his findings and recommendations and while the hearing is still in session, the master shall inform all those present of the right to a de novo hearing before a judge as provided by this Act.

Request for Trial De Novo

Sec. 19. (a) A party, adult principal, minor, parent, guardian, or custodian is entitled to a hearing de novo by a judge of the referring court if, not later than the fifth day after the findings and recommendations of the master are announced and recorded, a written request for a trial de novo is filed with the court. The right to a de novo hearing exists even if a judge has entered an order approving the findings and recommendations of the master within the five-day period.

(b) A request for a de novo hearing covers all matters tried, found, or recommended by the master. A person requesting a de novo hearing, however, may file pleadings with the court restricting its request to particular findings or recommendations made by the master.

Master's Report

Sec. 20. After a hearing is concluded, the master shall send a written signed report to the referring judge containing his findings and recommendations and a statement that he has complied with Sections 17 and 18 of this Act.

Court Action on Report

Sec. 21. After receipt of the master's report, the court shall promptly approve or disapprove it in its entirety or set the matter for a hearing before a court.

Effect of Request for De Novo Hearing

Sec. 22. (a) A request for a de novo hearing does not stay, suspend, or affect the authority of a judge to sign an order approving a master's findings and recommendations, and the order controls the rights of the parties until another order is made pursuant to a de novo hearing.

(b) A request for a de novo hearing does not stay, suspend, or prevent enforcement or contempt proceedings brought pursuant to an order approving a master's findings and recommendations.

Jury Demand

Sec. 23. A jury demand does not affect the authority of a master to handle pretrial matters referred to him.

[Acts 1983, 68th Leg., p. 4258, ch. 679, eff. Sept. 1, 1983.]

Art. 1918e. Court Administrator and Masters in District and Certain County Courts of Jefferson County

Application

Sec. 1. This Act applies to the district courts and to the county courts at law that give preference to criminal cases in Jefferson County.

Court Administrator System; Appointment

Sec. 2. (a) The courts may establish a court administrator system to improve criminal justice and to expedite the processing of criminal cases.

(b) The court administrator is appointed by and serves at the pleasure of the judges of the courts subject to this Act.

Duties of Administrator

Sec. 3. (a) The courts shall designate by rule the duties of the court administrator.

(b) To promote uniform and efficient administration of justice, the court administrator shall cooperate with administrative judges and state agencies having duties relating to the operation of the courts.

Staff of Administrator

Sec. 4. (a) The courts may appoint the necessary staff and supporting personnel for the administrator.

(b) As part of the staff, the courts may appoint witness coordinators who, in addition to other duties designated by the court administrator, shall execute criminal process. On appointment, each witness coordinator shall be commissioned as a peace officer by the courts.

Compensation; Facilities; Equipment

Sec. 5. The court administrator and members of the staff shall receive reasonable compensation, facilities, and equipment as determined by the commissioners court of the county.

Appointment of Masters; Compensation

Sec. 6. (a) The judge of a court subject to this Act may appoint a master to perform the duties authorized by this Act. To be eligible to serve as a master, an appointee must be a magistrate, as that term is defined by Article 2.09, Code of Criminal Procedure, 1965, of the county and must be licensed to practice law in this state. Appointment as a master is not valid unless the person appointed agrees to serve in that capacity.

(b) A magistrate who is appointed to serve as a master is not entitled to receive additional compensation for performance of services as a master.

Referral of Cases

Sec. 7. (a) A judge may refer to a master any proceeding in a criminal case relating to:

(1) a negotiated plea of guilty or nolo contendere;

(2) a bond forfeiture;

(3) a pretrial motion;

(4) a postconviction writ of habeas corpus;

(5) an examining trial; or

(6) any other matter that the judge considers proper.

(b) Notwithstanding Subsection (a) of this section, a judge may not refer any case for trial on the merits to a master.

(c) To refer a case, the judge shall issue a written order of referral that specifies the duties of the master in the case.

Powers of Master

Sec. 8. A master to whom a case is referred may:

(1) conduct a hearing;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on the admissibility of evidence;

(5) issue summons for the appearance of a witness;

(6) examine a witness;

(7) swear a witness for a hearing;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on pretrial motions;

(11) recommend a ruling, order, or judgment to be made in a case;

(12) regulate any proceeding in a hearing before him; and

(13) take any action necessary and proper for the efficient performance of duties required by the order of referral.

Papers Transmitted to Judge

Sec. 9. At the conclusion of a proceeding, the master shall transmit to the referring court any papers relating to the case, including the master's findings, conclusions, orders, recommendations, and a statement as to any other actions taken.

Judicial Action on Master's Report

Sec. 10. The referring court may modify, correct, reject, reverse, or recommit for further proceedings any action taken by a master. If the referring court does not take any action, the actions of the master are adopted by the referring court and become the decree in the case.

[Acts 1983, 68th Leg., p. 4355, ch. 699, eff. June 19, 1983.]

CHAPTER FOUR. TERMS OF COURT

Art.

1919. Terms of Court; Continuous Sessions; Rules and Regulations; Proceedings Validated.
- 1919a. Terms of District Court in Unorganized County Being Organized.
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Art. 1919. Terms of Court; Continuous Sessions; Rules and Regulations; Proceedings Validated

Sec. 1. All district courts in this State, including all criminal district courts, whenever and however created, shall hold at least two (2) terms of court per year in each county wherein they sit. Notwithstanding the provisions of any law, the terms of all district courts in the State, civil and criminal, shall be continuous and shall begin on the day now or hereafter fixed by law and shall continue until the day fixed by law for the beginning of the next succeeding term. It shall be no objection to the commencement of a term of court that the first day falls upon a legal holiday, nor that the Judge is not present in the county upon the day set for the commencement of the term of court. The Judge of the district may hold as many sessions of court in any county as is deemed proper and expedient for the dispatch of business, and may adopt such rules and regulations relating thereto as are permitted by, and not contrary to, the Statutes of this State and the Texas Rules of Civil Procedure prescribed by the Supreme Court of Texas.

Sec. 2. In all judicial districts in Texas containing more than one (1) county, the district court may hear and determine all preliminary and interlocutory matters in which a jury may not be demanded, and unless there is objection from some party to the suit, hear and determine any noncontested or agreed cases and contests of elections, pending in his district, and may sign all necessary orders and judgments therein in any county in his judicial district, and may sign any order or decree in any case pending for trial or on trial before him in any county in his district at such place as may be convenient to him, and forward such order or decree to the clerk for filing and entry. Any district judge assigned to preside in a court of another judicial district, or who may be presiding in exchange or at the request of the regular Judge of said court may in like manner hear, determine and enter any such orders, judgments and decrees in any such case which is pending for trial or has been tried before such visiting judge; provided that all contested divorce cases, all default judgments, and all cases in

which any of the parties have been cited by publication shall be tried in the county in which filed.

[Acts 1925, S.B. 84. Amended by Acts 1951, 52nd Leg., p. 341, ch. 212; Acts 1955, 54th Leg., p. 806, ch. 297, § 1; Acts 1969, 61st Leg., p. 1658, ch. 523, § 1, eff. June 10, 1969.]

Art. 1919a. Terms of District Court in Unorganized County Being Organized

Whenever any unorganized county within this State has become organized or may hereafter become organized, there being no time fixed by law for holding District Court in such counties, the District Judge in whose Judicial District such county is situated shall fix times to hold at least two terms of court each year in each of such counties, by a written declaration, to be forwarded by the District Judge to the District Clerk of the County, and by him spread on the minutes of the District Court. When the times are so fixed they shall not be changed, except by an act of the Legislature.

[Acts 1927, 40th Leg., p. 132, ch. 85, § 1.]

Art. 1920. Special Terms

Whenever a district judge deems it advisable to hold a special term of the district court in any county in his district, such special term may be held; and such judge may convene such term at any time which may be fixed by him. Such district judge may appoint jury commissioners, who may select and draw grand and petit jurors in accordance with the law. Such jurors may be summoned to appear before such district court at such time as may be designated by the judge thereof. In the discretion of the district judge, a grand jury need not be drawn or empaneled. No new civil cases can be brought to a special term of the district court.

[Acts 1925, S.B. 84.]

Art. 1921. Summoning Juries

The juries for a special term shall be summoned in accordance with the law regulating juries at regular terms of court. At a special term all proceedings may be had in any case which could be had at any regular term of such court. All process issued to a previous regular term or to such special term, and all orders, judgments and decrees, and all proceedings had in any case, civil or criminal, which would be lawful if had at a regular term, shall have the same force and effect; and any proceeding had may be appealed from as if the case were tried at a regular term.

[Acts 1925, S.B. 84.]

Art. 1922. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1923. Extension of Term

Whenever a district court shall be in the midst of the trial of a cause when the time for the expiration of the term of said court arrives, the judge presiding shall have the power and may, if he deems it

expedient, extend the term of said court until the conclusion of such pending trial. The extension of such term shall be shown in the minutes of the court before they are signed. If the term is extended as herein provided, no term of court in any other county shall fail because thereof, but the term of court therein may be opened and held as provided by law when the district judge fails to appear at the opening of a term of court.

[Acts 1925, S.B. 84.]

Art. 1924. Extension in Certain Counties

A district court in a judicial district composed of more than one county and having terms of court fixed by law in counties in which there is a city of one hundred and thirty-five thousand population, or over, according to the preceding Federal census, may, by an order of the judge thereof made and entered of record in the minutes of said court, have any of such terms of court in such last described counties extended for such length of time as such judge may deem advisable for the transaction of the business of such court.

[Acts 1925, S.B. 84.]

Art. 1925. Effect of Extension

If any term of court is extended as provided in the preceding article, no term of such court as fixed by law shall fail, but same shall be opened and held as provided by law. When a new term shall run concurrently in time and in the same county with an extended term, the minutes of both such terms may be recorded together during the time such terms so run concurrently. While such new term is open, each entry made in the minute records of said court, during such time shall be presumed to be the minutes of proceedings of such new term unless otherwise shown in such minutes.

[Acts 1925, S.B. 84.]

Art. 1926. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER FOUR A. FAMILY DISTRICT COURTS

Art.
1926a. Family District Court Act.

Art. 1926a. Family District Court Act

SUBCHAPTER A. GENERAL PROVISIONS

Short Title

Sec. 1.01. This Act may be cited as the Family District Court Act.

Purpose

Sec. 1.02. (a) This Act substitutes district courts of general jurisdiction, to be called family district courts, for the existing domestic relations courts and special juvenile courts. It also restructures existing juvenile boards in certain counties and pro-

vides for the future creation and organization of juvenile boards in other counties. Subchapter A contains general provisions applicable to all family district courts, now or later created, and Subchapter B creates the new family district courts. Subchapter C contains temporary provisions.

(b) This Act is designed so that future legislatures may create new family district courts by adding a section to Subchapter B without repeating the general provisions of Subchapter A relating to jurisdiction, terms, personnel, facilities, and administration of all family district courts.

Jurisdiction

Sec. 1.03. (a) A family district court has the jurisdiction and power provided for district courts by the constitution and laws of this state. Its jurisdiction is concurrent with that of other district courts in the county in which it is located.

(b) A family district court shall have primary responsibility for cases involving family law matters. These matters include but are not limited to:

- (1) adoptions;
- (2) birth records;
- (3) divorce and marriage annulment;
- (4) child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency;
- (5) parent and child; and
- (6) husband and wife.

(c) This Act does not limit the jurisdiction of other district courts nor relieve them of responsibility for handling cases involving family law matters.

Terms of Court

Sec. 1.04. The terms of a family district court begin on the first Monday in January and the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Judge

Sec. 1.05. (a) A family district court judge's qualifications and term of office are the same as those prescribed by the constitution and laws of this state for district judges. A family district court judge is elected in the same manner as a district judge.

(b) A family district court judge is entitled to the same compensation and allowances provided by the state and county for the other district judges in his county.

Court Officials, Personnel, and Facilities

Sec. 1.06. (a) Each family district court judge may appoint an official court reporter. The reporter must have the qualifications prescribed by law for that office and is entitled to the same compensation, fees, and allowances provided by law for other official court reporters in the county.

(b) The district attorney, criminal district attorney, or county attorney, and the sheriff and district clerk shall serve each family district court in his county in the same manner he serves the district court or courts of his county.

(c) The commissioners court of the county in which a family district court is located shall provide the physical facilities and the deputy clerks, bailiffs, and other personnel necessary to operate the family district court.

County Juvenile Board

Sec. 1.07. (a) Except as otherwise provided in this section, when a family district court is created in a county, that county's juvenile board is composed of the county judge, the family district court judge or judges, the district judge or judges whose jurisdiction includes the county, and the judges of all other courts in the county having jurisdiction over juvenile matters. Except in counties where there is only one family district court judge, the members of the juvenile board shall select a family district court judge to serve as chairman of the board. The juvenile board has the powers and duties prescribed by law.

(b) The juvenile board shall appoint a chief juvenile probation officer who shall serve as the chief administrative officer of the family district court at the pleasure of the juvenile board. Subject to approval of the juvenile board, the chief juvenile probation officer shall select as many assistant probation officers and other personnel as are necessary to perform the duties assigned him by the juvenile board.

(c) The commissioners court may compensate juvenile board members for their duties performed on the juvenile board beyond such compensation as is otherwise provided for by law, and this compensation is in addition to all other compensation paid by the state or county to district, family district, and county judges. On recommendation of the juvenile board, the commissioners court shall also:

(1) fix the compensation of the chief juvenile probation officer and the members of his staff; and

(2) provide the physical facilities necessary to operate the juvenile board.

(d) The creation of a family district court in a county also creates a juvenile board in that county if one does not exist.

(e) This Act does not affect the composition or organization of any juvenile board existing on the effective date of the Act, except that the judges of the courts of domestic relations and of the juvenile courts are replaced by the family district court judges.

Sec. 1.08. Repealed by Acts 1981, 67th Leg., p. 2063, ch. 453, § 3(13), eff. Sept. 1, 1981.

SUBCHAPTER B. CREATING FAMILY DISTRICT COURTS

300th District Court

Sec. 2.01. On the effective date specified in Section 3.02 of this Act, the 300th Judicial District is created. Its boundaries are coextensive with the boundaries of Brazoria County, and its court, which replaces the Court of Domestic Relations for Brazoria County, is the 300th District Court. The 300th District Court may be called the Family District Court for the 300th Judicial District.

301st District Court

Sec. 2.02. On the effective date specified in Section 3.02 of this Act, the 301st Judicial District is created. Its boundaries are coextensive with the boundaries of Dallas County, and its court, which replaces the Court of Domestic Relations for Dallas County, is the 301st District Court. The 301st District Court may be called the Family District Court for the 301st Judicial District.

302nd District Court

Sec. 2.03. On the effective date specified in Section 3.02 of this Act, the 302nd Judicial District is created. Its boundaries are coextensive with the boundaries of Dallas County, and its court, which replaces the Court of Domestic Relations No. 2 for Dallas County, is the 302nd District Court. The 302nd District Court may be called the Family District Court for the 302nd Judicial District.

303rd District Court

Sec. 2.04. On the effective date specified in Section 3.02 of this Act, the 303rd Judicial District is created. Its boundaries are coextensive with the boundaries of Dallas County, and its court, which replaces the Court of Domestic Relations No. 3 for Dallas County, is the 303rd District Court. The 303rd District Court may be called the Family District Court for the 303rd Judicial District.

304th District Court

Sec. 2.05. On the effective date specified in Section 3.02 of this Act, the 304th Judicial District is created. Its boundaries are coextensive with the boundaries of Dallas County, and its court, which replaces the Juvenile Court of Dallas County, is the 304th District Court. The 304th District Court may be called the Family District Court for the 304th Judicial District.

305th District Court

Sec. 2.06. On the effective date specified in Section 3.02 of this Act, the 305th Judicial District is created. Its boundaries are coextensive with the boundaries of Dallas County, and its court, which replaces the Juvenile Court No. 2 of Dallas County, is the 305th District Court. The 305th District Court may be called the Family District Court for the 305th Judicial District.

306th District Court

*Text of section as amended by Acts
1979, 66th Leg., p. 784, ch. 345, § 8*

Sec. 2.07. On the effective date specified in Section 3.02 of this Act, the 306th Judicial District is created. Its boundaries are coextensive with the boundaries of Galveston County, and its court, which replaces the Court of Domestic Relations for Galveston County, is the 306th District Court. The 306th District Court may be called the Family District Court for the 306th Judicial District. All juvenile matters and proceedings in Galveston County shall be filed originally with the district clerk on the docket of the 306th District Court. Upon order of the judge of the 306th District Court, the district clerk shall transfer the juvenile matter or proceeding to the docket of the court designated therein. Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition.

306th District Court

*Text of section as amended by Acts
1979, 66th Leg., p. 1643, ch. 686, § 15*

Sec. 2.07. On the effective date specified in Section 3.02 of this Act, the 306th Judicial District is created. Its boundaries are coextensive with the boundaries of Galveston County, and its court, which replaces the Court of Domestic Relations for Galveston County, is the 306th District Court. The 306th District Court may be called the Family District Court for the 306th Judicial District. All juvenile matters and proceedings in Galveston County shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall transfer juvenile matters and proceedings to the other courts so that the County Courts Nos. 1 and 2, the Probate and County Court, and the 306th District Court will rotate trying all juvenile cases and holding detention hearings and other associated matters during a three-month period of each year, beginning with the County Court No. 1 during the first quarter of each year, the County Court No. 2 during the second quarter, the Probate and County Court during the third quarter, and the 306th District Court during the fourth quarter, except that the judge of the 306th District Court upon his own order may retain jurisdiction of or transfer to one of the other courts, that is, County Courts Nos. 1 and 2 and the Probate and County Court, any such case as the judge of the 306th District Court may determine serves the needs of justice.

Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition.

307th District Court

Sec. 2.08. On the effective date specified in Section 3.02 of this Act, the 307th Judicial District is created. Its boundaries are coextensive with the boundaries of Gregg County, and its court, which

replaces the Court of Domestic Relations for Gregg County, is the 307th District Court. The 307th District Court may be called the Family District Court for the 307th Judicial District.

308th District Court

Sec. 2.09. On the effective date specified in Section 3.02 of this Act, the 308th Judicial District is created. Its boundaries are coextensive with the boundaries of Harris County, and its court, which replaces the Court of Domestic Relations for Harris County, is the 308th District Court. The 308th District Court may be called the Family District Court for the 308th Judicial District.

309th District Court

Sec. 2.10. On the effective date specified in Section 3.02 of this Act, the 309th Judicial District is created. Its boundaries are coextensive with the boundaries of Harris County, and its court, which replaces the Court of Domestic Relations No. 2 for Harris County, is the 309th District Court. The 309th District Court may be called the Family District Court for the 309th Judicial District.

310th District Court

Sec. 2.11. On the effective date specified in Section 3.02 of this Act, the 310th Judicial District is created. Its boundaries are coextensive with the boundaries of Harris County, and its court, which replaces the Court of Domestic Relations No. 3 for Harris County, is the 310th District Court. The 310th District Court may be called the Family District Court for the 310th Judicial District.

311th District Court

Sec. 2.12. On the effective date specified in Section 3.02 of this Act, the 311th Judicial District is created. Its boundaries are coextensive with the boundaries of Harris County, and its court, which replaces the Court of Domestic Relations No. 4 for Harris County, is the 311th District Court. The 311th District Court may be called the Family District Court for the 311th Judicial District.

312th District Court

Sec. 2.13. On the effective date specified in Section 3.02 of this Act, the 312th Judicial District is created. Its boundaries are coextensive with the boundaries of Harris County, and its court, which replaces the Court of Domestic Relations No. 5 for Harris County, is the 312th District Court. The 312th District Court may be called the Family District Court for the 312th Judicial District.

313th District Court

Sec. 2.14. On the effective date specified in Section 3.02 of this Act, the 313th Judicial District is created. Its boundaries are coextensive with the boundaries of Harris County, and its court, which replaces the Juvenile Court for Harris County, is the 313th District Court. The 313th District Court

may be called the Family District Court for the 313th Judicial District.

314th District Court

Sec. 2.15. On the effective date specified in Section 3.02 of this Act, the 314th Judicial District is created. Its boundaries are coextensive with the boundaries of Harris County, and its court, which replaces the Juvenile Court No. 2 for Harris County, is the 314th District Court. The 314th District Court may be called the Family District Court for the 314th Judicial District.

315th District Court

Sec. 2.16. On the effective date specified in Section 3.02 of this Act, the 315th Judicial District is created. Its boundaries are coextensive with the boundaries of Harris County, and its court, which replaces the Juvenile Court No. 3 for Harris County, is the 315th District Court. The 315th District Court may be called the Family District Court for the 315th Judicial District.

316th District Court

Sec. 2.17. On the effective date specified in Section 3.02 of this Act, the 316th Judicial District is created. Its boundaries are coextensive with the boundaries of Hutchinson County, and its court, which replaces the Court of Domestic Relations for Hutchinson County, is the 316th District Court. The 316th District Court may be called the Family District Court for the 316th Judicial District.

317th District Court

Sec. 2.18. On the effective date specified in Section 3.02 of this Act, the 317th Judicial District is created. Its boundaries are coextensive with the boundaries of Jefferson County, and its court, which replaces the Court of Domestic Relations for Jefferson County, is the 317th District Court. The 317th District Court may be called the Family District Court for the 317th Judicial District.

318th District Court

Sec. 2.19. On the effective date specified in Section 3.02 of this Act, the 318th Judicial District is created. Its boundaries are coextensive with the boundaries of Midland County, and its court, which replaces the Court of Domestic Relations for Midland County, is the 318th District Court. The 318th District Court may be called the Family District Court for the 318th Judicial District.

319th District Court

Sec. 2.20. On the effective date specified in Section 3.02 of this Act, the 319th Judicial District is created. Its boundaries are coextensive with the boundaries of Nueces County, and its court, which replaces the Court of Domestic Relations for Nueces County, is the 319th District Court. The 319th District Court may be called the Family District Court for the 319th Judicial District.

320th District Court

Sec. 2.21. On the effective date specified in Section 3.02 of this Act, the 320th Judicial District is created. Its boundaries are coextensive with the boundaries of Potter County, and its court, which replaces the Court of Domestic Relations for Potter County, is the 320th District Court. The 320th District Court may be called the Family District Court for the 320th Judicial District.

321st District Court

Sec. 2.22. On the effective date specified in Section 3.02 of this Act, the 321st Judicial District is created. Its boundaries are coextensive with the boundaries of Smith County, and its court, which replaces the Court of Domestic Relations for Smith County, is the 321st District Court. The 321st District Court may be called the Family District Court for the 321st Judicial District.

322nd District Court

Sec. 2.23. On the effective date specified in Section 3.02 of this Act the 322nd Judicial District is created. Its boundaries are coextensive with the boundaries of Tarrant County, and its court, which replaces the Court of Domestic Relations No. 1 for Tarrant County, is the 322nd District Court. The 322nd District Court may be called the Family District Court for the 322nd Judicial District.

323rd District Court

Sec. 2.24. On the effective date specified in Section 3.02 of this Act, the 323rd Judicial District is created. Its boundaries are coextensive with the boundaries of Tarrant County, and its court, which replaces the Court of Domestic Relations No. 2 for Tarrant County, is the 323rd District Court. The 323rd District Court may be called the Family District Court for the 323rd Judicial District.

324th District Court

Sec. 2.25. On the effective date specified in Section 3.02 of this Act, the 324th Judicial District is created. Its boundaries are coextensive with the boundaries of Tarrant County, and its court, which replaces the Court of Domestic Relations No. 3 for Tarrant County, is the 324th District Court. The 324th District Court may be called the Family District Court for the 324th Judicial District.

325th District Court

Sec. 2.26. On the effective date specified in Section 3.02 of this Act, the 325th Judicial District is created. Its boundaries are coextensive with the boundaries of Tarrant County, and its court, which replaces the Court of Domestic Relations No. 4 for Tarrant County, is the 325th District Court. The 325th District Court may be called the Family District Court for the 325th Judicial District.

326th District Court

Sec. 2.27. On the effective date specified in Section 3.02 of this Act, the 326th Judicial District is created. Its boundaries are coextensive with the boundaries of Taylor County, and its court, which replaces the Court of Domestic Relations for Taylor County, is the 326th District Court. The 326th District Court may be called the Family District Court for the 326th Judicial District.

327th District Court

Sec. 2.28. On the effective date specified in Section 3.02 of this Act, the 327th Judicial District is created. Its boundaries are coextensive with the boundaries of El Paso County, and its court, which replaces the Court of Domestic Relations for El Paso County, is the 327th District Court. The 327th District Court may be called the Family District Court for the 327th Judicial District.

328th District Court

Sec. 2.29. On the effective date specified in Section 3.02 of this Act, the 328th Judicial District is created. Its boundaries are coextensive with the boundaries of Fort Bend County, and its court, which replaces the Court of Domestic Relations of Fort Bend County, is the 328th District Court. The 328th District Court may be called the Family District Court for the 328th Judicial District.

329th District Court

Sec. 2.30. On the effective date specified in Section 3.02 of this Act, the 329th Judicial District is created. Its boundaries are coextensive with the boundaries of Wharton County, and its court, which replaces the Court of Domestic Relations of Wharton County, is the 329th District Court. The 329th District Court may be called the Family District Court for the 329th Judicial District.

330th District Court

Sec. 2.31. On the effective date specified in Section 3.02 of this Act, the 330th Judicial District is created. Its boundaries are coextensive with the boundaries of Dallas County, and its court, which replaces the Court of Domestic Relations No. 4 of Dallas County, is the 330th District Court. The 330th District Court may be called the Family District Court for the 330th Judicial District.

360th District Court

Sec. 2.32. The 360th Judicial District is created. Its boundaries are coextensive with the boundaries of Tarrant County, and its court is the 360th District Court. The 360th District Court may be called the Family District Court for the 360th Judicial District.

SUBCHAPTER C. TEMPORARY PROVISIONS**Appointment**

Sec. 3.01. The first judge of a family district court created in this Act is appointed by the governor.

Effective Date

Sec. 3.02. Subchapter B of this Act shall become effective immediately.

Transfer of Pending Cases, Process, and Writs

Sec. 3.03. When a family district court is created:

- (1) all cases pending in the replaced court are transferred to the family district court which replaces it; and
- (2) all process and writs pending in or issued by the replaced court are transferred to the family district court which replaces it and are returnable to that family district court.

Repealer

Sec. 3.04. (a) Each act creating or providing for a court replaced by a family district court under this Act is repealed on the date the family district court is created.

(b) The following acts are repealed on the dates provided in Subsection (a) of this section:

- (1) Chapter 426, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 2338-3, Vernon's Texas Civil Statutes);
- (2) Chapter 23, Acts of the 55th Legislature, 1st Called Session, 1957, as amended (Article 2338-3a, Vernon's Texas Civil Statutes);
- (3) Chapter 325, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 2338-5, Vernon's Texas Civil Statutes);
- (4) Chapter 49, Acts of the 54th Legislature, 1955, as amended (Article 2338-7, Vernon's Texas Civil Statutes);
- (5) Chapter 157, Acts of the 55th Legislature, Regular Session, 1957 (Article 2338-7a, Vernon's Texas Civil Statutes);
- (6) Chapter 16, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 2338-8, Vernon's Texas Civil Statutes);
- (7) Chapter 511, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 2338-9, Vernon's Texas Civil Statutes);
- (8) Chapter 13, Acts of the 56th Legislature, 3rd Called Session, 1959, as amended (Article 2338-9a, Vernon's Texas Civil Statutes);
- (9) Chapter 31, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 2338-10, Vernon's Texas Civil Statutes);

(10) Chapter 242, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 2338-11, Vernon's Texas Civil Statutes);

(11) Chapter 299, Acts of the 58th Legislature, 1963, as amended (Article 2338-11a, Vernon's Texas Civil Statutes);

(12) Chapter 443, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 2338-13, Vernon's Texas Civil Statutes);

(13) Chapter 159, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 2338-14, Vernon's Texas Civil Statutes);

(14) Section 2, Chapter 212, Acts of the 59th Legislature, Regular Session, 1965 (Section 2, Article 6819a-39, Vernon's Texas Civil Statutes);

(15) Chapter 6, Acts of the 57th Legislature, 3rd Called Session, 1962, as amended (Article 2338-15, Vernon's Texas Civil Statutes);

(16) Chapter 278, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 2338-15a, Vernon's Texas Civil Statutes);

(17) Chapter 64, Acts of the 57th Legislature, 3rd Called Session, 1962, as amended (Article 2338-16, Vernon's Texas Civil Statutes);

(18) Chapter 44, Acts of the 58th Legislature, 1963, as amended (Article 2338-17, Vernon's Texas Civil Statutes);

(19) Chapter 289, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 2338-18, Vernon's Texas Civil Statutes);

(20) Chapter 307, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 2338-19, Vernon's Texas Civil Statutes);

(21) Chapter 537, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 2338-20, Vernon's Texas Civil Statutes);

(22) Chapter 780, Acts of the 60th Legislature, Regular Session, 1967 (Article 2338-9b, Vernon's Texas Civil Statutes);

(23) Chapter 781, Acts of the 60th Legislature, Regular Session, 1967 (Article 2338-15b, Vernon's Texas Civil Statutes);

(24) Chapter 465, Acts of the 61st Legislature, Regular Session, 1969 (Article 2338-11b, Vernon's Texas Civil Statutes);

(25) Chapter 761, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 2338-15c, Vernon's Texas Civil Statutes);

(26) Chapter 786, Acts of the 61st Legislature, Regular Session, 1969 (Article 2338-9c, Vernon's Texas Civil Statutes);

(27) Chapter 673, Acts of the 61st Legislature, Regular Session, 1969 (Article 2338-18a, Vernon's Texas Civil Statutes);

(28) Chapter 844, Acts of the 62nd Legislature, Regular Session, 1971 (Article 2338-21, Vernon's Texas Civil Statutes);

(29) Chapter 100, Acts of the 63rd Legislature, Regular Session, 1973 (Article 2338-22, Vernon's Texas Civil Statutes);

(30) Chapter 201, Acts of the 63rd Legislature, Regular Session, 1973 (Article 2338-23, Vernon's Texas Civil Statutes); and

(31) Chapter 207, Acts of the 63rd Legislature, Regular Session, 1973 (Article 2338-9b.1, Vernon's Texas Civil Statutes).

(c) Chapter 393, Acts of the 52nd Legislature, 1951 (Article 2338-4, Vernon's Texas Civil Statutes), and Chapter 434, Acts of the 53rd Legislature, Regular Session, 1953 (Article 2338-6, Vernon's Texas Civil Statutes), are repealed.

(d) All other laws or parts of laws in conflict with this Act are repealed to the extent of the conflict.

SUBCHAPTER D. MISCELLANEOUS PROVISIONS

Effective Date

Sec. 4.00. This Act takes effect on September 1, 1977.

[Acts 1977, 65th Leg., p. 2144, ch. 859, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 157, ch. 85, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 784, ch. 345, § 8, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1643, ch. 686, § 15, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2063, ch. 453, § 3(13), eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 4971, ch. 889, § 17, eff. Jan. 1, 1984.]

Acts 1981, 67th Leg., ch. 453, repealing § 1.08 of this article, enacted Title 110B, Public Retirement Systems.

CHAPTER FIVE. CRIMINAL DISTRICT COURTS

IN GENERAL

Art.

1926-1. Certain Courts Continued.

DALLAS COUNTY

1926-11. Dallas Criminal District Court.

1926-12. Criminal Judicial District of Dallas County.

1926-13. Criminal District Court No. 2 of Dallas County.

1926-14. Criminal District Court No. 3 of Dallas County.

1926-15. Criminal District Court No. 5 of Dallas County.

1926-16. Special Criminal District Court at Dallas County.

JURISDICTION

1926-21. Concurrent Jurisdiction of Criminal District Courts with County Court at Law.

1926-22. Jurisdiction Increased.

JUDGES; CRIMINAL DISTRICT ATTORNEYS

1926-26. Judges of Criminal District Courts May Sit in Either Court.

1926-27. Criminal District Attorney; Duties; Salary; Fees; Accounting; Assistants; Oath; Powers; Report of Expenses; Election.

HARRIS COUNTY

Art.

1926-31 to 1926-35. Transferred.

TARRANT COUNTY

- 1926-41. Criminal District Court for Tarrant County.
 1926-42. Criminal District Court No. 1 of Tarrant County.
 1926-42a. Change of Name to Criminal District Court No. 1 of Tarrant County.
 1926-43. Criminal District Court No. 2 of Tarrant County.
 1926-44. Criminal District Court No. 3 of Tarrant County.
 1926-45. Criminal District Court No. 4 of Tarrant County.

TRAVIS COUNTY

- 1926-51. Criminal District Court of Travis County.

JEFFERSON COUNTY

- 1926-61. Criminal District Court of Jefferson County.
 1926-62. Jurisdiction Increased.
 1926-63. Criminal Judicial District of Jefferson County.

IN GENERAL

Art. 1926-1. Certain Courts Continued

Each of the following courts shall continue with the jurisdiction, organization, terms and powers now existing until otherwise provided by law:

1. Criminal District Court of Dallas County.
2. Criminal District Court No. 2 of Dallas County.
3. Criminal District Court of Harris County.
4. Criminal District Court of Tarrant County.
5. Criminal District Court of Travis County.
6. Criminal District Court for the Counties of Nueces, Kleberg, Kennedy, Willacy and Cameron.
7. All County Courts at Law.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

DALLAS COUNTY

Art. 1926-11. Dallas Criminal District Court

Sec. 1. There is hereby created and established at the city of Dallas a criminal district court, which shall have and exercise all the criminal jurisdiction heretofore vested in and exercised by the district courts of Dallas county. All appeals from the judgments of said court shall be to the court of criminal appeals, under the same regulations as are now or may hereafter be provided by law for appeals in criminal cases from district courts.

Sec. 2. The district courts of Dallas county shall not have nor exercise any criminal jurisdiction.

Sec. 3. The judge of said criminal district court shall be elected by the qualified voters of Dallas

county for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of a judge of the district court, and shall receive the same salary as is now, or may hereafter, be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges in criminal cases. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and in case of disqualification or absence of the judge, a special judge may be selected, elected, or appointed, as provided by law in cases of district judges.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court of Dallas County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments, and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this state in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, the county attorney, and the clerk of the district court of Dallas county, as heretofore provided for by law, shall be the sheriff, county attorney, and clerk, respectively, of said criminal district court, under the same rules and regulations as are now, or may hereafter be, prescribed by law for the government of sheriffs, county attorneys, and clerks in the district courts of the state; and said sheriff, county attorney, and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such offices in the district courts of the state, to be paid in the same manner.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of January, one term beginning the first Monday of April, one term beginning the first Monday of July, and one term beginning the first Monday of October. A grand jury shall be impaneled in said court for each term thereof; and jury commissioners shall be appointed for drawing jurors for said court, as is now or may hereafter be required by law in district courts, and under like rules and regulations.

Sec. 7. The trials and proceedings in said court shall be conducted according to the laws governing the pleadings, practice, and proceedings in criminal cases in the district courts.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-12. Criminal Judicial District of Dallas County

There is hereby created and established a Criminal Judicial District of Dallas County, Texas, to be composed of the County of Dallas, Texas, alone, and the Criminal District Court of Dallas county, and the Criminal District Court No. 2 of Dallas county, Texas, shall have and exercise all the Criminal Jurisdiction of such courts, of and for said Criminal District of Dallas county, Texas, that are now conferred by law on said Criminal District Courts. [1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-13. Criminal District Court No. 2 of Dallas County

Sec. 1. There is hereby created and established at the city of Dallas a criminal district court to be known as the "Criminal District Court No. 2 of Dallas County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Dallas county, Texas, as now given and exercised by the said criminal district court of Dallas county under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect the criminal district court of Dallas county, and the criminal district court No. 2 of Dallas county shall have and exercise concurrent jurisdiction with each other in all felony causes and in all matters and proceedings of which the said criminal district court of Dallas county now has jurisdiction; and either of the judges of said criminal district court may in their discretion transfer any cause or causes that may at any time be pending in his court to the other criminal district court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court.

Sec. 3. The judge of said criminal district court No. 2 of Dallas county shall be elected by the qualified voters of Dallas county for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the criminal district court of Dallas county. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of a judge, a special judge may be selected,

electd or appointed as provided by law in cases of district judges; provided, that the Governor, by and with the consent of the Senate, if in session, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this law, and until his successor shall have been elected and qualified.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 2 of Dallas County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, county attorney and the clerk of the district court of Dallas county, as heretofore provided for by law, shall be the sheriff, county attorney and clerk, respectively, of said criminal district court under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, county attorneys and clerks of the district courts of the State; and said sheriff, county attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State to be paid in the same manner.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one term beginning the first Monday of July, one term beginning the first Monday of October, and one term beginning the first Monday of January. The grand jury shall be impaneled in said court for each term thereof unless otherwise directed by the judge of said court, and the procedure for drawing jurors for said court shall be the same as is now or may hereafter be required by law in district courts, and under the same rules and regulations. The trials and proceedings in said court shall be conducted according to the laws governing the pleadings, practice and proceedings in criminal cases in the district courts. [1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-14. Criminal District Court of No. 3 of Dallas County

Sec. 1. The Special Criminal District Court of Dallas County, heretofore established as a temporary District Court under the terms and provisions of Senate Bill No. 21, Acts of the 53rd Legislature, First Called Session, 1954, Chapter 51, page 105, is hereby established as a permanent Criminal District

Court, the limits of which district shall be co-extensive with the limits of Dallas County, Texas, and shall be known as the Criminal District Court No. 3 of Dallas County.

Sec. 2. The present District Judge of the Special Criminal District Court of Dallas County, duly elected and acting as such, shall be the District Judge of the Criminal District Court No. 3 of Dallas County until the time for which he has been elected expires and until his successor is duly elected and qualified.

[Acts 1955, 54th Leg., p. 711, ch. 256.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-15. Criminal District Court No. 5 of Dallas County

A. There is hereby created, effective October 1, 1965, in and for Dallas County, Texas, one additional Criminal Judicial District to be known as Criminal Judicial District No. 5, and the court of said district shall be known as the Criminal District Court No. 5 of Dallas County, Texas. The limits of said district shall be coextensive with the limits of Dallas County, Texas.

B. The Criminal District Court No. 5 shall have and exercise the powers conferred by the constitution and laws of the State of Texas on the judges of the existing Criminal District Courts of Dallas County, Texas, and the jurisdiction of said court shall be concurrent with that of the existing Criminal District Courts of Dallas County, Texas. The said court shall have and exercise, in addition to the jurisdiction now conferred by law on said court, concurrent jurisdiction coextensive with the limits of Dallas County in all actions, proceedings, matters and causes, both civil and criminal, of which district courts of general jurisdiction are given jurisdiction by the constitution and laws of the State of Texas.

C. The terms of said Criminal District Court No. 5 shall begin on the first Monday of January, April, July, and October of each year respectively, and each of said terms of said court shall continue until the convening of the next succeeding term.

D. The Judge of said Criminal District Court No. 5 is authorized to appoint an official court reporter for such court, and said court reporter shall have the qualifications now required by law for official shorthand reporters. Such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the judge of such court and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the District Courts of Dallas County, Texas, under the laws of this state.

E. The district clerk shall equalize the dockets of the Criminal District Courts of Dallas County by transferring cases from the Criminal District Court, the Criminal District Court No. 2, the Criminal District Court No. 3, and the Criminal District Court

No. 4 to the Criminal District Court No. 5 hereby created.

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

G. The District Attorney of Dallas County shall also be the district attorney for the additional Criminal District Court hereby created.

H. The District Clerk of Dallas County, Texas shall also act as District Clerk for the Criminal District Court No. 5 hereby created.

I. The Sheriff of Dallas County, either in person or by deputy shall attend the Criminal District Court No. 5 as required by the judge thereof, and the sheriff and constables of the several counties of this state, with executing processes issued out of said court, shall receive fees as provided by General Law for executing processes issued out of district courts.

J. All processes, writs, bonds, recognizances or other obligations issued out of the District Courts or Criminal District Courts of Dallas County are hereby made returnable to the said District Courts of Dallas County as required by law and all bonds executed and recognizances entered by and in said courts shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such courts as fixed by law and this Act, and all processes heretofore returned or hereafter returned to the District Courts of Dallas County shall be valid.

K. Except as herein otherwise provided, the laws and parts of laws applicable to District Courts and Criminal District Courts of Dallas County shall be applicable to the Criminal District Court No. 5 created by this Act.

L. If any provision of this Act is held unconstitutional or invalid, such invalidity shall not affect the remaining provisions of this Act. Except as other-

wise provided in this Act all laws now in effect with respect to Judicial District Courts and Criminal District Courts of Dallas County shall apply respectively to the Criminal District Court No. 5 created by this Act.

M. The Governor shall appoint a suitable person as Judge of the Criminal Court No. 5 of Dallas County created by this Act, who shall hold office until the next general election and until his successor has been duly elected and qualified. At the first general election after the creation of said court provided for herein, the judge of said court shall be elected for a term of four (4) years. Such person so appointed and elected shall have the qualifications provided by the constitution and the laws of this state for district judges.

A sum of \$16,000 for the fiscal year ending August 31, 1966, and a sum of \$16,000 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the Criminal Court No. 5 of Dallas County. The salary shall be paid as provided by law.

[Acts 1965, 59th Leg., p. 895, ch. 442, § 10a, eff. Sept. 1, 1965.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-16. Special Criminal District Court at Dallas County

There is hereby created and established at the City of Dallas a Special Criminal District Court to be known as the "Special Criminal District Court of Dallas County," which court shall have and exercise concurrent jurisdiction with the Criminal District Court of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas, as is now given and exercised by the said Criminal District Court of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas, under the Constitution and laws of the State of Texas.

[Acts 1954, 53rd Leg., 1st C.S., p. 105, ch. 51, art. 1, § 1.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

The Special Criminal District Court of Dallas County, a temporary court under Acts 1954, 53rd Leg., 1st C.S., p. 105, ch. 51, art. 3, § 1 which provided that such court should cease to exist on Aug. 31, 1956, was established as permanent criminal District Court No. 3 of Dallas County by Acts 1955, 54th Leg., p. 711, ch. 256, § 1 (art. 1926-14, ante). See, also, Article 199, Judicial District 14, etc.

JURISDICTION

Art. 1926-21. Concurrent Jurisdiction of Criminal District Courts with County Court at Law

Sec. 1. The Criminal District Court and Criminal District Court No. 2 of Dallas County shall have and exercise original concurrent jurisdiction with each other and with the County Court of Dallas County at Law in all matters and proceedings relative to misdemeanor causes of which the County Court of Dallas County at Law now has jurisdiction and either of the judges of said Criminal District Courts and the judge of said County Court of Dallas County at Law may, in his discretion, or upon the motion of the county attorney of Dallas county, transfer by written order or orders, entered upon the minutes of said court, any misdemeanor cause or misdemeanor causes that may at any time be pending in either of said courts to either of the other of said courts, as should, in his discretion, be transferred or as may be prayed for in the motion of the county attorney.

Sec. 2. Upon the transfer of any such cause or causes from said County Court of Dallas County at Law to either of said Criminal District Courts it shall be the duty of the county clerk of Dallas County to prepare and forward with the papers in said cause or causes so transferred a bill of the cost then accrued which said cost shall follow said cause or causes, and be taxed in said cause or causes with any other cost that may accrue in said cause or causes in either of said Criminal District Courts to which said cause or causes may be transferred; provided that the county clerk of Dallas County making such a bill of cost shall receive the sum of 50 cents for the preparation and forwarding of said bill of cost, in each cause so transferred, which said sum and cost shall be taxed in said cause and collected as other cost in the manner now provided by law; and the clerk of the District Court of Dallas County shall likewise, upon the transfer of any such cause from either of said Criminal District Courts to the County Court of Dallas County at Law, prepare such bill of cost and forward same as provided therein, and shall receive the same compensation as herein provided for the county clerk of Dallas County in such cases.

Sec. 3. The clerk of the District Court of Dallas County shall keep for each of said Criminal District Courts a misdemeanor docket and a misdemeanor motion docket in like manner as is now provided for by law for the County Court of Dallas County at Law, and upon any such cause or causes being transferred from the County Court of Dallas County at Law or from one of said Criminal District Courts to the other, said cause or causes shall be docketed as now provided by law for the County Court of Dallas County at Law.

Sec. 4. In trial of causes transferred to either of the Criminal District Courts of Dallas County from the County Court of Dallas County at Law, the

trials, pleadings and practice shall be the same as in trial of other causes over which the Criminal District Courts of Dallas County now have jurisdiction.

Sec. 5. The county attorney of Dallas county and all other officers shall receive the same fees in misdemeanor causes in said Criminal District Courts as are now provided by law in the County Court of Dallas County at Law and in all other matters of cost tax in said causes in said Criminal District Courts, the item shall in no event be greater than that provided by law for such items in the County Court of Dallas County at Law, and all such cost in such causes shall be paid to the officers of the court in which same is accrued.

Sec. 6. [General repealer.]

Sec. 7. All misdemeanor causes of which the County Court of Dallas County now has jurisdiction may be filed originally with the clerk of the district [court] of Dallas¹ county, in either the Criminal District Court of Dallas County or the Criminal District Court No. 2 of Dallas County, in the same manner as is now provided by law for the filing of such causes with the county clerk of Dallas county in the County Court of Dallas County at Law.

Sec. 7a. Said Criminal District Courts shall have jurisdiction on all bail bonds and recognizances taken in proceedings had before such courts; in all causes transferred to said courts from either of them or that may be transferred to said courts from the County Court of Dallas County at Law; and may enter forfeitures thereof; and final judgment and enforce the collection of same by proper process in the manner as provided by law in said bail bond proceedings; and all bail bonds, recognizances or other obligations taken for the appearance of defendants, parties and witnesses, in either the County Court of Dallas County at Law or Criminal District Court of Dallas County or Criminal District Court No. 2 of Dallas County, shall be binding on all such defendants, parties and witnesses and their sureties for appearance in either of said courts in which said cause may be pending or to which same may be transferred.

[1925 C.C.P.]

¹ So in Session Laws. Enrolled bill reads "clerk of district of or Dallas."

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-22. Jurisdiction Increased

Sec. 1. In addition to the jurisdiction now conferred upon the Criminal District Court of Dallas County, and upon the Criminal District Court No. 2 of Dallas County, by the Constitution and laws of the State of Texas, said Courts shall hereafter have and exercise civil jurisdiction in suits, causes and matters of:

(1) Divorce, as provided in Chapter 4, Title 75, of the Revised Civil Statutes of Texas, of 1925, and

any amendments thereof, heretofore or hereafter made thereto.

(2) Dependent and delinquent children, as provided in Title 43, Revised Civil Statutes of Texas, of 1925, and any amendments thereof, heretofore or hereafter made thereto.

(3) Adoption, as provided in Title 3, Revised Civil Statutes of Texas, of 1925, and any and all amendments heretofore or that may hereafter be made thereto.

(4) Habeas Corpus proceedings in civil matters.

Sec. 2. In all matters pertaining to the additional jurisdiction herein conferred upon said Courts, all the officers of said Courts shall have the same powers, rights and duties that are now or that may hereafter be conferred upon the same or similar officers in the other District Courts of Dallas County, Texas; and all fees and costs in such matters shall be the same as now or that may hereafter be provided in the same or similar matters in the other District Courts of Dallas County, Texas.

Sec. 3. Any Judge of any District Court of Dallas County may at his discretion transfer any cause or causes set out in Section 1 hereof that may at any time be pending in his Court to any other District Court of Dallas County by an order or orders entered upon the minutes of his Court; and the presiding Judge of the District Courts of Dallas County may in like manner assign any case in his Court or in any of the District Courts in Dallas County involving or pertaining to the matters set out in Section 1 hereof to any other Judge or Court, including the Criminal District Courts of Dallas County, or may assign any Judge to try any of said causes in any of said Courts, and the Judge in whose Court an assigned case is pending shall transfer the case to the Court to which it is assigned, and the Judge of the Court to which it is assigned shall receive and try the case. When such transfer or transfers are made the Clerk of such Court shall enter such cause or causes upon the docket to which said transfer or transfers are made, and, when so entered upon the docket, the Judge shall try and dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

Sec. 4. The trials and proceedings in said Courts in such matters shall be conducted according to the laws governing the pleadings, practice and proceedings in civil cases in the District Courts and in conformity with the provisions of Article 2092, Revised Civil Statutes of Texas, of 1925, and all appeals in such civil cases shall be to the Court of Civil Appeals for the Fifth Supreme Judicial District of Texas in the manner now or that may hereafter be provided by law.

[Acts 1935, 44th Leg., p. 604, ch. 243.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

JUDGES; CRIMINAL DISTRICT ATTORNEYS

Art. 1926-26. Judges of Criminal District Courts May Sit in Either Court

From and after the time this law shall take effect the Criminal District Court of Dallas County, Texas, and the Criminal District Court Number Two of Dallas County, Texas, and the respective judges thereof, shall have and exercise concurrent jurisdiction with each other in all felony cases, and in all misdemeanor cases in which said courts have, or may hereafter have, concurrent jurisdiction with the County Court of Dallas County at Law, and in all matters and proceedings of which either of said criminal district courts of Dallas County, Texas, now have jurisdiction; and either of the judges of said criminal district courts may, in his discretion, in the absence of the judge of the other criminal district court from his courtroom, or from the County of Dallas, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And either of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any impaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto, as the regular judge of said criminal district court could make if personally present and presiding.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-27. Criminal District Attorney; Duties; Salary; Fees; Accounting; Assistants; Oath; Powers; Report of Expenses; Election

Sec. 1. See article 199 (14th Dist.).

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Dallas county, Texas, an attorney for said district, who shall be styled the "Criminal District Attorney of Dallas county," and who shall hold his office for a period of two years and until his successor is elected and qualified. The said Criminal District Attorney shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State, of other district attorneys.

Sec. 3. It shall be the duty of said Criminal District Attorney or his assistants, as hereinafter provided to be in attendance upon each term of the "Criminal Court of Dallas County" and the "Criminal District Court No. 2 of Dallas County" and to represent the state in all matters pending before said courts. And he shall have exclusive control of all criminal cases wherever pending, or in whatever court in Dallas County that now has jurisdiction of criminal cases, as well as any or all courts that may hereafter be created and given jurisdiction in criminal cases, and he shall have the fees therefor fixed by law. He shall also have control of any and all cases heard on habeas corpus before any civil district court of Dallas County, as well as before the Criminal Court of said county. The Criminal District Attorney of Dallas County shall have and exercise in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within said Criminal District of Dallas County as are by law now conferred, or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this state.

It is further provided that he and his assistants shall have the exclusive right and it shall be their sole duty to perform the duties provided for in this Act, except in cases of absence from the county of the Criminal District Attorney and his assistants, or their inability or refusal to act; and no other person shall have the power to perform the duties provided for in this Act, or to represent the state in any criminal case in Dallas County, except in case of the absence from Dallas County, or the inability or refusal to act of the Criminal District Attorney and his assistants.

Sec. 4. The said Criminal District Attorney of Dallas County shall be commissioned by the Governor and shall receive a salary of \$500.00 per annum, to be paid by the state, and in addition thereto shall receive the following fees in felony cases, to be paid by the state; for each conviction of felonious homicide, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of forty dollars. For all other convictions in felony cases, where the defendant does not appeal, or dies, or escapes, after appeal, and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed the sum of thirty dollars; provided, that in all convictions of felony, in which punishment is fixed by the verdict and judgment by confinement in the House of Correction and Reformatory, his fee shall be fifteen dollars. For representing the state in each case of habeas corpus where the defendant is charged with felony, the sum of twenty dollars. For representing the state in examining trials, in felony cases, where indictment is returned, in each case, the sum of five dollars. The Criminal District Attorney shall also receive such fees for other services rendered by him

as is now, or may hereafter be authorized by law to be paid to other district and county attorneys in this state for such services.

Sec. 5. The Criminal District Attorney of Dallas County shall retain out of the fees earned and collected by him the sum of three thousand five hundred dollars per annum and in addition thereto one fourth of the gross excess of all such fees in excess of three thousand five hundred dollars per annum to an amount not in excess of two thousand dollars. The three fourth remaining to be applied first to the payment of the salaries of the Assistant District Attorneys and extra assistant District Attorneys and stenographer as hereinafter provided for. The remainder to be paid into the treasury of Dallas County; provided that in arriving at the amount collected by him he shall include the fees arising from all classes of criminal cases whether felony or misdemeanor arising in any of the courts in Dallas County now existing, or which may hereafter be created including habeas corpus hearing and fines and forfeitures; provided that after the 30th day of November and before the first day of January following of each year, he shall make a full and complete report and accounting to the county judge of Dallas County of all of such fees so collected by him; provided that in addition to the above he shall receive ten per cent. for the collection of delinquent fees as is now provided by law relating to the collection of delinquent fees by county and district attorneys. Such fees however, to be included in the reports herein provided for and to be taken into consideration in arriving at the total maximum compensation provided in this Act.

Sec. 6. The Criminal District Attorney of Dallas County may appoint two assistant criminal district attorneys who shall each receive a salary of not to exceed eighteen hundred dollars per annum payable monthly, and four additional assistant district attorneys who shall each receive a salary of not to exceed fifteen hundred dollars a year payable monthly. He may appoint a stenographer who shall receive a salary of not more than twelve hundred dollars per annum payable monthly.

In addition to the assistant criminal district attorneys and stenographer above provided for, said Criminal District Attorney of Dallas County may, with the approval of the county judge and commissioners court of Dallas county, appoint as many additional extra assistant district attorneys as may be necessary to properly administer the affairs of the office of Criminal District Attorney and enforce the law, upon the Criminal District Attorney making application under oath addressed to the county judge of Dallas county, setting out the need therefor; provided, the county judge, with the approval of the commissioners court, may discontinue the services of any one or more of said extra assistant criminal district attorneys so appointed, the salary of said extra assistant criminal district attorney to be fixed by the commissioners court of Dallas county.

Sec. 7. The assistant criminal district attorneys and the extra assistant criminal district attorneys above provided for, when so appointed, shall take oath of office and be authorized to represent the state before said criminal district court, and in all other courts of Dallas county, in which the criminal district attorney of Dallas county is authorized by this Act to represent the state, such authority to be exercised under the direction of said criminal district attorney, and which said assistants shall be subject to removal at the will of the said criminal district attorney. Each of said assistant criminal district attorneys shall be authorized to administer oaths, file information, examine witnesses before the grand jury and generally perform any duty devolving upon the criminal district attorney of Dallas county, and to exercise any power conferred by law upon the said criminal district attorney when by him so authorized. The criminal district attorney of Dallas county shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services shall have been rendered by himself.

Sec. 8. The criminal district attorney of Dallas county is authorized, with the consent of the county judge and county commissioners of Dallas county, to appoint not to exceed two assistants in addition to his regular assistant criminal district attorneys, provided for in this Act, which two assistants shall not be required to possess the qualifications prescribed by law for district or county attorneys, and who shall perform such duties as may be assigned to them by the criminal district attorney, and who shall receive as their compensation one hundred dollars per month each, to be paid in monthly installments out of the county funds of Dallas county, Texas, by warrants drawn on such county fund; and provided further, that the criminal district attorney of Dallas county shall be allowed a sum of money by order of said commissioners court of Dallas county, as in the judgment of the commissioners court may be deemed necessary, to the proper administration of the duties of such office not to exceed, however, the amount of fifty dollars per month. Such amount as may be thus necessarily incurred shall be paid by the commissioners court upon affidavit made by the criminal district attorney of Dallas county, showing the necessity for such expenditure and for what the same was incurred. The commissioners court may also require any other evidence as in their opinion may be necessary to show the necessity for such expenditure, but they shall be the sole judge as to the necessity for such expenditure and their judgment allowing same shall be final.

Sec. 9. The criminal district attorney shall at the close of each month of the tenure of such office make, as a part of the report required by this Act, an itemized and sworn statement of the actual and necessary expenses incurred by him in the conduct of his said office, such as stamps, stationery, books, telephone, traveling expenses and other necessary

expenses. If such expenses be incurred in connection with any particular case such statement shall name such case. Such expense account shall be subject to the audit of the county auditor and if it appears that any item of such expenses was not incurred by such officer or that such item was not necessary thereto, such item may be by the said auditor rejected, in which case the correction of such item may be adjudicated in any court of competent jurisdiction. The amount of such expense shall be deducted by the criminal district attorney of Dallas county in making such a report from the amount if any due by him to the county under the provisions of this Act.

Sec. 10. The criminal district attorney of Dallas county, as provided for in this Act, shall be elected by the qualified electors of the criminal judicial district of Dallas county at the next general election, and it is provided and directed that the present county attorney of Dallas county, Texas shall continue in office and assume the duties and be known as the criminal district attorney of Dallas county, Texas, and proceed to organize and arrange the affairs of the office of criminal district attorney of Dallas county, and appoint assistants as provided for in this Act and receive the fees provided for in this Act for such office until the next general election and until the criminal district attorney of Dallas county shall be elected and qualified.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

HARRIS COUNTY

- Art. 1926-31. Transferred to Article 199(174)
- Art. 1926-32. Transferred to Article 199(176)
- Art. 1926-33. Transferred to Article 199(177)
- Art. 1926-34. Transferred to Article 199(178, 179)
- Art. 1926-35. Transferred to Article 199(180)

TARRANT COUNTY

Art. 1926-41. Criminal District Court for Tarrant County

Sec. 1. There is hereby created and established at the city of Ft. Worth a Criminal District Court to be known as "Criminal District Court of Tarrant County,"¹ which Court shall have and exercise, from and after the taking effect of this Act, original and exclusive jurisdiction over all criminal cases of the grade of felony in the county of Tarrant of which district courts, under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall have and exercise such concurrent jurisdiction with the county court of Tarrant county over misdemeanor cases as is hereinafter provided by this Act.

Sec. 2. From and after the time this Act shall take effect, the county court of Tarrant county and the Criminal District Court of Tarrant county created by this Act, shall have and exercise concurrent jurisdiction with each other in all misdemeanor cases of which the county court of Tarrant county may now, or may hereafter have exclusive jurisdiction; and of such misdemeanor cases as shall be filed in said county court on appeal from justices' or recorders' courts; and either the judge of said Criminal District Court, or the judge of said county court of Tarrant county, may upon motion of the county attorney of Tarrant county, or other officer representing the State in said courts, in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered upon the minutes of his court; and where such transfer or transfers, are made, the clerk of the court making such transfer shall certify to the clerk of the court to which such transfer is made a statement of the cause or causes so transferred giving the style and number of the same to the clerk of the court to which such transfer is made and shall accompany such statement with all the papers in said cause or causes so transferred and upon receipt of such statement and the papers in such cause or causes so transferred, the clerk of the court to which such transfer is made shall enter such cause or causes upon the docket of the court to which such transfer or transfers are made, and when so entered upon the docket, the judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cases were originally instituted in said court.

Sec. 3. Said court shall have jurisdiction over all bail bonds and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof and final judgments, and enforce the collection of the same by proper process in the same manner as is provided by law in district courts.

Sec. 4. The said Criminal District Court of Tarrant county shall have a seal similar to the seal of the district court with the words "Criminal District Court of Tarrant county"¹ engraved thereon, an impression of which seal shall be attached to all writs and other processes, except subpoenas, issuing from said court, and shall be used in the authentication of the official acts of the clerk of said court.

Sec. 5. The practice in said court shall be conducted according to the laws governing the practice in the district court, and the rules of pleading and evidence in the district court shall govern insofar as the same may be applicable.

Sec. 6. All laws regulating the selection, summoning and impaneling of grand and petit jurors in the district court shall govern and apply in the Criminal District Court in so far as the same may be applicable.

Sec. 7. All rules of criminal procedure governing the district and county courts shall apply to and govern said Criminal District Court.

Sec. 8. Said Criminal District Court of Tarrant County shall try all misdemeanor cases coming before it with six jurors instead of twelve jurors, unless a jury be waived by the defendant.

Sec. 9. Said Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one term beginning the first Monday of July, one term beginning the first Monday of October, one term beginning the first Monday of January. Each term shall continue until the term ends by operation of law or the business is disposed of. The grand jury shall be impanelled in said court for each term thereof, unless otherwise directed by the judge of said Court.

Sec. 10. Whenever the Criminal District Court of Tarrant County shall be engaged in the trial of any cause when the time for expiration of the terms of said court as fixed by law shall arrive, the judge presiding shall have the power, and may, if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case, the extension of such term shall be shown on the minutes of the court before they are signed.

Sec. 11. The sheriff, county attorney, and the clerk of the district court of Tarrant county shall be the sheriff, county attorney and clerk, respectively, of said Criminal District Court under the same rules and regulations as are now, or may hereafter be prescribed by law for the government of sheriffs, county attorneys, and clerks of the district courts of this State; and said sheriff, county attorney and clerk shall respectively receive such fees as are now, or may hereafter be prescribed for such officers in the district courts of the State, to be paid in the same manner, provided that the clerk of the court herein created, shall receive as compensation for his services the sum of \$125.00 (one hundred and twenty-five dollars) per month, to be paid as all the salaries of other clerks of criminal district courts in this State.

Sec. 12. In all such matters over which said Criminal District Court has jurisdiction, it shall have the same power within said district as is conferred by law upon the district court, and shall be governed by the same rule in the exercise of said power.

Sec. 13. Appeals and writs of error may be prosecuted from said Criminal District Court to the court of criminal appeals in criminal cases and to the courts of civil appeals in the same manner and form as from district courts in like cases.

Sec. 14. From and after the taking effect of this Act, the district courts of Tarrant county as now constituted, shall be, and they are hereby deprived and divested of all jurisdiction in all criminal cases, and of all jurisdiction given the Criminal District

Court of Tarrant county by this Act, and all criminal causes pending in said district courts at the time of the taking effect of this Act and all matters pertaining to criminal cases pending therein over which the court herein created is given jurisdiction, shall be, by the judges of the other district courts ordered transferred to and entered upon the docket of said Criminal District Court, and when so entered upon the docket, the judge of said Criminal District Court shall try and dispose of same in the same manner as if such cases were originally instituted therein. Provided that the other district courts of Tarrant county shall have jurisdiction concurrently with this court to empanel grand juries and to receive their bills of indictment and make proper transfer of same to the Criminal District Court.

Sec. 15. The judge of said Criminal Court of Tarrant county¹ shall be elected by the qualified voters of Tarrant county for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary as is now, or may hereafter be paid, to the district judges to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of this State in criminal cases. Provided, that the Governor, by and with the consent of the Senate, if in session, shall appoint a judge of said court who shall hold the office until the next general election after the passage of this Act, and until his successor shall have been elected and qualified.

Sec. 16. The judge of said criminal district court may exchange districts with or hold court for any district judge, as provided by law in cases of district judges, and in case of disqualification or absence of a judge, a special judge may be selected.

Sec. 17. All orders heretofore made and all process heretofore issued in any criminal cause so transferred are hereby validated and made of full force and effect in the Criminal District Court of Tarrant county.

[Acts 1917, 35th Leg., p. 144, ch. 77.]

¹ Name changed to Criminal District Court No. 1 of Tarrant County. See article 1926-42a.

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-42. Criminal District Court No. 1 of Tarrant County

Sec. 1. There is hereby created and established a Criminal Judicial District of Tarrant County, Texas, to be composed of the County of Tarrant, Texas, alone and which shall be co-extensive with the territorial boundaries and limits of said Tarrant County, and the Criminal District Court of Tarrant County, Texas,¹ shall have and exercise all of the criminal jurisdiction of and for said Criminal District of Tarrant County, Texas, which is now conferred by law on said Criminal District Court.

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Tarrant County, Texas, an Attorney for said District who shall be styled the "Criminal District Attorney of Tarrant County" and who shall hold his office for a period of two years and until his successor is elected and qualified. The said Criminal District Attorney shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State, of other District Attorneys.

Sec. 3. It shall be the duty of said Criminal District Attorney or his assistants as herein provided to be in attendance upon each term and all sessions of the Criminal District Court of Tarrant County¹ and of all sessions and terms of the County Court of Tarrant County, Texas, held for the transaction of criminal business, and to represent the state in all matters pending before said courts, and to represent Tarrant County in all matters pending before such courts, the Commissioners Court of Tarrant County and Justice Courts and any other courts where said Tarrant County has pending business of any kind or matter of concern or interest; provided, however, the Commissioners Court may employ the services of the Criminal District Attorney or his assistants, or if the court elects to do so it may employ special counsel of its own choice, learned in the law, to represent the county in all condemnation proceedings for the acquisition of right-of-way for highways and proper purposes where the right of eminent domain is given to the county; and particularly with authority to render aid and work with the Commissioners Court, the county engineer and other county employees in the preparation of documents necessary in the acquisition of rights-of-way for the county, or in cases where the county is required to obtain right-of-way for state highways, or to assist in the acquisition of such rights-of-way. Such employment may be made for such time and on such terms as the Commissioners Court may deem proper and expedient; provided, however, that the compensation for such employment shall be paid out of the Road and Bridge fund of Tarrant County. The Criminal District Attorney of Tarrant County shall have and exercise in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within such criminal district of Tarrant County as are by law now conferred, or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this state except in regard to condemnation proceedings where the Commissioners Court elects to hire a special counsel.

Sec. 4. Said Criminal District Attorney of Tarrant County shall be commissioned by the Governor and shall receive as salary and compensation the following and no more:

A salary of Five Hundred (\$500.00) Dollars from the State of Texas, as provided in the Constitution of the State of Texas, for the salary of District

Attorney, and so much of the fees, commissions and perquisites earned by said office to make up the total compensation to the sum of Six Thousand (\$6,000) Dollars; provided, that the amount of such salary, fees and perquisites to be received and retained by him shall never exceed the sum of Six Thousand (\$6,000) Dollars in any one year; and, provided, further, that all salaries, fees, commissions and perquisites so earned and received by such office in excess of \$6,000 during each and every fiscal year shall be paid into the County Treasury of said county in accordance with the terms and provisions of the maximum fee bill, except as to such portion of such excess as shall be used and expended in the payment of salaries to deputies, as hereinafter provided.

Sec. 5. The Criminal District Attorney of Tarrant County, for the purpose of conducting the affairs of such office, shall be and is hereby authorized, by and with the written consent of the county judge of said county, to appoint such assistant district attorneys who shall have all the qualifications of the criminal district attorney, as are necessary to perform the duties and affairs of such office, not to exceed six in number, two of whom shall receive a salary not to exceed three thousand dollars each per annum; two of whom shall receive a salary not to exceed twenty-five hundred dollars each per annum; one of whom shall receive a salary not to exceed twenty-one hundred dollars per annum; one of whom shall receive a salary not to exceed fifteen hundred dollars per annum. Said criminal district attorney shall also be authorized, with the consent of the county judge of said county, to appoint, not to exceed two assistants who shall not be required to possess the qualifications prescribed by law for criminal district attorneys, who shall perform such duties as may be assigned to them by said criminal district attorney, and who shall receive as their compensation a salary not to exceed twenty-one hundred dollars each per annum. All salaries above mentioned shall be payable monthly, and the said salaries to be paid only out of the fees of office collected by said district attorney, said fees of office to be the same as are now allowed and permitted by law to be paid to the county and district attorneys of this State. The fixing of the amount of salaries to be paid by said criminal district attorney to said assistants shall be fixed and regulated by the commissioners court of said county by an order passed at a regular session of said court and duly spread upon the minutes of said court; provided that the two assistants to the district attorney who are not required to have the qualifications of a criminal district attorney shall, so far as Tarrant County is concerned, be in lieu of the assistants of like character provided for in any statutes of this State.

Sec. 6. The Assistant Criminal District Attorneys above provided for when so appointed shall take the oath of office as such, and be authorized to represent the State before the Criminal District Court of Tarrant County in which the Criminal

District Attorney of Tarrant County is authorized by this Act to represent the State, or to represent Tarrant County. Each of said Assistant Criminal District Attorneys shall be authorized to administer oaths, file information, examine witnesses before the Grand Jury, and generally to perform any duty devolving upon the Criminal District Attorney of Tarrant County, and to exercise any power conferred by law upon such Criminal District Attorney when by him so authorized and directed.

Sec. 7. Said Criminal District Attorney of Tarrant County shall be clothed with all the powers and vested with all the rights and privileges conferred upon County Attorneys and District Attorneys of this state, and shall receive no salary or compensation or perquisites or fees of any character save those provided in Section 4 of this Act. All fees or commissions from all sources, including fees and commissions in all criminal and civil cases, and for the prosecution of all tax suits, and from every other source, shall be turned over to the County Treasurer of said County by the said District Attorney, subject only to the payment of the salary of himself and his deputies, as provided in this Act.

Sec. 8. The Criminal District Attorney of Tarrant County, as provided for in this Act shall be elected by the qualified voters of the Criminal Judicial District of Tarrant County at the next general election, but it is provided and directed that the present County Attorney of Tarrant County shall continue in office and assume the duties and be known as the "Criminal District Attorney of Tarrant County" and shall proceed to organize and arrange the affairs of the office of the Criminal District Attorney of Tarrant County, and appoint Assistants as provided for in this Act, and receive the compensation and salary provided for in this Act for such office until the next general election, and until his successor shall be elected and qualified. Provided this Act shall not be construed as, creating any Court additional to those now existing in Tarrant County.

[Acts 1919, 36th Leg., 2nd C.S., p. 246, ch. 80. Amended by Acts 1920, 36th Leg., 3rd C.S., ch. 6, § 1 (§ 5); Acts 1963, 58th Leg., p. 860, ch. 329, § 1.]

¹ Name changed to Criminal District Court No. 1 of Tarrant County. See article 1926-42a.

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-42a. Change of Name to Criminal District Court No. 1 of Tarrant County

(a) The name of the Criminal District Court of Tarrant County, created by Chapter 80, General Laws, Acts of the 36th Legislature, 2nd Called Session, 1919 (Articles 52-64 through 52-87, Vernon's Texas Code of Criminal Procedure),¹ is changed to the Criminal District Court No. 1 of Tarrant County.

(b) Wherever the name "Criminal District Court of Tarrant County" appears in the statutes of this

state, or in any document, the name refers to the Criminal District Court No. 1 of Tarrant County. [Acts 1967, 60th Leg., p. 1792, ch. 682, § 1, eff. Aug. 28, 1967.]

¹ See, now, articles 1926-41 and 1926-42.

Art. 1926-43. Criminal District Court No. 2 of Tarrant County

Sec. 1. That there is hereby created and established at the City of Fort Worth, a Criminal District Court to be known as the "Criminal District Court No. 2 of Tarrant County", which Court shall have and exercise concurrent jurisdiction with the Criminal District Court of Tarrant County¹ under the constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Tarrant County and the Criminal District Court No. 2 of Tarrant County shall have and exercise concurrent jurisdiction with each other in all felony and misdemeanor causes, and in all matters and proceedings of which the said Criminal District Court of Tarrant County¹ has jurisdiction; and either of the Judges of said Criminal District Courts may in their discretion transfer any cause or causes that may at any time be pending in his court to the other Criminal District Court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the Clerk of such Criminal District Court shall enter such cause or causes upon the docket to which said transfer or transfers are made, and, when so entered upon the docket, the Judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court; and the said Criminal District Court No. 2 of Tarrant County, Texas, shall have and exercise original and concurrent jurisdiction over misdemeanor cases as is hereafter provided by this Act.

Sec. 3. From and after the date this Act shall take effect the Criminal District Court No. 2 of Tarrant County, Texas, shall have and exercise original and concurrent jurisdiction of all misdemeanor cases of which the County Courts at Law Nos. 1 and 2 now have concurrent jurisdiction, and of such misdemeanor cases as shall be filed in said County Courts at Law of Tarrant County, Texas, on appeal from Justices or Recorders Courts and either the Judge of said Criminal District Court No. 2 or the Judge of said County Court at Law, may, upon motion of the District Attorney of Tarrant County, or other officer representing the state in said court, in his discretion, transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders upon the minutes of his court; and where such transfer or transfers are made, the Clerk of the court making such transfer shall certify to the Clerk of the court to which such transfer or transfers are made, and when so entered upon the docket the Judge of the court to which such transfer or transfers are made, shall dispose of said cause or causes in the same manner

as if such cases were originally instituted in said court.

Sec. 4. Immediately after this Act takes effect the Clerk of the County Courts at Law Nos. 1 and 2, Tarrant County, Texas, shall transfer all civil cases which may be pending in the County Court at Law No. 1 to the County Court at Law No. 2, and all misdemeanor cases which may be pending in said County Courts at Law Nos. 1 and 2 to the Criminal District Court No. 2 of Tarrant County, Texas; and the office of Judge of the County Court at Law No. 1 of Tarrant County, Texas, shall be abolished and the said County Court at Law No. 2 shall hereafter be known as the County Court at Law of Tarrant County, Texas. All process and orders issued by the court transferring any case under the provisions of this Act shall be valid for all purposes in the court to which such case is transferred as if originally issued or made by the court to which such case is transferred.

Sec. 5. The Judge of the said Criminal District Court No. 2 of Tarrant County, Texas, shall be elected by the qualified voters of Tarrant County for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as required of the Judge of a District Court, and shall receive the same salary as is now or may hereafter be paid to the District Judges and to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Tarrant County. The Judge of said court may exchange with any District Judge, as provided by law in cases of District Judges, and, in case of disqualification or absence of a Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided, that the Governor, under the authority now provided by law, upon this Act becoming effective shall appoint a Judge of said court, who shall hold the office until the next general election after the passage of this law, and until his successor shall have been elected and qualified. Either of the Judges of said Criminal District Courts may, in his discretion, in the absence or inability to serve of the Judge of the other Criminal District Court from his court room or from the County of Tarrant, Texas, try and dispose of any cause or causes that may be pending in such Criminal District Court as fully as could such absent Judge were he personally present and presiding. And either of said Judges may receive in open court from the Foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit

jury or their final discharge, as fully and completely as such other District Judge could do if personally present and presiding over such court; and make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular Judge of said Criminal District Court could make if personally present and presiding.

Sec. 6. Said court shall have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 2 of Tarrant County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seal of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the Clerk and attested by the seal of said court shall be admissible in evidence in all the courts of this state in like manner as similar certified copies from the courts of record are now or may hereafter be admissible.

Sec. 7. The Sheriff, Criminal District Attorney and Clerk of the District Courts of Tarrant County, as heretofore provided by law, shall be the Sheriff, District Attorney and Clerk, respectively, of said Criminal District Court No. 2 of Tarrant County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the state; and said Sheriff, Criminal District Attorney and Clerk shall, respectively, receive such fees as are now or may hereafter be prescribed by law for such offices in the District Courts of the state and to be paid in the same manner.

Sec. 8. The County Commissioners Court shall have authority to authorize the employment of such additional Deputy District Clerks as in their judgment shall be required, and to pay out of the General Fund of the county for their services such Deputy or Deputies to be appointed by the District Clerk of Tarrant County, Texas, and to be removable at the will of the Clerk, and to be paid a salary not to exceed the compensation allowed by law to other Deputy District Clerks. The Criminal District Attorney may appoint an Assistant Criminal District Attorney, in addition to those now provided by law, to attend said court. Said Assistant shall have the authority and shall qualify as provided by law for Assistant Criminal District Attorneys, and shall be removable at the will of the Criminal District Attorney, and shall receive a salary not to exceed the maximum salary allowed Assistant Criminal District Attorneys; said salary to be payable as is provided by law.

Sec. 9. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it; one term beginning the first Monday in January, one term beginning the first Monday in April, one term beginning on the first Monday in July, and one term beginning the

first Monday in October, of each year. The trials and proceedings in said court shall be conducted according to the law governing the practice and proceedings in felony and misdemeanor cases. The District Judges of the Criminal District Courts of Tarrant County may alternately appoint Grand Jury Commissioners and empanel grand juries.

Sec. 10. All laws regulating the selection, summoning and empaneling of grand and petit jurors in the District Courts shall govern and apply in the Criminal District Court No. 2 of Tarrant County, insofar as the same may be applicable. Provisions of the articles commonly known as the "Jury Wheel Law" shall remain in full force and effect insofar as the same may be applicable.

Sec. 10a. The salary for such District Judge shall be the same as the salary provided for other District Judges in this state. There is hereby appropriated to pay the salary of such Judge for the biennium beginning September 1, 1947, the sum of Six Thousand (\$6,000.00) Dollars for each year of such biennium, which said salary shall be paid in monthly installments out of the General Revenue Fund of the state in the same manner as provided for other District Judges in House Bill No. 244, Acts of the Regular Session, 50th Legislature, 1947.

[Acts 1947, 50th Leg., p. 636, ch. 337.]

¹ Name changed to Criminal District Court No. 1 of Tarrant County. See article 1926-42a.

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-44. Criminal District Court No. 3 of Tarrant County

A. Creation and Jurisdiction. The Criminal District Court No. 3 of Tarrant County is created. Its jurisdiction is identical with that provided by law for the Criminal District Court of Tarrant County¹ and the Criminal District Court No. 2 of Tarrant County and shall be exercised concurrently.

B. Terms of Court. The terms of the Criminal District Court No. 3 begin on the first Monday in April, the first Monday in July, the first Monday in October, and the first Monday in January of each year. Each term of court continues until the next succeeding term convenes.

C. Judge. As soon as practicable after the effective date of this Act, the Governor shall appoint to the Criminal District Court No. 3 a person qualified to serve as a District Judge under the Constitution and laws of this state. The judge appointed holds office until the next general election at which his successor is duly elected and until he qualifies; and each elected successor holds office for a term of four years. The judge appointed and his successor is entitled to the same compensation and allowances provided by law for District Judges of Tarrant County, Texas.

D. Appropriation. A sum of \$16,000.00 for the fiscal year ending August 31, 1966, and a sum of

\$16,000.00 for fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the Criminal District Court No. 3 of Tarrant County. The salary shall be paid as provided by law.

E. Court Officials. (a) The Judge of the Criminal District Court No. 3 may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the same compensation, fees, and allowances provided by law for the official district court reporters of Tarrant County, Texas.

(b) The Sheriff, Criminal District Attorney, and District Clerk of Tarrant County, Texas, shall serve as Sheriff, Criminal District Attorney, and Clerk, respectively, of the Criminal District Court No. 3. The Commissioners Court of Tarrant County, Texas, may employ as many additional deputy sheriffs, assistant criminal district attorneys, and deputy clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the same compensation, fees, and allowances, prescribed by law for their respective offices in Tarrant County, Texas.

F. Practice. (a) The rules of practice and procedure applicable to the District Courts of this state govern practice in the Criminal District Court No. 3, and the judge of said court shall have the same power as any other District Judge in Tarrant County.

(b) The judges of all three criminal district courts in Tarrant County may freely transfer causes to and from the dockets of their respective courts. The judges may also freely exchange benches and courtrooms with each other and with the judges of the 17th, 48th, 67th, 96th, and 153rd judicial districts and with any other District Court in Tarrant County, so that if a judge is ill, disqualified, or otherwise absent, another judge may hold court for him without the necessity of transferring the cause involved.

(c) The Criminal District Judges of Tarrant County shall each appoint two officers of each of the said courts to act as Bailiffs for said courts and no less than three (3) Bailiffs shall be assigned regularly to each of the Criminal District Courts of Tarrant County, Texas, with the judge of each court, respectively, appointing two (2) Bailiffs and the Sheriff of such county appointing one (1) Bailiff for each of said courts, and the Sheriff of such county shall appoint such Bailiff for each court in the same manner as is now authorized by law.

The Judges of County Criminal Courts Nos. 1 and 2 of Tarrant County shall each appoint one officer to act as a Bailiff for said courts and no less than two (2) Bailiffs shall be assigned regularly to each of the said County Criminal Courts, with the judge of each of said courts respectively appointing one (1) Bailiff for each of said courts and the Sheriff of Tarrant County shall appoint one (1) Bailiff for each of said courts in the same manner as now authoriz-

ed by law. The Bailiffs appointed under the provisions hereof by the said courts shall be paid a salary out of the general fund of the county of such courts as may be set by the judges of said courts with the approval of the Commissioners Court of Tarrant County. The Bailiffs so appointed by each of the said courts of Tarrant County shall perform such duties as are required by the judges. The said Bailiffs thus appointed by each of the judges, under the provisions hereof, are subject to removal without cause at the will of the judge in whose court such Bailiff or Bailiffs may be assigned. Bailiffs thus appointed by any such judge or judges, under the provisions hereof shall be duly deputized by the Sheriff of such county upon the request of the Criminal District Judges in the manner now authorized by law, and such Bailiffs shall be in addition to all other deputies now authorized by law.

[Acts 1965, 59th Leg., p. 895, ch. 442, § 10d, eff. Sept. 1, 1965. Amended by Acts 1967, 60th Leg., p. 1792, ch. 682, §§ 2, 3, eff. Aug. 28, 1967.]

¹ Name changed to Criminal District Court No. 1 of Tarrant County. See article 1926-42a.

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

1926-45. Criminal District Court No. 4 of Tarrant County

(a) The Criminal Judicial District No. 4 of Tarrant County is hereby created. It is composed of the County of Tarrant.

(b) The Criminal District Court No. 4 of Tarrant County shall give preference to criminal cases.

(c) The terms of court of the Criminal District Court No. 4 of Tarrant County begin on the first Monday in April, the first Monday in July, the first Monday in October, and the first Monday in January of each year. Each term of court continues until the next succeeding term convenes.

[Acts 1969, 61st Leg., 2nd C.S., p. 94, ch. 23, § 3.025, eff. Sept. 19, 1969. Amended by Acts 1981, 67th Leg., p. 2266, ch. 547, § 1, eff. June 12, 1981.]

TRAVIS COUNTY

Art. 1926-51. Criminal District Court of Travis County

Secs. 1 to 4. See Art. 199 (26th and 53rd Dists.).

Sec. 5. The criminal district court of Travis and Williamson Counties, as now created by law shall when this bill takes effect, be known as the Criminal District Court of Travis County, Texas, and shall exercise, have and enforce all the powers and jurisdiction which it now has within and for Travis County and, in addition thereto, shall have and exercise all of the jurisdiction, powers, and functions of a district court under the Constitution and laws of the State of Texas; provided, however, that it shall not exercise or have any jurisdiction or powers as such other than is incident to a district court of general jurisdiction, it being the purpose of

this Act to take Williamson County out of the district of said criminal district court as now organized and confine its jurisdiction exclusively to Travis County. The said criminal district court, when this bill becomes effective, shall have the right and power to certify and transfer to the Fifty-third Judicial District Court either civil or criminal cases and the Fifty-third Judicial District Court shall have the right to certify and transfer to the criminal district court of Travis County for trial civil cases. Civil cases may be filed or instituted in either the criminal district court of Travis County or in the Fifty-third Judicial District Court in Travis County and both of said courts, or either of them, shall have the right, power and jurisdiction to try either civil or criminal cases within its jurisdiction under the Constitution and General Laws of the State. The Criminal District Court of Travis County shall continue, as now provided by law, to select jury commissioners and impanel grand juries and exercise all of the other powers, functions and jurisdiction now conferred upon it by law, it being the purpose of this Act, not to repeal the Act hereby amended otherwise than is herein specifically done, and this Act is in addition to and cumulative of the Act hereby amended.

Sec. 5a. The Criminal District Court of Travis County shall hold its terms at the following time, to-wit: On the first Monday in February and may continue in session to and including the last Saturday in March; on the first Monday in April and may continue in session to and including the last Saturday in May; on the first Monday in June and may continue in session to and including the last Saturday in August; on the first Monday in October and may continue in session to and including the last Saturday in November; on the first Monday in December and may continue in session to and including the last Saturday in January.

Sec. 6. The district clerk of Travis County shall be the clerk of the district courts for the Fifty-third Judicial District and of the Criminal District Court of Travis County and shall perform all of the duties of clerk of the said two courts.

Sec. 7. [Not included.]

Sec. 8. At the general election, next preceding the taking effect of this Act, there shall be elected, a district judge for the Criminal District Court of Travis County who shall qualify as soon as the Act takes effect, and his term of office shall be four years, and he shall continue in office until his successor is elected and qualified.

Sec. 9. Upon the taking effect of this Act, the respective judges of each of the said three district courts shall, each for his respective court, appoint an official court reporter who shall have the qualifications and be subject to the same regulations and receive the same compensation as is now, or may hereafter be, fixed by law, for court reporters in district courts.

Sec. 10. The office of district attorney of Travis and Williamson Counties from and after the first day of January, 1927, shall cease to exist, and there shall be elected a district attorney for the Fifty-third Judicial District at the next general election after the passage of this Act, and at each general election thereafter. He shall represent the State in all criminal cases in all of the district courts of Travis County, and perform such other duties as are or may be provided by law governing district attorneys; and he shall receive, in addition to the five hundred (\$500.00) dollars per annum allowed by law to district attorneys, the same per diem and compensation provided by law for district attorneys in judicial districts of this State composed of two or more counties.

Sec. 11. Grand juries for the Criminal District Court of Travis County shall be organized at each of the terms of said court. And grand juries for the Twenty-sixth Judicial District Court shall be organized at the January, May and September terms of the said court; provided, however, that the judge of the district court for the Twenty-sixth Judicial District may, when deemed necessary, organize and impanel grand juries at any other term of said court by entering an order therefor.

Sec. 12. [Not included.]

Sec. 13. Upon the taking effect of this Act the district clerk of Williamson County shall transfer all causes pending on the docket of the said Criminal District Court in Williamson County to the docket of the Twenty-sixth Judicial District Court; and that all causes so transferred shall be disposed of as though originally filed in the said court to which they were so transferred.

Sec. 14. Either judge of the Fifty-third Judicial District or the Criminal District Court of Travis County may, in his discretion, at any time, transfer any cause pending on the docket of his court to the other District Court in Travis County, and when the said transfer is so made the said cause so transferred shall be disposed of by the court to which the same was so transferred as though originally filed in the said court.

Sec. 15. All writs, processes, bonds, recognizances and orders in civil and criminal cases and matters, issued, executed, entered into, or required prior to the taking effect of this Act, in the Twenty-sixth Judicial District Court, and in the Criminal District Court of Travis and Williamson Counties, respectively, and returnable to terms of said courts, as heretofore fixed by law, in the counties of Travis and Williamson, are hereby made returnable to the next ensuing terms of the respective courts to which they are required to be transferred, under the provisions of this Act, and shall be as valid and binding as if no change had been made in said courts, or in the time of holding same; and all juries drawn and selected under existing laws shall be as valid as if no change had been made in said courts or in the time of holding same; and at the last term

of the Criminal District Court for Travis and Williamson Counties held in Williamson and Travis Counties, under existing laws, the judge of said criminal district court shall provide for the drawing and selection of a grand jury for the proper terms of court in Travis and Williamson Counties, to be held after this Act takes effect; and the said petit and grand juries so drawn and selected shall be required to appear and serve and their acts shall be valid as if no change had been made in said courts, or in the times of holding said courts.

Sec. 16. This Act shall not be construed to in anywise or in any manner affect judgments or orders rendered or made in the Twenty-sixth Judicial District Court in Travis County, or rendered or made in the Criminal District Court for Travis and Williamson Counties, in either of said counties prior to the taking effect of this Act; but it is provided that after this Act becomes effective as a law the Twenty-sixth Judicial District shall have jurisdiction of all judgments, orders and matters over which the Criminal District Court of Travis and Williamson Counties had or could exercise jurisdiction in Williamson County under the law as it now exists; and after this Act becomes effective as a law the Fifty-third Judicial District Court and the Criminal District Court of Travis County shall have jurisdiction of all judgments, orders and matters over which the Criminal District Court for Travis and Williamson Counties and the Twenty-sixth Judicial District had or could exercise jurisdiction in Travis County under the law as it now exists.

Sec. 17. It is provided that this Act shall take effect and be in force on and after January first, 1925.

[Acts 1923, 38th Leg., ch. 68. Amended by Acts 1925, 39th Leg., p. 355, ch. 147, § 1.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

JEFFERSON COUNTY

Art. 1926-61. Criminal District Court of Jefferson County

Sec. 1. That there is hereby created and established at the County Seat of Jefferson County, a criminal District Court to be known as "Criminal District Court of Jefferson County," which court shall have and exercise, from and after the taking effect of this Act, original and exclusive jurisdiction over all criminal cases of the grade of felony in the County of Jefferson of which district courts, under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall have and exercise such concurrent jurisdiction with the county court of Jefferson County at law over misdemeanor cases as is hereinafter provided by this Act.

Sec. 2. From and after the time this Act shall take effect the County Court of Jefferson County at Law and the Criminal District Court of Jefferson County created by this Act, shall have and exercise

concurrent jurisdiction with each other in all misdemeanor cases of which the County Court of Jefferson County at Law may now, or may hereafter have exclusive jurisdiction; and of such misdemeanor cases as shall be filed in said County Court on appeal from Justices' or Recorders' Courts; and either the Judge of said Criminal District Court, or the Judge of said County Court of Jefferson County at Law may upon motion of the County Attorney of Jefferson County, or other officer representing the State in said Courts, in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made, the Clerk of the Court making such transfer shall certify to the Clerk of the Court to which such transfer is made, a statement of the cause or causes so transferred, giving the style and number of the same to the Clerk of the Court to which such transfer is made and shall accompany such statement with all the papers in said cause or causes so transferred and upon receipt of such statement and the papers in such cause or causes so transferred, the Clerk of the Court to which such transfer is made shall enter such cause or causes upon the docket of the court to which such transfer or transfers are made, and when so entered upon the docket, the Judge of the Court to which such transfer or transfers are made, shall dispose of said cause or causes in the same manner as if such cases were originally instituted in said Court.

Sec. 3. Said Court shall have jurisdiction over all bail, bond and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof and final judgments and enforce the collection of the same by proper process in the same manner as is provided by law in District Courts.

Sec. 4. The said Criminal District Court of Jefferson County shall have a seal similar to the seal of the District Court with the words "Criminal District Court of Jefferson County" engraved thereon, an impression of which seal shall be attached to all writs and other processes, except subpoenas, issuing from said court, and shall be used in the authentication of the official acts of the Clerk of said Court.

Sec. 5. The practice in said court shall be conducted according to the laws governing the practice in the District Court, and the rules of pleading and evidence in the District Court shall govern in so far as the same may be applicable.

Sec. 6. All laws regulating the selecting, summoning and impaneling of grand and petit jurors in the District Court shall govern and apply in the Criminal District Court in so far as the same may be applicable.

Sec. 7. All rules of criminal procedure governing the District and County Courts shall apply to and govern said Criminal District Court.

Sec. 8. Said Criminal District Court of Jefferson County shall try all misdemeanor cases coming before it with six jurors instead of twelve jurors, unless a jury be waived by the defendant.

Sec. 9. Said Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one term beginning the first Monday of July, one term beginning the first Monday of October, one term beginning the first Monday of January. Each term shall continue until the term ends by operation of law or the business is disposed of. The grand jury shall be impaneled in said Court for each term thereof, unless otherwise directed by the Judge of said Court.

Sec. 10. Whenever the Criminal District Court of Jefferson County shall be engaged in the trial of any cause when the time for expiration of the terms of said court as fixed by law shall arrive, the Judge presiding shall have the power, and may if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case, the extension of such term shall be shown on the minutes of the Court before they are signed.

Sec. 11. The Sheriff, County Attorney, and the Clerk of the District Court of Jefferson County shall be the sheriff, County Attorney and Clerk, respectively, of said Criminal Court under the same rules and regulations as are now, or may hereafter be prescribed by law for the government of sheriffs, county attorneys and clerks of the District Courts of this State; and said Sheriff, County Attorney and Clerk shall respectively receive such fees as are now, or may hereafter be prescribed for such officers in the District Courts of the State, to be paid in the same manner.

Sec. 12. In all such matters over which said Criminal District Court has jurisdiction, it shall have the same power within said District as is conferred by law upon the District Court, and shall be governed by the same rules in the exercise of said power.

Sec. 13. Appeals and writs of error may be prosecuted from said Criminal District Court to the Court of Criminal Appeals and to the Courts of Civil Appeals in the same manner and form as from the District Courts in like cases.

Sec. 14. From and after the taking effect of this Act, the District Courts of Jefferson County as now constituted, shall be, and they are hereby deprived and divested of all jurisdiction in all criminal cases, and of all jurisdiction given the Criminal District Court of Jefferson County by this Act, and all criminal cases pending in said District Courts at the time of the taking effect of this Act, and all matters pertaining to criminal cases pending therein over which the Court herein created is given jurisdiction, shall be, by the Clerk of the District Courts transferred to and entered upon the docket of said Criminal District Court, and when so entered upon the docket, the judges of said Criminal District Court

shall try and dispose of same in the same manner as if such cases were originally instituted therein.

Sec. 15. The Judges of said Criminal District Court of Jefferson County shall be elected by the qualified voters of Jefferson County for a term of four years, and shall hold office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary as is now, or may hereafter be paid, to the District Judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of this State in criminal cases. Provided, that the Governor, by and with the consent of the Senate, if in session, shall appoint a Judge of said Court who shall hold the office until the next general election after the passage of this Act, and until his successor shall have been elected and qualified.

Sec. 16. The Judge of said Criminal District Court may exchange Districts with or hold court for any District Judge, as provided by law in cases of District Judges, and in case of disqualification or absence of a Judge, a special Judge may be selected.

[Acts 1929, 41st Leg., p. 374, ch. 170.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-62. Jurisdiction Increased

Sec. 1. In addition to the jurisdiction now conferred upon the Criminal District Court of Jefferson County by the Constitution and laws of the State of Texas, said Court shall hereafter have and exercise civil jurisdiction in suits, causes, and matters of:

(1) Divorce, as provided in Chapter 4, Title 75, of the Revised Civil Statutes of Texas of 1925, and any amendments thereof, heretofore or hereafter made thereto;

(2) Dependent and delinquent children, as provided in Title 43, Revised Civil Statutes of Texas of 1925, and any amendments thereof, heretofore or hereafter made thereto;

(3) Adoption, as provided in Title 3, Revised Civil Statutes of Texas of 1925, and any and all amendments heretofore or that may hereafter be made thereto;

(4) Habeas corpus proceedings in civil matters.

Sec. 2. In all matters pertaining to the additional jurisdiction herein conferred upon said Court, all the officers of said Court shall have the same powers, rights, and duties that are now or that may hereafter be conferred upon the same or similar officers in the other District Courts of Jefferson County, Texas, and all fees and costs in such matter shall be the same as now or that may hereafter be provided in the same or similar matters in the other District Courts of Jefferson County, Texas.

Sec. 3. The Judges of the District Courts of Jefferson County and the Judge of the Criminal Court of Jefferson County shall elect one of their number as the presiding Judge of all the District Courts of Jefferson County including the Criminal District Court of Jefferson County; and the presiding Judge of the District Courts of Jefferson County may assign any cases in his Court, or in any of the District Courts in Jefferson County involving or pertaining to the matters set out in Section 1 hereof to any Judge or Court, including the Criminal District Court of Jefferson County, or may assign any Judge to try any of said causes in any of said Courts, and the Judge in whose Court an assigned case is pending shall transfer the case to the Court to which it is assigned, and the Judge of the Court to which it is assigned shall receive and try the case. When such transfer or transfers are made, the Clerk of such Court shall enter such cause or causes upon the docket to which said transfer or transfers are made, and when so entered upon the docket, the Judge shall try and dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

Sec. 4. The trials and proceedings in said Courts in such matters shall be conducted according to the laws governing the pleadings, practice, and proceedings in civil cases in the District Courts and in conformity with the provisions of Article 2092, Revised Civil Statutes of Texas, of 1925, and all appeals in such civil cases shall be to the Court of Civil Appeals for the Ninth Supreme Judicial District of Texas in the manner now or that may hereafter be provided by law.

Sec. 5. During each term of said court the court may sit at any time in Port Arthur, Texas to try, hear and determine any civil non-jury cases over which it has jurisdiction as to the matters set out in Section 1, 3, and 4 hereof, and may hear and determine motions, arguments and such other non-jury civil matters over which said court may have jurisdiction; provided further, that nothing herein shall be construed to deprive the court of jurisdiction to try non-jury civil cases and hear and determine motions, arguments and such other non-jury civil matters at the county seat at Beaumont, Texas.

The District Clerk of Jefferson County or his deputy shall wait upon the said court when sitting at Port Arthur, Texas and shall be permitted to transfer all necessary books, minutes and records to Port Arthur, Texas while the court is in session there, and likewise to transfer all necessary books, minutes, records and papers from Port Arthur, Texas to Beaumont, Texas at the end of each session in Port Arthur, Texas.

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

The official court reporter of said court shall be in attendance upon the court while sitting at Port Arthur, Texas and perform such duties as he may be directed to perform, either as required by law or under the order of the court.

The Commissioners Court of Jefferson County, Texas is hereby authorized to provide suitable quarters for said court while sitting at Port Arthur, Texas, which said quarters shall be located within the sub-courthouse in Port Arthur, Jefferson County, Texas.

[Acts 1939, 46th Leg., p. 193. Amended by Acts 1955, 54th Leg., p. 603, ch. 209, § 1.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-63. Criminal Judicial District of Jefferson County

Sec. 1. There is hereby created and established a Criminal Judicial District of Jefferson County, Texas, to be composed of the County of Jefferson, State of Texas alone, and which District is coextensive with the territorial boundaries and limits of Jefferson County, Texas.

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Jefferson County, Texas, at the regular election in November, 1950, and at the regular November election each four (4) years thereafter, an attorney for said District who shall be styled "Criminal District Attorney of Jefferson County" and who shall hold his office for a period of four (4) years and until his successor is elected and qualified. The said Criminal District Attorney of Jefferson County shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State of other District Attorneys.

Sec. 3. It shall be the duty of said Criminal District Attorney of Jefferson County, or his assistants, as herein provided, to be in attendance upon each term and all sessions of the Criminal District Court of Jefferson County, all other District Courts in Jefferson County, Texas, and of all inferior courts of Jefferson County, except corporation or municipal courts of Jefferson County, held for the transaction of criminal business, and to represent the State of Texas in all matters pending before said Courts and to represent Jefferson County in all matters pending before such Courts or any other Court where Jefferson County has pending business of any kind, matter or interest. The Criminal District Attorney of Jefferson County shall have and exercise, in addition to the specific powers given and the duties imposed upon him by this Act, all powers, duties and privileges within such Criminal Judicial District of Jefferson County, Texas, as are by law now conferred, or which may hereafter be

conferred upon District and County Attorneys in the various counties and Judicial Districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by District or County Attorneys of this State.

Sec. 4. (a) The Criminal District Attorney of Jefferson County shall be commissioned by the Governor and may receive as compensation a salary in an amount not more than the total salary, including all supplements, paid to the highest paid district judge in the district. The salary shall be fixed by the Commissioners Court of Jefferson County, to be paid out of the Officer's Salary Fund of Jefferson County if adequate; if inadequate the Commissioners Court shall transfer necessary funds from the General Fund of the County to the Officer's Salary Fund.

(b) Jefferson County shall receive annually from the State of Texas under the provisions of this Act an amount equal to the amount paid district attorneys by the State of Texas, and shall be paid by the comptroller of public accounts as appropriated by the legislature in 12 equal installments. Such funds shall be paid into the salary fund of Jefferson County.

(c) The Criminal District Attorney of Jefferson County shall not engage in the private practice of law in that he shall not appear and practice as an attorney at law in any court of record in this state except in behalf of the State of Texas or Jefferson County as herein provided.

Sec. 5. The Criminal District Attorney of Jefferson County, for the purpose of conducting the affairs of this office, shall appoint such Assistant Criminal District Attorneys, Investigators, Court Reporters, Stenographers, Secretaries and other employees as he may deem adequate and necessary with the approval of the Commissioners Court of such County. All Assistant Criminal District Attorneys, Investigators, Court Reporters, Stenographers, Secretaries and other employees so appointed shall be paid such salaries, and receive such other compensation and reimbursement as may be set by the Criminal District Attorney and the Commissioners Court of Jefferson County. All of the salaries shall be paid from the Officer's Salary Fund if adequate; if inadequate, the Commissioners Court may pay such salaries out of the General Fund, the Jury Fund, or any other fund available for the purpose.

Sec. 6. The Assistant Criminal District Attorneys of Jefferson County, and Investigators, when so appointed, shall take the Constitutional Oath of Office, and said Assistant Criminal District Attorneys shall exercise any and every power and perform any and every duty conferred and imposed by law upon the Criminal District Attorney of Jeffer-

son County under the supervision and direction of the Criminal District Attorney of Jefferson County.

[Acts 1949, 51st Leg., p. 88, ch. 53. Amended by Acts 1963, 58th Leg., p. 727, ch. 267, § 1; Acts 1967, 60th Leg., p. 680, ch. 284, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd

Leg., p. 1005, ch. 193, § 1, eff. May 13, 1971; Acts 1975, 64th Leg., p. 1821, ch. 557, § 1, eff. Sept. 1, 1975.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

TITLE 41

COURTS—COUNTY

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CHAPTER ONE. THE COUNTY JUDGE

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Art. 1927. Election and Qualification

A county judge who shall be well-informed in the law of this State shall be elected in each county by the qualified voters thereof, at each general election, and shall hold his office for two years.

[Acts 1925, S.B. 84.]

Increase in Term of Office

Const. Art. 5 § 15 was amended in November, 1954 to increase the term of office of county judges from two to four years.

Art. 1928. Bond

The county judge shall, before entering upon the duties of his office, execute a bond payable to the treasurer of his county to be approved by the commissioners court of his county, in a sum of not less than one thousand nor more than ten thousand dollars, the amount to be fixed by the commissioners court, conditioned that he will pay over to the person or office entitled to receive it, all moneys that may come into his hands as county judge, and that he will pay over to his county all moneys illegally paid to him out of county funds, as voluntary payments or otherwise, and that he will not vote or give his consent to pay out county funds except for lawful purposes.

[Acts 1925, S.B. 84.]

Art. 1929. Repealed by Acts 1971, 62nd Leg., p. 1384, ch. 369, § 1, eff. May 26, 1971

Art. 1930. Special County Judge

When a judge of the county court is disqualified, the parties may, by consent, appoint a proper person to try such case.

[Acts 1925, S.B. 84.]

Art. 1931. Governor May Appoint Special Judge

Whenever a judge of the county court is disqualified to try a civil case pending in the county court, and the parties shall fail at the first term of the court to agree upon a special judge, the judge shall certify his disqualification to the Governor and the

failure to agree upon another to try the same, whereupon the Governor shall appoint some person, learned in the law to try such case.

[Acts 1925, S.B. 84.]

Art. 1932. Special Judge in Probate Matter

When a county judge is disqualified to act in any probate matter, he shall forthwith certify his disqualification therein to the Governor, whereupon the Governor shall appoint some person to act as special judge in said case, who shall act from term to term until such disqualification ceases to exist. A special judge so appointed shall receive the same compensation as is now or may hereafter be provided by law for regular judges in similar cases, and the Commissioners' Court shall, at the beginning of each fiscal year, include in the budget of the county, a sufficient sum for the payment of the special judge or judges appointed by the Governor to act for the regular county judge.

[Acts 1925, S.B. 84. Amended by Acts 1939, 46th Leg., p. 187, § 1.]

Art. 1933. Appointment by Wire

Whenever the county judge or the special judge shall be disqualified from trying a case, the parties or their counsel may agree upon an attorney for the trial thereof; and, if they shall fail to agree upon an attorney at or before the time it is called for trial, or if the trial of the case is pending and the county judge should become unable to act, or is absent, and a special judge is selected who is disqualified to proceed with the trial, and the parties then fail to select or agree upon a special judge who is qualified, the county judge or special judge presiding shall certify the fact to the Governor immediately, whereupon the Governor shall appoint a special judge, qualified to try same. Such appointment may be made by telegram or otherwise. The special judge shall proceed to the trial or disposition of such case. Any special judge agreed upon or appointed to try cases shall receive the same pay for his services as is provided by law for county judges.

[Acts 1925, S.B. 84.]

Art. 1933a. Appointment of Special County Judges in Certain Counties

Application and Construction of Act

Sec. 1. The provisions of this Act apply only to counties in which there is no statutory county court at law or statutory probate court, and in which all duties of the county court devolve upon the county judge. The provisions hereof are cumulative of all other provisions of law for appointment or election of special county judges, and existing provisions are repealed hereby only to the extent of any conflict.

Pending Matter

Sec. 2. The county judge may at any time appoint a special county judge, with respect to any

pending matter, whether of civil or criminal nature, in accordance with the provisions following:

(a) Such action may be taken on the motion of any counsel of record in such pending matter, or on the court's own motion.

(b) All counsel of record are entitled to notice and hearing on such motion.

(c) If the county judge finds that good cause exists therefor, he shall appoint a special county judge, at his discretion, except: (1) the person so appointed must be a duly licensed attorney at law; (2) the person so appointed must be the person agreed upon by all counsel of record in the pending matter, if they are able to so agree; and (3) due consideration shall be given by the court to such recommendations as may be made by the attorneys of such court for the further implementation of this Act and the accomplishment of the purposes hereof.

(d) The motion for, and order appointing, the special county judge, shall be noted in the docket, and may be reduced to writing and filed among the papers in the pending cause.

(e) Thereafter, the special county judge, while sitting in the matter in which he is so appointed, shall have and exercise all powers of a county judge in relation to the matter involved.

Absence of County Judge or Excessive Case Load

Sec. 3. (a) The county judge may appoint a retired judge to sit as a special county judge during a period when the county judge is absent by reason of physical incapacitation or absence from the county. The special county judge shall sit in all matters that may be docketed on any of the court's dockets and shall have and exercise all powers of a county judge in relation to the matters involved. The cumulative time a special county judge or special county judges appointed under this subsection may sit shall not exceed a total of 15 working days during a calendar year without the consent of the commissioners court.

(b) If a county judge finds that the dockets of the county court reflect a case load which the judge deems to be in excess of that which can be disposed of properly in a manner consistent with the efficient administration of justice, the judge, acting with the consent of the commissioners court, may appoint a retired judge as a special county judge to share the bench for such periods of time as may be authorized by the commissioners court. The special county judge shall sit in such matters as the county judge may authorize and shall have and exercise all powers of a county judge in relation to the authorized matters.

(c) The order appointing a special county judge under this section shall be noted in the docket of the county court.

(d) A retired judge appointed under this section shall be a former judge who, prior to the appointment, has served at least eight years as the county

judge of a county in this state or who has served as a district judge of this state, and who has qualified for the judicial retirement system.

Compensation

Sec. 4. A special county judge who is appointed under this Act shall be compensated by the commissioners court at the rate of $\frac{1}{365}$ of the annual salary of the county judge for each day that the judge sits as special county judge.

Powers Not Exercisable

Sec. 5. A special county judge who is appointed under this Act may not exercise any of the powers of the county judge as member and presiding officer of the commissioners court or relating to the general administration of county business.

[Acts 1975, 64th Leg., p. 1251, ch. 475, §§ 1, 2, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 147, ch. 66, §§ 1 to 5, eff. April 22, 1981.]

Section 3 of the 1975 Act, the emergency provision, provides, in part:

"The purpose of this Act is to improve the administration of justice in county courts, in view of the problems inherent in the crowded condition of the dockets of constitutional county courts, in the numerous and diverse nature of other nonjudicial duties devolving upon county judges, and in the fact county judges are not required to be licensed attorneys although confronted by questions of increasing legal complexity. * * *

Art. 1934. Election of Judges

If a county judge fails to appear at the time appointed for holding the court, or should he be absent during the term or unable or unwilling to hold the court, a special county judge may be elected in like manner as is provided for the election of a special district judge. The special county judge so elected shall have all the authority of the county judge while in the trial and disposition of any case pending in said court during the absence, inability, or such refusal of the county judge. Similar elections may be held at any time during the term, to supply the absence, failure or inability of the county judge, or any special judge, to perform the duties of the office. When a special county judge shall have been so elected, the clerk shall enter upon the minutes of the court, a record such as is provided for in like cases in the district court.

[Acts 1925, S.B. 84.]

Art. 1934a. Stenographer or Clerk for County Judge in Certain Counties

In any county in this State of less than one hundred thousand inhabitants according to the United States census of nineteen hundred twenty, which county contains a city, of more than forty-three thousand inhabitants according to said census, the County Judge shall be allowed to employ a stenographer or clerk at a salary not exceeding One Hundred Twenty-five Dollars per month, such salary to be paid monthly by the county by warrants drawn on the general county fund. Such stenographer or

clerk shall be subject to removal at the will of such County Judge.

[Acts 1929, 41st Leg., p. 296, ch. 136, § 1.]

Art. 1934a-1. County Judge to Employ Stenographer or Clerk, Salary

Sec. 1. In any county of this State of less than one hundred thousand inhabitants, wherein is situated a city having an actual population of 38,489 inhabitants or more, the County Judge shall ascertain the population of any city in his county necessary to be ascertained under this Act by making application to the mayor of any such city for a certificate as to the population of such city. It shall be the duty of any such mayor to ascertain by some reasonable, accurate estimate the population of any such city and his certificate to same under oath shall authorize the County Judge to assume its correctness and act upon the information contained in such certificate in making any appointment of a stenographer or clerk under this Act. The population of the county shall be based on the latest United States Census for the purposes of this Act.

Sec. 2. In any county in this State of less than 100,000 inhabitants wherein is situated a city having a population of 38,489 inhabitants so certified by the mayor of the town, as provided in Section 1, hereof, the County Judge shall be allowed to employ a stenographer or clerk at a salary not exceeding One hundred and Twenty-five (\$125.00) Dollars per month, such salary to be paid monthly by the County by warrants drawn on the general county fund, under orders of the Commissioners Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1929, 41st Leg., 2nd C.S., p. 156, ch. 79.]

Art. 1934a-2. Stenographer or Clerk in Counties of 43,000 to 43,100

In any county in this State whose population, as shown by the last Federal Census Report, is between forty-three thousand (43,000) and forty-three thousand, one hundred (43,100) inhabitants, the County Judge shall be allowed to employ a stenographer or clerk at a salary of One Hundred Dollars (\$100) per month, such salary to be paid monthly by county warrants drawn on the General County Fund, or the County Road and Bridge Fund, or both, under orders of the Commissioners Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1935, 44th Leg., p. 334, ch. 125, § 1.]

Art. 1934a-3. Stenographer in Counties of Less Than 20,000; Salary

In any county in this State whose population as shown by the last preceding Federal Census is less than twenty thousand (20,000) inhabitants, and whose property valuation according to the approved tax rolls for the preceding calendar year is in excess of Fifty Million Dollars (\$50,000,000) the County

Judge shall be, and is hereby, authorized to employ a stenographer or Clerk at a salary not to exceed One Hundred and Twenty-five Dollars (\$125) per month, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or Clerk shall be subject to removal at the will of such County Judge.

[Acts 1935, 44th Leg., p. 739, ch. 320, § 1.]

Art. 1934a-4. Stenographer in Counties of 15,140 to 15,160

In any county in this State whose population as shown by the last preceding Federal Census is not more than fifteen thousand one hundred and sixty (15,160) and not less than fifteen thousand one hundred and forty (15,140) inhabitants, the County Judge shall be, and is hereby, authorized to employ a stenographer or clerk at a salary of One Hundred (\$100.00) Dollars per month, such salary to be paid monthly by county warrants drawn on the county General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners' Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1937, 45th Leg., p. 376, ch. 185, § 1.]

Art. 1934a-5. Stenographer in Counties of 6,685 to 7,015 Population; Salary

In any county in this State whose population as shown by the last preceding Federal Census is not more than seven thousand and fifteen (7,015) and not less than six thousand, six hundred and eighty-five (6,685) inhabitants, the County Judge shall be, and is hereby, authorized to employ a stenographer or secretary at a salary to be determined by the Commissioners Court, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or secretary shall be subject to removal at the will of such County Judge.

[Acts 1939, 46th Leg., Spec.Laws, p. 747, § 1.]

Art. 1934a-6. Stenographer in Counties of 7,680 to 7,700; Salary

In any county in this State whose population as shown by the last preceding Federal Census of 1930 is not more than seven thousand, seven hundred (7,700) and not less than seven thousand, six hundred and eighty (7,680) inhabitants, the County Judge shall be and is hereby authorized to employ a stenographer or clerk at a salary not exceeding One Hundred Dollars (\$100) per month, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenog-

rapher or clerk shall be subject to removal at the will of such County Judge.

[Acts 1939, 46th Leg., Spec.Laws, p. 746, § 1.]

Art. 1934a-7. Stenographer or Clerk in Counties of 10,399 to 10,499

Text as amended by Acts 1941, 47th Leg., p. 724, ch. 451, § 1

In any county in this State with a population of not more than ten thousand, four hundred and ninety-nine (10,499) and not less than ten thousand, three hundred and ninety-nine (10,399) inhabitants, according to the last preceding Federal Census, the County Judge shall be and is hereby authorized to employ a stenographer or a clerk at a salary of not to exceed One Hundred Dollars (\$100) per month. Such salary is to be paid monthly by county warrants drawn on the county General Fund, the county Salary Fund, or the Road and Bridge Fund, or either of them, on the orders of the Commissioners Court of such county. Such a stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1939, 46th Leg., Spec.Laws, p. 748, § 1. Amended by Acts 1941, 47th Leg., p. 724, ch. 451, § 1.]

Amendment by Acts 1941, p. 39, ch. 27, § 1, see article 1934a-7, post

Art. 1934a-7. Stenographer or Clerk in Counties of 7,700 to 7,800 and 13,199 to 13,299; Salary

Text as amended by Acts 1941, 47th Leg., p. 39, ch. 27, § 1

In any County in this State with a population of not more than seven thousand eight hundred (7,800), and not less than seven thousand seven hundred (7,700), and in Counties having not more than thirteen thousand two hundred ninety-nine (13,299) inhabitants and not less than thirteen thousand one hundred ninety-nine (13,199) inhabitants, according to the last preceding Federal Census, the County Judge with the approval of the Commissioners' Court shall be and is hereby authorized to employ a stenographer or a clerk at a salary of not to exceed One Hundred (\$100.00) Dollars per month. Such salary is to be paid monthly by County Warrants drawn on the County General Fund, the County Salary Fund, or the Road and Bridge Fund, or either of them, on the orders of the Commissioners' Court of such County. Such a stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1939, 46th Leg., Spec.Laws, p. 748, § 1. Amended by Acts 1941, 47th Leg., p. 39, ch. 27, § 1.]

Amendment by Acts 1941, p. 724, ch. 451, see article 1934a-7, ante

Art. 1934a-8. Stenographer or Clerk in Counties of 11,710 to 11,720 and 38,400 to 38,500; Salary

Any county in this State having a population, as shown by the last preceding Federal Census of 1940, of not more than eleven thousand seven hundred twenty (11,720) and not less than eleven thousand seven hundred ten (11,710) inhabitants, and of not more than thirty-eight thousand five hundred (38,500) and not less than thirty-eight thousand four hundred (38,400) inhabitants, the County Judge shall be and is hereby authorized to employ a stenographer or clerk at a salary not exceeding Seventy-five (\$75.00) Dollars per month, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners' Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1941, 47th Leg., p. 780, ch. 484, § 1.]

Art. 1934a-9. Stenographer or Clerk and District and County Clerks in Counties of 2,825 to 2,900 and 6,100 to 6,150; Salary

In any county in this State whose population as shown by the last preceding Federal Census is not less than two thousand, eight hundred and twenty-five (2,825) and not more than two thousand, nine hundred (2,900) and in counties having not less than six thousand, one hundred (6,100) and not more than six thousand, one hundred and fifty (6,150) inhabitants, the County Judges and County and District Clerks are, and are hereby authorized to employ a stenographer or secretary at a salary to be determined by the Commissioners Court, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or secretary shall be subject to removal at the will of such County Judge or County or District Clerk.

[Acts 1941, 47th Leg., p. 739, ch. 459, § 1.]

Art. 1934a-10. Stenographer or Clerk in Counties of 7,500 to 17,500; Salary

In any county in this state whose population as shown by the last preceding federal census is not more than seventeen thousand, five hundred (17,500) and not less than seven thousand, five hundred (7,500), and having an assessed valuation of not less than Twenty-five Million Dollars (\$25,000,000.00), the County Judge may, with the approval of the Commissioners Court, employ a stenographer or clerk at a salary not exceeding Four Hundred Dollars (\$400.00) per month, such salary to be fixed by the Commissioners Court and paid monthly by county warrants drawn on the county general fund

under the orders of the Commissioners Court of such county.

[Acts 1945, 49th Leg., p. 304, ch. 220, § 1. Amended by Acts 1957, 55th Leg., p. 1362, ch. 463, § 1.]

Art. 1934a-11. Stenographer or Secretary in Counties of 5,575 to 5,875; Salary

In any county of this state whose population as shown by the last preceding Federal Census is not more than five thousand eight hundred seventy-five (5,875) and not less than five thousand five hundred seventy-five (5,575) inhabitants, the County Judge shall be, and is hereby, authorized to employ a stenographer or secretary at a salary to be determined by the Commissioners Court, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or secretary shall be subject to removal at the will of such County Judge.

[Acts 1947, 50th Leg., p. 273, ch. 166, § 1.]

Art. 1934a-12. Stenographer or Secretary in Counties of 27,059 to 27,150

In any county of this State whose population as shown by the last preceding Federal Census is not more than twenty-seven thousand, one hundred and fifty (27,150) and not less than twenty-seven thousand and fifty-nine (27,059) inhabitants, the County Judge shall be, and is hereby, authorized to employ a stenographer or secretary at a salary to be determined by the Commissioners Court, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or secretary shall be subject to removal at the will of such County Judge.

[Acts 1949, 51st Leg., p. 83, ch. 48, § 1.]

Art. 1934a-13. Stenographer or Secretary in Counties of 47,000 to 51,000

In any county of this State whose population, as shown by the last preceding Federal Census, exceeds forty-seven thousand (47,000) persons and does not exceed fifty-one thousand (51,000) persons, the county judge may, with the approval of the Commissioners Court, employ a stenographer or secretary at a salary of not more than Twenty-four Hundred Dollars (\$2,400) per annum, such salary to be fixed by the Commissioners Court and paid monthly by county warrants drawn on the county General Fund under the orders of the Commissioners Court of such county.

[Acts 1949, 51st Leg., p. 369, ch. 192, § 1.]

Art. 1934a-14. Stenographer or Clerk in Counties of 10,380 to 10,390

In any county in this State whose population as shown by the last preceding Federal Census of 1940

is not more than ten thousand, three hundred and ninety (10,390) and not less than ten thousand, three hundred and eighty (10,380) inhabitants, the County Judge shall be and is hereby authorized to employ a stenographer or clerk at a salary not exceeding Two Hundred and Fifty Dollars (\$250) per month, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1949, 51st Leg., p. 469, ch. 253, § 1.]

Art. 1934a-15. Stenographer or Secretary in all Counties; Salary

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

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

(b) In each county having a population of at least twenty-eight thousand (28,000) inhabitants, and not more than thirty thousand (30,000) inhabitants according to the last preceding Federal Census, the secretary or stenographer of the county judge may receive a salary of not less than One Thousand Dollars (\$1,000) per annum, nor more than Four Thousand and Eight Hundred Dollars (\$4,800) per annum.

(c) In each county having a population of at least fifty thousand and one (50,001) inhabitants and not more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive an annual salary in an amount as determined by the Commissioners Court.

(d) In each County having a population of one hundred thousand and one (100,001) inhabitants or more, according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive a salary of not less than One

Thousand, Six Hundred Dollars (\$1,600), nor more than Three Thousand, Seven Hundred and Fifty Dollars (\$3,750) per annum.

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

Sec. 3. If any section, subsection, sentence, phrase or word of this Act shall be held to be invalid, such invalidity shall not affect the remaining portions of this Act and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity.

[Acts 1953, 53rd Leg., p. 752, ch. 300. Amended by Acts 1957, 55th Leg., p. 834, ch. 363, § 1; Acts 1961, 57th Leg., p. 1128, ch. 512, § 1; Acts 1965, 59th Leg., p. 1012, ch. 497, § 1, eff. June 16, 1965; Acts 1969, 61st Leg., p. 1802, ch. 606, § 1, eff. Sept. 1, 1969.]

Art. 1934a-16. Stenographer or Secretary in Counties of 100,000 to 110,000; Salary

In any county in this State having a population of not less than One Hundred Thousand (100,000) nor more than One Hundred Ten Thousand (110,000) according to the last preceding Federal Census, the County Judge may, with the approval of the Commissioners Court, employ a secretary or stenographer at a salary not to exceed Forty-Eight Hundred Dollars (\$4,800) per year, such salary to be fixed by the Commissioners Court, and paid monthly out of the General Fund or Officers Salary Fund of the County.

[Acts 1959, 56th Leg., p.1022, ch. 473, § 1.]

Art. 1934a-17. Stenographer or Secretary in Counties of 144,000 to 155,000; Salary

In any county in the State having a population of not less than one hundred forty-four thousand (144,000) inhabitants and not more than one hundred fifty-five thousand (155,000), according to the last preceding federal census, the County Judge, with the approval of the Commissioners Court, shall be, and is hereby authorized to appoint a stenographer or secretary.

[Acts 1963, 58th Leg., p. 976, ch. 398, § 1. Amended by Acts 1971, 62nd Leg., p. 1838, ch. 542, § 90, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 565, ch. 237, § 22, eff. Sept. 1, 1981.]

Art. 1934a-18. Stenographer or Secretary in Jim Hogg County

The County Judge and the County Attorney of Jim Hogg County are each authorized to employ one person for stenographical and secretarial duties. Each person so employed shall receive a salary of not less than One Thousand, Two Hundred Dollars (\$1,200) nor more than Two Thousand, Four Hundred Dollars (\$2,400) per annum, to be fixed, determined or set by the County Commissioners Court of

Jim Hogg County and paid out of the Officer's Salary Fund or General Fund of the County.

[Acts 1963, 58th Leg., p. 979, ch. 402, § 1.]

Art. 1934b. Court Administrator System for County Courts in Certain Counties

Sec. 1. County criminal courts or county courts at law having jurisdiction in both criminal and civil actions and proceedings in counties having more than one county criminal court or more than one county court at law having jurisdiction in both criminal and civil actions and proceedings may establish and maintain a court administrator's system if approved by the commissioners court. Upon approval, Sections 2, 3, and 4 of this Act shall apply.

Sec. 2. The county criminal courts or the county courts at law having jurisdiction in both criminal and civil actions and proceedings shall, by rule, designate the duties to be performed by the court administrator. The court administrator shall cooperate with the administrative judges and state agencies having duties relating to the operation of the courts to perform uniform and efficient administration of justice.

Sec. 3. (a) The court administrator shall be appointed by the judges of the county criminal courts or the judges of the county courts at law having jurisdiction in both criminal and civil actions and proceedings and shall serve at the pleasure of those courts. The court administrator shall receive reasonable compensation to be determined by the commissioners court not to exceed 70 percent of the salary paid by the county to the judges of those courts.

(b) The judges of those courts shall appoint appropriate staff and supporting personnel according to the needs of each local jurisdiction.

Sec. 4. The commissioners court of each county shall provide from the fines collected by these courts the necessary funding for the court administration system on order and directive of the courts to be served by the court administrator. If the fines are insufficient to provide the total funding for this program, the county shall provide the additional funds needed.

[Acts 1977, 65th Leg., p. 1624, ch. 638, §§ 1 to 4, eff. June 15, 1977.]

Art. 1934c. Court Manager and Coordinator System for Courts Having Criminal Jurisdiction in Counties Over 2,000,000

Courts having the same jurisdiction over criminal justice that are now or may be hereafter vested in county courts having jurisdiction in criminal actions and proceedings under the constitution and laws of Texas in counties with a population in excess of 2,000,000 according to the last preceding federal census may establish and maintain a court manager and coordinator system. The courts shall, by rule, designate and set out the qualifications of and

duties to be performed by the court manager and coordinators to improve criminal justice and expedite the processing of criminal cases through the county courts. The court manager and coordinators in each such county shall cooperate with state agencies having duties in the operation of the courts to promote uniform and efficient justice in the state. Nothing in this Act shall be construed to diminish the statutory duties and powers conferred on the clerk of the court, sheriff, district attorney, or any officer of the courts. The court manager and coordinators shall serve by and at the pleasure of the courts, and shall receive reasonable compensation, to be determined by the judges of the courts, not more than 60 percent for the court manager and 50 percent for the coordinators of the salary paid to the judges of the courts, provided that commissioners courts, by order, may compensate the court manager in an amount in excess of that provided herein. The courts may appoint a court manager, coordinators, appropriate staff, and supporting personnel according to the needs of each local jurisdiction. The commissioners court of each such county shall provide from the fines collected by these courts the necessary funding for the court manager and coordinator system on order and directive of the courts to be served provided that if the said fines are insufficient to provide the total funding for this program the county shall provide the additional funds needed.

[Acts 1977, 65th Leg., p. 1891, ch. 752, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 566, ch. 237, § 23, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 140, ch. 35, § 1, eff. April 26, 1983.]

Section 2 of the 1983 amendatory act provides:

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

Art. 1934d. Ministerial Practices and Procedures in Courts Having Criminal Jurisdiction in Counties Over 2,000,000

Sec. 1. The judges of courts having the same jurisdiction over criminal matters that are now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the constitution and laws of Texas in counties with a population in excess of 2,000,000 according to the last preceding federal census and in which there are nine or more such courts may select from their number a presiding judge.

(a)(1) The presiding judge shall be selected by a vote of two-thirds of the judges of such courts, for a term of six months, and shall serve until his successor is selected. The selection of such presiding judge may be cancelled and another presiding judge selected to serve the unexpired term of the regularly selected presiding judge by a vote of two-thirds of the judges of such courts. Selection of the presiding judge shall be during the month immediately preceding the term such judge is to serve.

Each judge of courts included in this Act shall enter on the minutes of his court an order reciting each selection of a presiding judge.

(2) A co-presiding judge may be selected in the same manner the presiding judge is selected as set out herein and have the same duties and responsibilities as the presiding judge when the presiding judge is absent or disabled for any reason.

(b) The presiding judge shall have the following duties and responsibilities pertaining to courts included in this Act:

(1) The presiding judge shall preside at any session of the judges of the courts and be ex officio member of all committees created by the judges in session pertaining to the common goal of the courts in achieving more equal and efficient justice and orderly dispatch of business.

(2) The presiding judge shall be the chief administrator of the office of county court manager and county court coordinators; pretrial release services in all misdemeanor cases; and all other court-related ministerial services in all misdemeanor cases as promulgated by the judges having jurisdiction thereof.

(c) In the event that the judge of any court governed by the provisions of this Act is absent, or is for any cause disabled from presiding, the presiding judge of the courts may appoint a special judge whose qualifications shall be the same as the qualifications of the regular judge, and while serving the special judge shall have the same duties and powers as the regular judge. The provisions of Articles 30.04, 30.05, and 30.06, Code of Criminal Procedure, 1965, relating to the oath, compensation, and record of appointment of certain special judges shall apply to the appointment of a special judge under this section.

Sec. 2. The judges of courts included in this Act may also adopt rules, not inconsistent with the Code of Criminal Procedure and the Texas Rules of Civil Procedure for practice and procedure in such courts. A rule may be adopted by a two-thirds vote of the judges and upon adoption shall be entered verbatim on the minutes of each of the courts. The clerk of the court shall supply copies of the rules so adopted to every interested person.

[Acts 1977, 65th Leg., p. 1892, ch. 753, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 566, ch. 237, § 24, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 4243, ch. 676, § 1, eff. Aug. 29, 1983.]

Section 2 of the 1983 amendatory act provides:

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

CHAPTER TWO. COUNTY CLERK

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Art. 1935. Election and Power

A clerk of the county court of each county shall be elected at each general election for a term of two years. Each such clerk shall be authorized to issue all marriage licenses, to administer all oaths and affirmations, and to take affidavits and depositions to be used as provided by law in any of the courts.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 571, ch. 276, § 1.]

Increase in Term of Office

Const. Art. 5, § 20 was amended in November, 1954 to increase the term of office of county clerks from two to four years.

Art. 1936. Clerk Pro Tem.

Where a county clerk shall be a party to any motion or proceeding in his court, the county judge shall, on his own motion, or on application of any person interested, appoint a clerk pro tempore for the purposes of such suit, motion or proceeding. The person so appointed shall take the oath to faithfully and impartially perform the duties of such appointment, and shall also enter into bond, payable to the State of Texas, in such amount as may be required by the judge, to be approved by him, and conditioned for the faithful performance of his duties under such appointment. The person so appointed shall perform all the duties required by law of the clerk in the particular suit, motion or proceeding in which he may be appointed.

[Acts 1925, S.B. 84.]

Art. 1937. Bond, Oath and Insurance

Sec. 1. Each county clerk shall, before entering upon the duties of his office, give bond either with four or more good and sufficient sureties or with a surety company authorized to do business in Texas as a surety, to be approved by the Commissioners Court in an amount equal to not less than Five Thousand Dollars (\$5,000) nor less than twenty per cent (20%) of the maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which

the bond is to be given, but in no event to exceed Five Hundred Thousand Dollars (\$500,000), conditioned for the faithful discharge of the duties of his office. Said clerk shall also take and subscribe the official oath which shall be endorsed on the bond, and the bond and oath so taken and approved shall be recorded in the county clerk's office, and deposited in the office of the clerk of the District Court. A certified copy of such bond may be put in suit in the name of the county for the use of the party injured.

Sec. 2. Each county clerk shall obtain a surety bond covering his deputy; or a schedule surety bond or a blanket surety bond covering his deputies, if more than one, and all employees of his office. Each deputy and each employee, shall be covered for the same conditions and in the same amount as the county clerk.

Sec. 3. The bond covering the county clerk shall be made payable to the county and the bond or bonds covering the deputies and the employees of the county clerk shall be made payable to the county for the use and benefit of the county clerk.

Sec. 4. Each county clerk shall obtain an errors and omissions insurance policy, covering the county clerk and the deputy or deputies of the county clerk against liabilities incurred through errors and omissions in the performance of the official duties of said county clerk and the deputy or deputies of said county clerk; with the amount of the policy being in an amount equal to a maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which said insurance policy is to be obtained, but in no event shall the amount of the policy be for less than Ten Thousand Dollars (\$10,000) or more than Five Hundred Thousand Dollars (\$500,000).

Sec. 5. The premiums for the bonds and the errors and omissions policies required by this Act to be given, or to be obtained, by the county clerk of each county shall be paid by the Commissioners Court of the county out of the general fund of the county.

[Acts 1925, S.B. 84. Amended by Acts 1965, 59th Leg., p. 941, ch. 456, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1711, ch. 561, § 2, eff. Sept. 1, 1969; Acts 1979, 66th Leg., p. 872, ch. 397, § 1, eff. Aug. 27, 1979.]

Art. 1938. Deputies

The county clerk may in writing, appoint one or more deputies under his hand and the seal of his court, which shall be recorded in the office of such clerk, and shall be deposited in the office of the district clerk. Deputies shall take the official oath and shall act in the name of their principal, and may do and perform all such official acts as may be lawfully done and performed by such clerk in person. When the clerk does not reside at the county seat, he shall have a deputy residing there.

[Acts 1925, S.B. 84.]

Art. 1939. Armed Forces or Auxiliaries, Records of Official Discharges From

Each County Clerk shall record in a well-bound book the official discharge of each member of the Armed Forces of the United States of America or the Armed Force Reserve of the United States of America or the Auxiliary of either Armed Forces of the United States of America or the Armed Force Reserve of America who have served in the Armed Forces of the United States of America since 1916. There shall be no charge made for the recording and keeping of these records.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 187, ch. 107, § 1.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1939a. Certified Copies of Records Furnished Free to Members of Armed Forces, Auxiliaries, Maritime Service and Merchant Marine

Art. 1. Any person, his guardian, or his dependents or heirs at law who is eligible to make a claim against the Government of the United States of America as a result of service in the Armed Forces of the United States of America, or the services auxiliary thereto, including the Maritime Service and the Merchant Marine, shall upon the request therefor by such person, his guardian, or his dependents, or heirs at law, be furnished without cost a certified and authenticated copy or copies of any instrument, public record or document necessary to prove or establish such claim, which is in the custody or on file in the office of County Clerks, District Clerks and other public officials of this State, by such officials. Provided, the issuance of such certified or authenticated copy or copies of such officials shall not be considered in determining the maximum fee of such offices.

Art. 2. The rights conferred by this Act shall extend to any person, his guardian or his dependents, or heirs-at-law who are eligible by reason of service heretofore or hereafter rendered in the Armed Forces of the United States of America, or the services auxiliary thereto, including the Maritime Service and the Merchant Marine, when such person, his guardian, or his dependents, or heirs-at-law are eligible to make claim against the Government

of the United States of America as a result of such service.

[Acts 1939, 46th Leg., p. 329. Amended by Acts 1943, 48th Leg., p. 267, ch. 166, §§ 1, 2; Acts 1945, 49th Leg., p. 587, ch. 346, § 1.]

Art. 1940. Clerk of Commissioners Court

They shall be ex-officio clerks of the commissioners court.

[Acts 1925, S.B. 84.]

Art. 1941. Recorders

They shall be ex-officio recorders for their several counties, and as such shall record in suitable books to be procured for that purpose all deeds, mortgages and other instruments required or permitted by law to be recorded; they shall be the keepers of such record books, and shall keep the same properly indexed, arranged and preserved.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2716, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1941(a). Microfilm Records of County Clerks

Microfilming Authorized

Sec. 1. County clerks and county recorders and clerks of county courts are hereby authorized, in their sole discretion, to adopt and thereafter to use exclusively, for the purpose of recording, preserving and protecting public records in their custody and control, or for the purpose of obtaining economical recording costs for such public records, or for the purpose of reducing and conserving the space required for filing, storing and safekeeping of such public records, or for the purpose of providing efficient retrieval of such public records, or for any similar purpose or purposes, a microphotograph or microfilm process or processes which accurately and permanently copies or reproduces, or forms a medium for copying or reproducing the original record on a film, in lieu of any other process, processes, method, or methods authorized or required, for filing, for filing and registering, or for filing and recording all instruments of writing, legal documents, papers or records authorized, permitted or required to be filed or to be filed and registered or to be filed and recorded in the offices of county clerks, or of county recorders, or of clerks of county courts; subject to the conditions and requirements hereinafter set out and specified in this Act.

Official Public Records

Sec. 2. (a) Said instruments of writing, legal documents, papers or records authorized, permitted or required to be filed, or filed and registered, or filed and recorded in the offices of said county clerks and county recorders and clerks of county courts, shall be divided into seven types or classes of records for recording by microphotograph or microfilm process or processes as described herein below. The recording and indexing of said instrument of writing, legal document, paper, or record in an Official Public Record which is on microfilm imparts notice in like manner and effect as if recorded in separate books or films and as if recorded in each Official Public Record described hereinbelow. Each of said classes or types of records shall be recorded on a separate series of rolls of microfilm, or on a separate series of discrete groups of separate and individual discrete microfilm images. Each of such rolls of microfilm shall be deemed to be a bound volume or book and each image on each of said rolls shall be properly identified for indexing purposes; and each of such separate series of discrete groups of separate and individual discrete microfilm images shall be deemed to be a bound volume or book and each discrete image of each of said discrete groups shall be properly identified for indexing purposes.

(b) The said seven types or classes of records for recording on microfilm shall be as follows:

(1) Records relating to or affecting real property, the microfilm records of which shall be known as "Official Public Records of Real Property";

(2) Records relating to or affecting receivables, chattels and personal property, the microfilm records of which shall be known as "Official Public Records of Personal Property and Chattels";

(3) Records relating or incidental to matters in probate, the microfilm records of which shall be known as "Official Public Records of Probate Courts";

(4) Records relating or incidental to matters in county civil courts, the microfilm records of which shall be known as "Official Public Records of County Civil Courts";

(5) Records relating or incidental to matters in county criminal courts, the microfilm records of which shall be known as "Official Public Records of County Criminal Courts";

(6) Records relating or incidental to matters in Commissioners Court, the microfilm records of which shall be known as "Official Public Records of Commissioners Court"; and

(7) Records relating to or affecting persons, business entities and/or agencies of government, other than property records, both real and personal, court proceedings and court records as described in Subparagraphs (1) thru (6) above, the microfilm records

of which shall be known as "Official Public Records of Governmental, Business and Personal Matters."

(c) Releases, transfers, assignments and other actions relating to any instruments of writing, legal document, paper, or record, which has been recorded in an Official Public Record, shall be made by separate instruments of writing, documents, papers or records filed, or filed and registered, or filed and recorded in the same manner provided for herein for said original instrument of writing, legal document, paper or record; and no entry, marginal or otherwise, shall be made on any record, or index, or records, or indexes, previously made.

**Microfilm Records Deemed Original Records;
Certified Copies**

Sec. 3. The microfilm records provided for in this Act shall be deemed to be original records for all purposes and shall be so accepted by all courts and administrative agencies of this State; and transcripts, exemplifications, copies, or reproductions on paper or on film of an image or images of said microfilm records, when issued and certified to by said clerk, shall be deemed to be certified copies of the originals for all purposes and shall be so accepted by all courts and administrative agencies of this State.

Indices

Sec. 4. (a) Each such instrument of writing, legal document, paper or record which is recorded in an Official Public Record, as provided in Sections 2(a)(1) thru 2(a)(7) hereinabove, shall be indexed and cross-indexed in the indices to the Public Record in which it is recorded in the full and perfect alphabetical order of the names of the parties as definitely identified therein in each such instrument of writing, legal document, paper or record.

(b) In addition to the names of the parties, each entry in an index for the appropriate Official Public Record described in Sections 2(a)(1), 2(a)(2) and 2(a)(7) shall include: an abbreviated description of the nature of such instrument of writing, legal document, paper or record as shown therein, including the name of the record in which it would have been recorded under existing laws pertaining to bound volume records and to other records in the Recorder's office; the time and date of filing; the location of the recorded image or images on microfilm by roll number, or by group number, and image number or numbers, or by other suitable data; an abbreviated description of the property, if any, or an abbreviated description of a lien or mortgage, if any, or of other reference, if any, to former recorded data, or such additional information as will properly identify each index entry as pertaining to the particular type of record to which the index applies.

(c) In addition to the names of the parties in actions in county courts, each entry in an index for the appropriate Official Public Record described in Sections 2(a)(3) thru 2(a)(6) shall include the nature of the cause or action, the date the cause or action

was opened or taken, the court in which the cause or action lies, the docket number, such other data which would assist in further identifying the cause or action being indexed, and the location of the recorded image or images on the microfilm by roll number, or by group number, and image number or numbers, or by other suitable data.

(d) Such alphabetical indices shall be revised periodically throughout each year so that there will be a full and perfect alphabetical index to each of said Public Records for each full calendar year.

(e) Registers shall be kept up to date of court docket numbers in perfect numerical sequence for each type Court Record, and shall include essentially the same data as is contained in the indices.

(f) Such other Registers of file numbers shall be kept as will be of assistance to the public, and shall include essentially the same data as is contained in the indices.

(g) No marginal entry or entries shall be required to be made by said clerks on indices previously completed.

Standards for Microfilm Records

Sec. 5. Should a Public Records Commission of Texas be authorized by law, all microfilming shall be done in accordance with reasonable rules and regulations, and under the general supervision, of said Commission; otherwise the county clerk shall establish the reasonable rules and regulations and have complete control of the microfilming in the county clerk's office in accordance with the following:

(a) Each original negative roll, and each original negative discrete image, of microfilmed records shall meet all of the requirements for archival quality, for density, for resolution and for definition, of the Public Records Commission of Texas, if there be one, otherwise of the United States Bureau of Standards.

(b) For each roll, or part of a roll, of microfilm to be an official original record, the first image on the roll, or part of a roll, shall be of a Title Page showing the name of the Official Record, the starting identification number, the date, and a certificate of the county clerk signed by the camera operator; and the last image on the roll, or part of a roll, shall be of a Certificate of Legality and Authenticity certifying that "the microfilming of the images between the Title Page and the Certificate of Legality and Authenticity has been in strict accordance with Article 1941(a), Vernon's Texas Civil Statutes, and that each image is a true, correct, and exact copy of the page or pages of the identified instrument of writing, legal document, paper, or record which had been filed for record on the date and at the time stamped on each; that no splice was made in the original negative film between the Title Page and this Certificate"; followed by the name of the Official Record, the starting image identification num-

ber of the Title Page and the ending image identification number of the Certificate of Legality and Authenticity, the date microfilmed and the certificate of the county clerk signed by the camera operator, if the camera operator is a deputy county clerk, or otherwise signed by the county clerk in person.

(c) For each separate and individual image of a discrete group of discrete images of a microfilm record to be an official original record, the first image of the discrete group shall be of a Title Page showing the name of the Official Record, the starting identification number, the date, and a certificate of the county clerk signed by the camera operator; and the last image of the discrete group shall be of a Certificate of Legality and Authenticity certifying "that the discrete numbered microfilm images between the Title Page and the Certificate of Legality and Authenticity have been made in strict accordance with Article 1941(a), Vernon's Texas Civil Statutes, and that each image is a true, correct, and exact copy of the page or pages of the identified instrument of writing, legal document, paper, or record which had been filed for record on the date and at the time stamped on each; that no microfilm image or images were substituted for any original discrete microfilm image or images between the Title Page and this Certificate"; followed by the name of the Official Record the starting image identification number of the Title Page and the ending image identification number of the Certificate of Legality and Authenticity, the date microfilmed and the certificate of the county clerk signed by the camera operator, if the camera operator is a deputy county clerk, or otherwise signed by the county clerk in person.

(d) At least one additional negative copy of each roll, or part of a roll, or of each discrete image of a group of discrete images, of the original negative microfilm shall be made. The original negative of each roll, or part of a roll, or of each discrete image of a group of discrete images, of microfilm shall be the security record and, in the absence of other statutory provisions, shall be stored in a fireproof and burglarproof safe or locker outside of, and at a distance from, the courthouse. One negative copy of each roll, or part of a roll, or of each discrete image of a group of discrete images, of microfilm shall be used for making positive film prints and for no other purpose. Either negative copies or positive copies of film shall be used on projection devices or readers.

(e) All original negative microfilm now in an office of a county clerk and which negative microfilm is of archival quality, or which is made into negative film of archival quality, and which has thereon the certificates of the county clerk is hereby designated original records for all purposes and shall be so accepted by all courts and administrative agencies of this State.

(f) Each image on each roll, or each discrete image of a group of discrete images, of microfilm shall be of such a size that its image can be projected with clear legibility and without distortion onto a view screen or view glass with such projected image being as large as, or larger than, the original instrument of writing, legal document, paper or record from which it was made.

(g) Each image on a microfilm record shall be identified by a number by which it can be located quickly and easily, and which number shall be used in indexing such image.

(h) Cameras used for microfilming shall meet or exceed the then current standards of the United States Bureau of Standards for the documentation of permanent records.

(i) Suitable means shall be furnished for the public to quickly and easily locate and project onto a viewing screen or viewing glass the complete image of a desired record. Such projected image shall be as large as, or larger than, the instrument of writing, legal document, paper or record of which it is an image.

Checking and Proving Microfilm Records; Return of Original Instruments; Disposition of Printed Records

Sec. 6. (a) Each county clerk and county recorder and clerk of county courts, whenever the original paper record is not retained in the files of the county clerk, shall inspect and check each filmed image on each roll of microfilm, or each filmed image of the discrete group of filmed images against the original instrument of writing, legal document, paper or record for accuracy and clarity. A county clerk may reproduce from microfilm onto paper records each filmed image on each roll of microfilm, or each filmed image of the discrete group of filmed images, for the purpose of inspecting and checking each filmed image for accuracy and clarity. Should a microfilm image be defective in any respect, the original instrument of writing, legal document, paper or record, from which said defective filmed image was made, shall be remicrofilmed on a subsequent roll of microfilm, or on a subsequent discrete image or images of a subsequent discrete group of individual images, to obtain acceptable images on microfilm. A record need not be reproduced if it is transferred to the custody of the state librarian pursuant to state law.

(b) Notwithstanding anything to the contrary provided by any other statute or statutes, when an instrument of writing, legal document, paper, or record has been microfilmed and said microfilm has been proven satisfactory by inspecting and checking as provided herein, said clerk is hereby authorized to, and shall, return each such instrument of writing, legal document, paper or record, excepting those involved in or relating to court matters and proceedings, to the party or parties who filed it.

(c) Original instruments of writing, original legal documents, original papers and original records, which have been filed relating to court matters and proceedings and which have been recorded on microfilm records, shall be retained in the files of the docket to which they relate until a written order of the court closes such docket, after which all of the records in such docket shall be microfilmed in time sequence to provide all of such records of a docket in an unbroken continuous sequence on one roll of microfilm, or in an unbroken continuous sequence of discrete images in a group of discrete images.

(d) Upon the certificate of a county clerk of a county to the Commissioners Court of the county that the original negative microfilm of a designated microfilm record fully meets the requirements of the Bureau of Standards of the United States Government for archival quality, for density, for resolution and for definition of said original negative microfilm and, further, that microfilm film prints from said negative have been satisfactorily used by the public for five years, or more, said Commissioners Court may authorize by order of said court the disposal of the original paper records from which said microfilm records were made.

[Acts 1971, 62nd Leg., p. 2716, ch. 886, § 1, eff. June 14, 1971. Amended by Acts 1977, 65th Leg., p. 1201, ch. 463, § 9, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 538, ch. 254, § 1, eff. Aug. 27, 1979.]

Acts 1971, 62nd Leg., p. 2716, ch. 886, enacting this article, provides in section 2:

"All laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to Section 10, Chapter 340, Acts of the 49th Legislature, 1945, as amended; Chapter 21, Acts of the 41st Legislature, 5th Called Session, 1930; Chapter 192, Acts of the 45th Legislature, 1937, as amended; Chapter 251, Acts of the 53rd Legislature, 1953, as amended; Chapter 211, Acts of the 41st Legislature, 1929; Section 10, Chapter 382, Acts of the 57th Legislature, 1961; Section 2, Chapter 89, Acts of the 53rd Legislature, 1953; Chapter 85, Acts of the 43rd Legislature, 1933, as amended; Section 1, Chapter 162, Acts of the 39th Legislature, 1925; Section 1, Chapter 58, Acts of the 50th Legislature, 1947; Chapter 48, Acts of the 48th Legislature, 1943; Chapter 98, Acts of the 43rd Legislature, 1st Called Session, 1933 (Articles 912a-10, 1220a, 1278a, [should read "1287a"], 4582b, 5472c, 5472d, 5476a, 5506a, 6574a, 6574b, 6899-1, and 7345a of Vernon's Texas Civil Statutes); Articles 1275, 1285, 1989, 1941, 1942, 1943, 1944, 1945, 4524, 4546, 5238, 5275, 5333, 5348, 5448, 5453, 5486, 5924, 5925, 5949, 6000, 6574, 6591, 6593, 6594, 6595, 6596, 6597, 6598, 6599, 6601, 6633, 6634, 6635, 6636, 6641, 6644, 6662, 6898, 6905, 6912, 6913, 6923, 6927, 7361 and 7362, Revised Civil Statutes of Texas, 1925, as amended; Subsections (d) and (e) of Section 137, Texas Probate Code, as amended; and Sections 9.403 through 9.407, as amended, Business and Commerce Code."

Section 3 of the 1971 act was a severability clause.

Art. 1942. Custody of Records

They shall be keepers of the records, books, papers and proceedings of their respective courts in civil and criminal cases and in matters of probate, and see that the same are properly indexed, arranged and preserved, and shall perform such other duties in that behalf as may be by law imposed on them.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1943. Keep Record of Proceedings

They shall keep a fair record of all the acts done and proceedings had in their respective courts, and enter all judgments of the court, under the direction of the judge, and shall keep a record of each execution issued, and of the returns thereon.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1944. Index to Judgments

They shall provide and keep in their respective offices, as part of the records thereof, full and complete alphabetical indexes of the names of the parties to all suits filed in their courts, which indexes shall be kept in well bound books, and shall state in full the names of all the parties to such suits, which shall be indexed and cross indexed, so as to show the name of each party under the proper letter; and a reference shall be made opposite each name to the page of the minute book upon which is entered the judgment in each case.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1945. Other Dockets, Indexes, etc.

The clerk shall keep such other dockets, books and indexes as may be required by law; and all books, records and filed papers belonging to the office of county clerks shall at all reasonable times be open to the inspection and examination of any

citizen, who shall have the right to make copies of the same.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1946. Report Fines and Jury Fees

On the last day of each term of the county court, the clerk shall make a written statement showing all moneys received by him for jury fees and fines since his last statement, with the names of the parties from whom received; and the name of each juror who has served at such term; the number of days he served, and the amount due him for such service. Such statement shall be examined and corrected by the presiding judge, and be approved and signed by him. When so approved and signed it shall be recorded in the minutes of the court.

[Acts 1925, S.B. 84.]

Art. 1947. Jury Fees and Fines

The clerk shall pay to the county treasurer all jury fees and fines received by him to the use of the county.

[Acts 1925, S.B. 84.]

Art. 1948. Shall Use Seal

Where in any county a joint clerk shall have been elected, he shall, in performing the duties of county clerk, use the seal of said court to authenticate his official acts as such clerk.

[Acts 1925, S.B. 84.]

CHAPTER THREE. POWERS AND JURISDICTION

Art.	
1949.	Jurisdiction.
1950.	Concurrent Original Jurisdiction.
1951.	No Jurisdiction.
1952.	Appellate Jurisdiction.
1953.	Certiorari to Justice Courts.
1954.	Motions Against Officers.
1955.	Repealed.
1956.	Law and Equity Powers.
1957.	To Grant Remedial Writs.
1958.	Appointing Attorneys.
1959.	Additional Authority.
1960.	Changed Jurisdiction; Eminent Domain.
1960-1.	County Court; Exclusive Jurisdiction of Misdemeanors, Except, etc.
1960-2.	Power to Forfeit Bail Bonds.
1960-3.	Power to Issue Writs of Habeas Corpus.
1960-4.	Appellate Jurisdiction.

Art. 1949. Jurisdiction

The county court shall have concurrent jurisdiction with the justice court in civil cases when the matter in controversy shall exceed in value two hundred dollars, and shall not exceed one thousand dollars, exclusive of interest.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 846, ch. 377, § 2, eff. June 6, 1979; Acts 1983, 68th Leg., p. 616, ch. 133, § 1, eff. Sept. 1, 1983.]

Art. 1950. Concurrent Original Jurisdiction

The county court shall have concurrent jurisdiction with the district court when the matter in controversy shall exceed five hundred and not exceed one thousand dollars, exclusive of interest.

[Acts 1925, S.B. 84.]

Art. 1951. No Jurisdiction

The county court shall not have jurisdiction of any suit to recover damages for slander or defamation of character, nor of suits of the recovery of lands, nor suits for the enforcement of liens upon land, nor of suits in behalf of the State for escheats, nor of suits for divorce, nor of suits for the forfeiture of the charters of corporations and incorporated companies, nor of suits for the trial of the right to property levied on by virtue of any writ of execution, sequestration or attachment, when the property levied on shall be equal to or exceed in value five hundred dollars.

[Acts 1925, S.B. 84.]

Art. 1952. Appellate Jurisdiction

The county court shall have appellate jurisdiction in civil cases over which the justice courts have original jurisdiction when the judgment appealed from or the amount in controversy shall exceed twenty dollars, exclusive of costs.

[Acts 1925, S.B. 84.]

Art. 1953. Certiorari to Justice Courts

The county court shall also have jurisdiction in cases brought up from the justice courts by certiorari.

[Acts 1925, S.B. 84.]

Art. 1954. Motions Against Officers

The county court may hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcation of duty in connection with such process.

[Acts 1925, S.B. 84.]

Art. 1955. Repealed by Acts 1971, 62nd Leg., p. 2536, ch. 831, § 6, eff. Aug. 30, 1971

See, now, article 1911a.

Art. 1956. Law and Equity Powers

Subject to the limitation stated in this chapter, the county court is authorized to hear and determine any cause which is cognizable by courts, either of law or equity, and to grant any relief which could be granted by said courts, or either of them.

[Acts 1925, S.B. 84.]

Art. 1957. To Grant Remedial Writs

The county judge, either in term time or vacation, may grant writs of mandamus, injunction, sequestration, attachment, garnishment, certiorari and supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the court.

[Acts 1925, S.B. 84.]

Art. 1958. Appointing Attorneys

The county judge may appoint counsel to attend to the cause of any party who makes affidavit that he is too poor to employ counsel to attend to the same.

[Acts 1925, S.B. 84.]

Art. 1959. Additional Authority

The county court and the county judge shall also have such authority as may be vested in them by law.

[Acts 1925, S.B. 84.]

Art. 1960. Changed Jurisdiction; Eminent Domain

Where the jurisdiction of a county court has been taken away, altered or changed by existing laws, the jurisdiction shall remain as established, until otherwise provided by law. The county courts shall have no jurisdiction in eminent domain cases.

[Acts 1925, S.B. 84. Amended by Acts 1971, 62nd Leg., p. 2537, ch. 832, § 7, eff. June 9, 1971.]

Art. 1960-1. County Court; Exclusive Jurisdiction of Misdemeanors, Except, etc.

The county courts shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except cases in which the highest penalty or fine that may be imposed under the law may not exceed two hundred dollars, and except in counties where there is established a criminal district court.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1960-2. Power to Forfeit Bail Bonds

County courts shall have jurisdiction in the forfeiture and final judgment of all bonds and recognizances taken in criminal cases, of which criminal cases said courts have jurisdiction.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1960-3. Power to Issue Writs of Habeas Corpus

The county courts, or judges thereof, shall have the power to issue writs of habeas corpus in all cases in which the constitution has not conferred the power on the district courts or judges thereof; and, upon the return of such writ, may remand to custody, admit to bail or discharge the person imprisoned or detained, as the law and nature of the case may require.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1960-4. Appellate Jurisdiction

The county courts shall have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals have original jurisdiction.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

CHAPTER FOUR. TERMS OF COURT**Art.**

1961. Terms of Court.

1962. Other Terms.

1963. Probate Business.

1964. Judge Failing to Appear.

Art. 1961. Terms of Court

The County Court shall hold at least four terms for both Civil and Criminal business annually, and such other terms each year as may be fixed by the Commissioners' Court. After having fixed the times and number of the terms of a County Court, they shall not change the same until the expiration of one year. Until, or unless otherwise provided, the term of the County Court shall be held on the first Monday in February, May, August and November, and may remain in session three weeks; provided said court shall be open at all times for the transaction of probate business.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., 1st C.S., p. 107, ch. 48, § 2.]

Art. 1962. Other Terms

The commissioners court may, at a regular term thereof, by an order entered upon its records, provide for more terms of the county court for the transaction of civil, criminal and probate business, and fix the times at which each of the four terms required by the Constitution, and the terms exceeding four, if any, shall be held, not to exceed six annually, and may fix the length of each term. When the number of the terms of the county court has been fixed, the court shall not change the order

before one year from the date of entry of the original order fixing such terms.

[Acts 1925, S.B. 84.]

Art. 1963. Probate Business

Said court shall dispose of probate business either in term time or vacation under such regulations as may be prescribed by law.

[Acts 1925, S.B. 84.]

Art. 1964. Judge Failing to Appear

If the county judge fails to appear at the time appointed for holding his court and no election of a special judge is had, the sheriff of the county, or, in his default, any constable of the county, shall adjourn the court from day to day for three days. If the judge should not appear on the fourth day and no special judge is elected, the sheriff or constable as the case may be, shall adjourn the court until the next regular term thereof.

[Acts 1925, S.B. 84.]

CHAPTER FIVE. MISCELLANEOUS PROVISIONS

MISCELLANEOUS PROVISIONS

- Art.**
 1965. Minutes.
 1966. Seal of the Court.
 1967. Repealed.
 1968. When Case is Transferred.
 1969. Jurisdiction Taken Away.
 1969a-1. Exchange of Judges in County Courts at Law and County Criminal Courts in Counties of Over 300,000 Population.
 1969a-2. Judges of County Courts at Law Authorized to Act for County Judge.
 1969a-3. County Judges, Acting for Judge of County Court at Law.
 1969b. Assignment of Judges of Statutory Probate Courts.
 1970. County Courts at Law.
 1970a. Amount in Controversy.

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

DALLAS COUNTY

- 1970-1. Creation.
 1970-2. Name of County Court of Dallas County at Law Changed.
 1970-3. Jurisdiction of Said Court.
 1970-4. Jurisdiction Retained by County Court of Dallas County.
 1970-5. Terms of County Court of Dallas County, at Law; Practice, etc.
 1970-6. Judge to be Elected, When, etc.; Qualifications; Term.
 1970-7. Bond and Oath of Judge.
 1970-8. Special Judge Elected or Appointed, How.
 1970-9. May Issue Writs.
 1970-10. Clerk of; Seal; Sheriff to Attend When, etc.
 1970-11. Appointment of Jury Commissioners; Selection, etc., of Juries.
 1970-12. Vacancy in Office of Judge, How Filled.

- Art.**
 1970-13. Fees and Salary of Judge.
 1970-14. Salary of County Judge of Dallas County.
 1970-15. County Court of Dallas County, at Law, No. 2, Created.
 1970-16. Jurisdiction.
 1970-17. Courts How Designated; Transfer of Cases.
 1970-18. Jurisdiction of Other County Courts.
 1970-19. Power to Issue Writs.
 1970-20. Terms of Court.
 1970-21. Judge; Qualifications; Salary.
 1970-22. Special Judge.
 1970-23. Jurors.
 1970-24. Vacancy.
 1970-25. Transfer of Cases.
 1970-26. Qualifications of Judges.
 1970-27. Holding Court For or With Other Judge.
 1970-28. Terms of Court.
 1970-29. Current Term of County Court at Law No. 2; Effect of Change of Terms.
 1970-30. Oath of Office; Bond; Fees.
 1970-31. Salaries of Judges of County Courts at Law.
 1970-31.1. County Courts of Dallas County at Law Nos. 3 and 4.
 1970-31.2. County Court of Dallas County at Law No. 5.
 1970-31.10. County Criminal Court of Dallas County, Creation, Jurisdiction, etc.
 1970-31.11. County Criminal Court No. 2 of Dallas County.
 1970-31.12. County Criminal Court No. 3 of Dallas County.
 1970-31.13. County Criminal Court No. 4 of Dallas County.
 1970-31.14. County Criminal Court No. 5 of Dallas County.
 1970-31.15. County Criminal Courts Nos. 6 and 7 of Dallas County.
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 1970-31.17. County Criminal Court No. 9 of Dallas County.
 1970-31.18. County Criminal Court No. 10 of Dallas County.
 1970-31.20. County Criminal Court of Appeals of Dallas County.
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 1970-31.30. Retired Judges as Substitutes in Dallas County.
 1970-31a. Probate Court of Dallas County.
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TARRANT COUNTY

- 1970-32. Creation.
 1970-33. Jurisdiction of Said Court.
 1970-34. Jurisdiction of Criminal Cases.
 1970-35. Jurisdiction Retained by County Court of Tarrant County.
 1970-36. Both Courts May Issue Writs.
 1970-37. Terms, Practice, etc., of County Court of Tarrant County for Civil Cases.
 1970-38. Judge to be Elected When, etc.; Qualifications; Term; Vacancies How Filled.
 1970-39. Bond and Oath of Judge.
 1970-40. Special Judge Elected or Appointed How.
 1970-41. Clerk of; Seal; Sheriff to Attend When, etc.
 1970-42. Selection, etc., of Juries by the Two Courts Jointly.

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 1970-43. Fees; Salary of Judge of County Court of Tarrant County for Civil Cases.
 1970-44. Removal of Judge.
 1970-45. Salary of County Judge of Tarrant County.
 1970-45a. Compensation of Certain Tarrant County Judges.
 1970-46. Court Created.
 1970-47. Jurisdiction.
 1970-48. Same; Juvenile and Probate Matters.
 1970-49. Issuance of Writs.
 1970-50. Terms of Court; Practice.
 1970-51. Judge.
 1970-52. Same; Bond and Oath.
 1970-53. Special Judge.
 1970-54. Clerk; Seal; Sheriff.
 1970-55. Fees; Salary.
 1970-56. Removal of Judge.
 1970-57. Shorthand Reporter.
 1970-58. Transfer of Causes.
 1970-59. Cases Filed in Either County Court at Law or County Court for Civil Cases.
 1970-60. Transfer of Cases.
 1970-61. Fees and Salaries of Judges.
 1970-62. Designations of Courts.
 1970-62.1. Transfer of Eminent Domain Jurisdiction from County to District Courts.
 1970-62.2. County Court at Law No. 2 of Tarrant County.
 1970-62a. County Criminal Court No. 1 of Tarrant County.
 1970-62b. County Criminal Court No. 2 of Tarrant County.
 1970-62c. County Criminal Court No. 3 of Tarrant County.
 1970-62d. County Criminal Court No. 4 of Tarrant County.
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BEXAR COUNTY

- 1970-63. Creation.
 1970-64. Jurisdiction of Said Court.
 1970-65. Jurisdiction Retained by County Court of Bexar County.
 1970-66. Both Courts May Issue Writs.
 1970-67. Terms, Practice, etc.
 1970-68. Judge to be Elected When, etc.; Qualifications; Term.
 1970-69. Bond and Oath of Judge.
 1970-70. Special Judge Elected or Appointed How.
 1970-71. Clerk of; Seal; Sheriff to Attend When, etc.
 1970-72. Selection, etc., of Juries.
 1970-73. Vacancies in Office of Judge, How Filled; Appointment of First Judge.
 1970-74. Fees; Salary of Judge.
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 1970-75a. Practice and Administration of Courts.

HARRIS COUNTY

- 1970-76. Creation.
 1970-77. County Civil Court at Law No. 1.
 1970-78. Change of Name Not to Affect Court, Except, etc.; Judges, Officers, Process and Returns.
 1970-79. Jurisdiction of Said Court.
 1970-80. Jurisdiction Continued, etc.
 1970-81. Jurisdiction Retained by County Court of Harris County.
 1970-82. Both Courts May Issue Writs.

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 1970-83. Terms, Practice, etc.
 1970-84. Terms of Court.
 1970-85. Judge to be Elected, When; Qualifications; Term.
 1970-86. Bond and Oath of Judge.
 1970-87. Special Judge.
 1970-88. Clerk; Seal; Sheriff to Attend When, etc.
 1970-89. Vacancy in Office of Judge, How Filled, etc.
 1970-90. Salary of Judge.
 1970-91. Salary of County Judge of Harris County.
 1970-92. Repealed.
 1970-93. Transfer of Misdemeanor Criminal Cases. Repealed.
 1970-94. Exchange of Judges; Powers.
 1970-94a. Court Reporter; Salary.
 1970-95. Court Created.
 1970-96. Jurisdiction Over Criminal Matters; Appellate Jurisdiction.
 1970-97. Repealed.
 1970-98. Qualifications of Judge; Appointment; Oath; Bond; Fees and Salary.
 1970-98a. Official Court Reporter; Compensation.
 1970-98b. Clerk in Civil and Criminal Matters.
 1970-99. Clerk; Fees.
 1970-100. Seal.
 1970-101. Sheriffs and Constables.
 1970-102. Special Judge.
 1970-103, 1970-104. Repealed.
 1970-105. Terms.
 1970-106. Transfer of Cases.
 1970-106a. Exchange of Judges.
 1970-107. Repealed.
 1970-108. Practice.
 1970-109. Process in Transferred Cases.
 1970-110. Repealed.
 1970-110a. Probate Court No. 1 of Harris County.
 1970-110a.1. Repealed.
 1970-110a.2. Probate Court No. 2 of Harris County.
 1970-110a.3. Probate Court No. 3 of Harris County.
 1970-110b. County Criminal Court at Law No. 2.
 1970-110c. County Criminal Court at Law No. 3 of Harris County.
 1970-110c.1. County Criminal Court at Law No. 4.
 1970-110c.2. County Criminal Court at Law Nos. 5, 6 and 7 of Harris County.
 1970-110c.3. County Criminal Court at Law Nos. 8 and 9 of Harris County.
 1970-110c.4. County Criminal Court at Law No. 10 of Harris County.
 1970-110c.5. County Criminal Court at Law Nos. 11 and 12 of Harris County.
 1970-110d. County Civil Court at Law No. 2 of Harris County.
 1970-110e. County Civil Court at Law No. 3 of Harris County.
 1970-110f. County Civil Court at Law No. 4 of Harris County.

JEFFERSON COUNTY

- 1970-111. County Court of Jefferson County at Law No. 1.
 1970-112. Jurisdiction.
 1970-112a. Transfer of Cases to and from County Court and County Courts at Law.
 1970-113. Jurisdiction of Other Courts.
 1970-114. Terms of Court.
 1970-115. Election of Judge; Tenure; Qualifications.
 1970-116. Appointment of Judge.
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- 1970-118. Issuance of Writs.
 1970-119. Clerk, Seal, and Sheriff.
 1970-120. Selection of Jurors.
 1970-121. Vacancy in Office of Judge.
 1970-122. Salary of Judge; Assessment and Collection of Fees.
 1970-123. Appeals from Lower Courts.
 1970-124. Fees of County Judge.
 1970-125. Special Judge; Election; Compensation.
 1970-126. Act Not Repealed.
 1970-126a. County Court of Jefferson County at Law No. 2.
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- 1970-127. Court Created.
 1970-127a. Change of Name.
 1970-127b. Jurisdiction and Administration of County Courts at Law.
 1970-128. Jurisdiction.
 1970-129. Jurisdiction.
 1970-130. Power to Issue Writs.
 1970-131. Terms of Court.
 1970-132. Appointment of Judge; Election; Qualifications of Judge.
 1970-133. Bond and Oath of Judge.
 1970-134. Special Judge.
 1970-135. Clerk, Seal; Sheriff.
 1970-136. Official Shorthand Reporter; Appointment; Term of Office, Oath; Duties.
 1970-136a. Reporter for County Court.
 1970-137. Juries.
 1970-138. Compensation of Judge.
 1970-139. Removal of Judge.
 1970-140. Salary of County Judge.
 1970-141. Repeal; Partial Invalidity of Act.
 1970-141.1. County Court at Law No. 2 of El Paso County.
 1970-141.2. County Court at Law No. 3 of El Paso County.
 1970-141.3. County Court at Law No. 4 of El Paso County.
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- 1970-141a. Eminent Domain and Probate Jurisdiction; Civil and Criminal Jurisdiction Transferred.
 1970-142 to 1970-152. Unconstitutional.

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- 1970-153 to 1970-166. Repealed.
 1970-166a. Jurisdiction of Wichita County Court at Law Transferred to Wichita County Court.
 1970-166b. Jurisdiction in Civil Cases Transferred to District Courts.
 1970-166c. Concurrent Jurisdiction with District Courts in Juvenile Delinquency, Child Neglect or Dependency Proceedings.
 1970-166d. County Court at Law of Wichita County.
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- 1970-167 to 1970-189. Unconstitutional.

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- 1970-190. Armstrong County Court; Concurrent Jurisdiction with Justice Court.
 1970-191. Jurisdiction as County Court.
 1970-192. Appeal; Amount in Controversy.
 1970-193. Jurisdiction of Justices' Courts Not Affected; Appeal.
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- 1970-195. Castro County Court; Jurisdiction of Court.
 1970-196. Appellate Jurisdiction.
 1970-197. May Issue Writs.
 1970-198. Jurisdiction of Probate Court.
 1970-199. Forfeiture, etc., of Bonds and Recognizances in Criminal Cases.
 1970-200. Jurisdiction of Misdemeanors; Appellate Jurisdiction.
 1970-201. District Court Has No Longer Jurisdiction of Certain Cases.
 1970-202. District Clerk to Deliver Transcripts, etc.
 1970-203. Motions Against Sheriffs and Other Officers; Contempts; Other Powers.
 1970-204. Terms of Court.

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- 1970-205. Jurisdiction of County Court of Cochran and Colorado Counties.
 1970-206. Other Jurisdiction.
 1970-207. Appeals and Writs of Error.
 1970-208. Jurisdiction of Justices of the Peace; Appeals.

DEAF SMITH, PARMER, RANDALL, CASTRO AND LUBBOCK COUNTIES

- 1970-209. Deaf Smith, Parmer, Randall, Castro and Lubbock County Courts; Jurisdiction of Court.
 1970-210. Same Subject.
 1970-211. Writs of Error to Court of Civil Appeals.
 1970-212. Jurisdiction of Justices of the Peace, etc.
 1970-213. Laws Repealed.

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- 1970-214. Jurisdiction of County Court of Harrison County.
 1970-215. Jurisdiction in Civil Cases.
 1970-216. Judgments Heretofore Rendered in County Court; Executions, etc.
 1970-217. Laws Repealed.
 1970-218. Appellate Jurisdiction in Civil Cases, etc.
 1970-219. May Grant Writs.
 1970-220. District Court Not to Have Jurisdiction When.
 1970-221. Clerk of District Court to Make Transcripts in Cases in Which Jurisdiction is Given to County Court, etc.
 1970-222. Motions Against Sheriffs and Other Officers, etc.; Contempts; Other Powers.
 1970-223. May Fix Terms of Court.
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- 1970-224. County Court of Hockley and Cochran Counties; Jurisdiction.
 1970-225. Other Jurisdiction.
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 1970-228. Jasper County Court; Jurisdiction in Civil Cases.
 1970-229. Appellate Jurisdiction in Civil Cases.
 1970-230. May Grant Writs.
 1970-231. Jurisdiction of Probate Court.
 1970-232. Forfeited Bonds, etc., in Criminal Cases.
 1970-233. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction.
 1970-234. Jurisdiction of District Court.
 1970-235. District Clerk to Deliver Transcripts, etc., to County Clerk.
 1970-236. Motions Against Sheriffs and Other Officers; Contempts; Other Powers.
 1970-237. Terms of Court.

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- 1970-238. Jurisdiction of County Court of Kendall County.
 1970-239. Jurisdiction of District Court.
 1970-240. County Clerk to Make Transcripts in Cases Transferred to District Court, etc.
 1970-241. Judgments Heretofore Rendered in County Court; Executions, etc.

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- 1970-242. Jurisdiction of County Court of Lee and Burleson Counties.
 1970-243. Other Jurisdiction.
 1970-244. Appeals and Writs of Error.
 1970-245. Jurisdiction of Justices of the Peace; Appeals.

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- 1970-246. Oldham County Court; Jurisdiction in Civil Cases.
 1970-247. Appellate Jurisdiction in Civil Cases.
 1970-248. May Grant Writs.
 1970-249. Jurisdiction of Probate Court.
 1970-250. Forfeited Bonds, etc., in Criminal Cases.
 1970-251. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases.
 1970-252. Jurisdiction of District Court.
 1970-253. District Clerk to Deliver Transcripts, etc., to County Clerk.
 1970-254. Motions Against Sheriffs and Other Officers; Contempts; Other Powers.
 1970-255. Terms of Court.

REAGAN COUNTY

- 1970-256. Reagan County Court; Jurisdiction; Transfer of Cases.
 1970-257. Judgments Not Affected; Executions Thereon.
 1970-258. Jurisdiction of District Court.
 1970-259. County Court; Concurrent Jurisdiction With Justices of the Peace.
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- 1970-262. Stonewall County Court; Jurisdiction in Civil Cases.
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 1970-266. Sutton County Court; Original Civil Jurisdiction.
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 1970-268. May Grant Writs.
 1970-269. Probate Jurisdiction.
 1970-270. Forfeited Bonds and Recognizances.
 1970-271. Jurisdiction of Misdemeanors; Appellate Jurisdiction in Criminal Cases.
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 1970-273. Transcripts of Pending Cases; Entry of Cases in County Court.
 1970-274. Motions Against Officers; Contempts; Other Powers.
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 1970-279. Jurisdiction of Probate Court.
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 1970-281. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases.
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 1970-285. Terms of Court.

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 1970-287. Appellate Jurisdiction in Civil Cases.
 1970-288. Power to Grant Writs, etc.
 1970-289. Jurisdiction of Probate Court.
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 1970-291. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases.
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EDWARDS COUNTY

- 1970-296. Edwards County Court; Act Repealed.

SHELBY COUNTY

- 1970-297. Shelby County Court; Jurisdiction Restored.

McLENNAN COUNTY

- 1970-298. Repealed.
 1970-298a. Jurisdiction of McLennan County Court at Law Transferred to McLennan County Court; Salary of Judge.
 1970-298b. County Court at Law of McLennan County.
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- 1970-299. Jurisdiction of County Court of Harrison County.

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1970-300. Changing Jurisdiction of County Court of Edwards County.
1970-300a. Jurisdiction of Edwards County Court Increased; Terms of Court.

BEXAR COUNTY

- 1970-301. County Courts at Law Nos. 1 and 2 of Bexar County.
1970-301a. Official Shorthand Reporters; Salary.
1970-301b. Salaries of Judges.
1970-301c. Salaries of Judges.
1970-301d. County Court at Law No. 3, of Bexar County.
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1970-301e.1. County Courts at Law Nos. 4 and 5 of Bexar County.
1970-301e.2. County Courts at Law Nos. 4 and 6 of Bexar County.
1970-301f, 1970-301f.1. Repealed.
1970-301g. County Court of Bexar County for Criminal Cases.
1970-301h. Repealed.

MENARD COUNTY

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STERLING COUNTY

- 1970-303. Jurisdiction and Time for Holding Sterling County Court.
1970-303a. Jurisdiction of Sterling County Court Diminished; Civil and Criminal Causes Transferred to District Court.

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CAMERON COUNTY

- 1970-305. County Court at Law No. 1 of Cameron County.
1970-305a. Name Changed to County Court at Law of Cameron County.
1970-305b. Repealed.
1970-305c. County Court at Law No. 2 of Cameron County.

BOWIE COUNTY

- 1970-306. Jurisdiction of Bowie County Court Diminished.

KERR COUNTY

- 1970-307. Jurisdiction and Time for Holding County Court of Kerr County.

WASHINGTON COUNTY

- 1970-308. Jurisdiction of Washington County Court.

OFFICIAL SHORTHAND REPORTERS

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PARTICULAR COUNTY COURTS

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1970-310. Other Acts Creating or Affecting Jurisdiction of Particular County Courts.

POTTER COUNTY

- 1970-311. Jurisdiction of Potter County Court at Law Diminished; Transfer of Causes to County Court and Justice Court.
1970-311a. County Court at Law of Potter County Created, etc.
1970-311b. County Court at Law No. 2 of Potter County.

GILLESPIE COUNTY

- 1970-312. Jurisdiction of County Court of Gillespie County Increased.

DUVAL COUNTY

- 1970-313. Jurisdiction of County Court of Duval County Increased.

RED RIVER COUNTY

- 1970-314. Repealed.
1970-314a. Jurisdiction of County Court of Red River County.

COLLINGSWORTH COUNTY

- 1970-315. Jurisdiction of County Court of Collingsworth Increased.

STERLING COUNTY

- 1970-316. Jurisdiction of Sterling County Increased.

CROSBY AND FISHER COUNTIES

- 1970-317. Crosby and Fisher County Courts, Civil Jurisdiction Increased.

GILLESPIE COUNTY

- 1970-318. Gillespie County Court; Probate Jurisdiction Conferred; Civil and Criminal Jurisdiction Diminished.
1970-318a. Civil and Criminal Jurisdiction Restored.

KENDALL COUNTY

- 1970-319. County Court of Kendall County; Civil and Criminal Jurisdiction.

GLASSCOCK COUNTY

- 1970-320. Glasscock County Court; Civil and Criminal Jurisdiction Diminished.

STEPHENS COUNTY

- 1970-321. Stephens County Court; Civil and Criminal Jurisdiction Diminished.

MARION COUNTY

- 1970-322. County Court of Marion County; Jurisdiction in Criminal Matters; Fee of County Judge.
1970-322a. County Court of Marion County; Concurrent Jurisdiction of Certain Criminal Matters.

PANOLA COUNTY

- 1970-323. Repealed.
1970-323a. Panola County Court; Panola District Court; Jurisdiction; Transfer of Dockets.
1970-323b. County Court at Law of Panola County.

TRAVIS COUNTY

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1970-324. County Court at Law No. 1 of Travis County.
1970-324a. County Court at Law No. 2 of Travis County.
1970-324a.1. County Court at Law No. 3 of Travis County.
1970-324a.2. County Court at Law No. 4 of Travis County.
1970-324b. Exchange of Benches of County Courts at Law of Travis County.
1970-324c. Practice of Law by Judges of County Courts at Law of Travis County.
1970-324d. Eminent Domain Cases in Travis County.

OFFICIAL INTERPRETERS

- 1970-325. Official Interpreters for County Courts at Law.

NAVARRO COUNTY

- 1970-326. County Court of Navarro County; Jurisdiction.
1970-327. Repealed.

MORRIS COUNTY

- 1970-328. County Court of Morris County; Jurisdiction.

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- 1970-329. Judge of County Court at Law in Counties Under 500,000 May Act for County Judge in Certain Cases.

TITUS COUNTY

- 1970-330. Repealed.
1970-330a. Jurisdiction of Titus County Court and District Courts.

FRANKLIN COUNTY

- 1970-331 to 331b. Repealed.
1970-331c. County Court and District Courts of Franklin County; Jurisdiction and Related Matters.

GRAYSON COUNTY

- 1970-332. Grayson County; County Court at Law; Jurisdiction; Terms; Judge; Prosecutor; Writs; Clerk and Court Reporter.
1970-332a. County Court at Law No. 2 of Grayson County.

HILL COUNTY

- 1970-333. Hill County; Jurisdiction; Clerk's Duties; Shorthand Reporter; County Attorney's Duties.
1970-333a. Jurisdiction Restored; Jurisdiction of District Court.

KENT COUNTY

- 1970-334. Kent County; Concurrent Jurisdiction of County Court with Justices' Courts.

JOHNSON COUNTY

- 1970-335. Johnson County; Jurisdiction of County Court Diminished; Jurisdiction of District Court.

COUNTIES OF 225,000 INHABITANTS

- 1970-336. Salary of Judge in Counties Having Only One County Court at Law.

BLANCO COUNTY

- Art.
1970-337. Jurisdiction Extended; Civil and Criminal; Concurrent with Justices Court.

ELLIS COUNTY

- 1970-338. Repealed.
1970-338A. Original and Appellate Jurisdiction in Misdemeanor Cases.
1970-338B. Jurisdiction of Courts; Transfer of Cases; Judgments.
1970-338C. County Court at Law of Ellis County.

NUECES COUNTY

- 1970-339. County Court at Law No. 1 of Nueces County.
1970-339A. County Court at Law No. 2 of Nueces County.
1970-339B. County Courts at Law Nos. 1 and 2 of Nueces County; Eminent Domain Jurisdiction Concurrent with County Court.
1970-339C. County Court at Law No. 3 of Nueces County.
1970-339D. County Court at Law No. 4 of Nueces County.

LUBBOCK COUNTY

- 1970-340. County Court at Law No. 1 of Lubbock County.
1970-340.1. County Court at Law No. 2 of Lubbock County.

HIDALGO COUNTY

- 1970-341. County Court at Law of Hidalgo County.
1970-341a. County Court at Law No. 2 of Hidalgo County.
1970-341b. County Court at Law No. 3 of Hidalgo County.

GALVESTON COUNTY

- 1970-342. Probate and County Court of Galveston County.
1970-342a. County Court No. 1 of Galveston County.
1970-342b. County Court No. 2 of Galveston County.

TAYLOR COUNTY

- 1970-343. County Court at Law of Taylor County.
1970-343a. County Court at Law No. 2 of Taylor County.

HUNT COUNTY

- 1970-344. Expired.

TARRANT COUNTY

- 1970-345. Probate Court No. 1 of Tarrant County.
1970-345a. Probate Court No. 2 of Tarrant County.

ECTOR COUNTY

- 1970-346. County Court at Law of Ector County.
1970-346a. County Court at Law No. 2 of Ector County.

NOLAN COUNTY

- 1970-347. County Court at Law of Nolan County.

SMITH COUNTY

- 1970-348. County Court at Law of Smith County.
1970-348a. County Court at Law No. 2 of Smith County.

ORANGE COUNTY

Art.

- 1970-349. County Court at Law of Orange County.
 1970-349A. County Court at Law of Orange County;
 Jurisdiction Concurrent with District and
 County Courts.

BELL COUNTY

- 1970-350. County Court at Law No. 1 of Bell County.
 1970-350a. County Court at Law No. 2 of Bell County.

GUADALUPE COUNTY

- 1970-351. County Court at Law of Guadalupe County.

DENTON COUNTY

- 1970-352. County Court at Law of Denton County.
 1970-352a. County Court at Law No. 2 of Denton County.

PARKER COUNTY

- 1970-353. Parker County; Jurisdiction of County Court.

HUNT COUNTY

- 1970-354. County Court at Law of Hunt County.

ANGELINA COUNTY

- 1970-355. County Court at Law of Angelina County.

VICTORIA COUNTY

- 1970-356. County Court at Law of Victoria County.
 1970-356a. County Court at Law No. 2 of Victoria County.

BRAZORIA COUNTY

- 1970-357. County Courts at Law Nos. 1 and 2 of Brazoria County.

HAYS COUNTY

- 1970-358. County Court at Law of Hays County.

BRAZOS COUNTY

- 1970-359. County Court at Law of Brazos County.

WEBB COUNTY

- 1970-360. County Court at Law of Webb County.

NACOGDOCHES COUNTY

- 1970-361. County Court at Law of Nacogdoches County.

COLLIN COUNTY

- 1970-362. County Court at Law of Collin County.
 1970-362a. County Court at Law No. 2 of Collin County.

MONTGOMERY COUNTY

- 1970-363. County Court at Law No. 1 of Montgomery County.
 1970-363a. County Court at Law No. 2 of Montgomery County.
 1970-363b. County Court at Law No. 3 of Montgomery County.

FORT BEND COUNTY

- 1970-364. County Court at Law of Fort Bend County.

HOUSTON COUNTY

- 1970-365. County Court at Law of Houston County.

HENDERSON COUNTY

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- 1970-366. County Court at Law of Henderson County.

WALKER COUNTY

- 1970-367. County Court at Law of Walker County.

COMAL COUNTY

- 1970-368. County Court at Law of Comal County.

TOM GREEN COUNTY

- 1970-369. County Court at Law of Tom Green County.

MIDLAND COUNTY

- 1970-370. County Court at Law of Midland County.

RANDALL COUNTY

- 1970-371. County Court at Law of Randall County.

REEVES COUNTY

- 1970-372. County Court at Law of Reeves County.

VAL VERDE COUNTY

- 1970-373. County Court at Law of Val Verde County.

WISE COUNTY

- 1970-374. County Court at Law of Wise County.

GREGG COUNTY

- 1970-375. County Court at Law of Gregg County.

MEDINA COUNTY

- 1970-376. County Court at Law of Medina County.

ANDERSON COUNTY

- 1970-377. County Court at Law of Anderson County.

CALDWELL COUNTY

- 1970-378. County Court at Law of Caldwell County.

LIBERTY COUNTY

- 1970-379. County Court at Law of Liberty County.

WILLIAMSON COUNTY

- 1970-380. County Court at Law of Williamson County.

WALLER COUNTY

- 1970-381. County Court at Law of Waller County.

KLEBERG COUNTY

- 1970-382. County Court at Law of Kleberg County.

RUSK COUNTY

- 1970-383. County Court at Law of Rusk County.

CHEROKEE COUNTY

- 1970-384. County Court at Law of Cherokee County.

CALHOUN COUNTY

- 1970-385. County Court at Law No. 1 of Calhoun County.

JURISDICTION OF PROBATE COURTS

Art. 1970a-1. Probate Courts Specially Created; Jurisdiction as to Mentally Ill, Mentally Retarded and Persons Afflicted with Tuberculosis.

MISCELLANEOUS PROVISIONS

Art. 1965. Minutes

The Minutes of the proceedings of each preceding day of the session shall be read in open court on the morning of the succeeding day, except on the last day of the session, on which day they shall be read, and if necessary be corrected, and signed in open Court by the County Judge. Each Special Judge shall sign the Minutes of such proceedings as were had before him; provided the Probate Minutes of said Court shall be approved and signed by the presiding Judge on the first day of each month, except, however, that if the first day of the month falls on a Sunday, then such approval shall be entered on the preceding day.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., 1st C.S., p. 107, ch. 48, § 3; Acts 1939, 46th Leg., p. 188, § 1.]

Art. 1966. Seal of the Court

Each county court shall be provided with a seal, having engraved thereon a star of five points in the center, and the words, "County Court of County, Texas," the impress of which shall be attached to all process, except subpoenas, issued out of such court, and shall be used to authenticate the official acts of the clerk and of the county judge.

[Acts 1925, S.B. 84.]

Art. 1967. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 107, ch. 48, § 4

Art. 1968. When Case is Transferred

Whenever a cause shall be transferred from the county court to the district court, the clerk shall immediately make out a transcript of all the proceedings had in said cause in the county court, and shall transmit the same, duly certified as such, together with a bill of the costs which have accrued in said court, and all the original papers in the cause, to the clerk of the district court.

[Acts 1925, S.B. 84.]

Art. 1969. Jurisdiction Taken Away

Each clerk of the county court where the civil and criminal jurisdiction, or either, of the county courts has been transferred to the district court, shall make out a certified copy of all judgments remaining unsatisfied, which have been rendered in civil or criminal cases in the county court, and transmit the same to the clerk of the district court of their respective counties.

[Acts 1925, S.B. 84.]

Art. 1969a-1. Exchange of Judges in County Courts at Law and County Criminal Courts in Counties of Over 300,000 Population

In any county in this State having a population in excess of three hundred thousand (300,000), according to the last preceding Federal Census, and in which there may be now, or at any future time, one or more county courts at law and one or more county criminal courts, the judges of such county criminal courts and such county courts at law may hold court for or with one another; to the extent necessary to enable the judge of any such county criminal court to hold court for or with the judge of any such county court at law, the same civil jurisdiction is hereby conferred on such county criminal court as now exists or may hereafter be conferred upon the county courts at law under the Constitution and laws of this State.

[Acts 1939, 46th Leg., Spec.Laws, p. 618, § 1.]

Art. 1969a-2. Judges of County Courts at Law Authorized to Act for County Judge

Sec. 1. The Judge of any County Court at Law in any county having a population of less than seven hundred thousand (700,000) inhabitants, according to the last preceding or any future Federal Census, may act for the County Judge of the county in any juvenile, lunacy, probate and condemnation proceeding or matter and also may perform for the County Judge any and all other ministerial acts required by the laws of this State of the County Judge, during the absence, inability or failure of the County Judge for any reason to perform such duties; and any and all such acts thus performed by the Judge of the County Court at Law, while acting for the County Judge, shall be valid and binding upon all parties to such proceedings or matters the same as if performed by the County Judge. Provided that the powers thus given the Judges of the County Courts at Law of this State shall extend to and include all powers of the County Judge except his powers and duties in connection with the transaction of the business of the County, as presiding officer of the Commissioners Court and as the budget officer for the Commissioners Court.

Sec. 2. The absence, inability or failure of the County Judge to perform any of the duties hereinabove set forth shall be certified by the County Judge or the Commissioners Court to the Judge of any such County Court at Law, and when such certification is for the purpose of conferring powers to do some judicial act, such certificate shall be spread upon the minutes of the appropriate Court.

Sec. 3. Notwithstanding the additional powers and duties conferred upon the Judges of the County Courts at Law of this State no additional compensation or salary shall be paid to them, but the compensation or salary of such Judges of the County Courts at Law shall remain the same as now, or as may be hereafter fixed by law.

Sec. 4. It is not intended by this Act to repeal any law providing for the election and/or appointment of a special County Judge, but this Act shall be cumulative of, and in addition to such law or laws.

Sec. 5. If any part, section, subsection, paragraph, sentence, clause, phrase or word of this Act shall be held by the Courts to be unconstitutional or invalid, such holding shall not in any manner affect the validity of the remaining portions of this Act.

[Acts 1951, 52nd Leg., p. 601, ch. 355. Amended by Acts 1961, 57th Leg., p. 494, ch. 236, § 1.]

Art. 1969a-3. County Judges, Acting for Judge of County Court at Law

Sec. 1. The County Judge of any county in this State having a population of five hundred thousand (500,000) inhabitants or more, according to the last preceding or any future Federal Census, if such County Judge is a duly licensed attorney at law, may act for the judge of any County Court at Law of such counties in any case, civil or criminal, and also in any matter and proceeding of which such County Court at Law may now or hereafter have jurisdiction, during the absence or inability of the Judge of the County Court at Law to perform such duties.

Sec. 2. The absence or inability of the Judge of the County Court at Law to perform any of the duties set forth in Section 1 shall be certified by the Judge of the County Court at Law or the Commissioners Court to the County Judge and when such certification is for the purpose of conferring powers to perform some judicial act, such certificate shall be spread on the minutes of the appropriate court.

Sec. 3. That any act performed pursuant to this Act by the County Judge for the Judge of the County Court at Law shall be valid and binding upon all parties to such proceeding and matters the same as if performed by the Judge of the County Court at Law.

Sec. 4. Notwithstanding the additional duties herein conferred upon the County Judge, he shall not be entitled to, nor shall he receive, any additional compensation for performing such additional duties and services and his compensation shall remain the same as now or may hereafter be set by law.

Sec. 5. It is not intended by this Act to repeal any law providing for the election or appointment of a special judge of any County Court at Law, and this Act shall be cumulative of and in addition to such law.

[Acts 1955, 54th leg., p. 520, ch. 156.]

Section 6 of Acts 1955, 54th Leg., p. 520, ch. 156 was a separability clause.

Art. 1969b. Assignment of Judges of Statutory Probate Courts

Application

Sec. 1. This Act applies to the assignment of a judge of a statutory probate court.

Definition

Sec. 2. "Statutory probate court" has the meaning given that term by Section 3, Texas Probate Code.

Presiding Judge of Statutory Probate Courts

Sec. 3. The judges of the statutory probate courts shall elect from their number a presiding judge of the statutory probate courts.

Term

Sec. 4. The presiding judge serves for a term of four years from the date of qualification as the presiding judge.

Facilities

Sec. 5. The commissioners court of the county in which the presiding judge resides shall provide adequate quarters in the county courthouse for the operations of the presiding judge and for the preservation of records related to the presiding judge's office.

Assistant Presiding Judge

Sec. 6. The presiding judge shall appoint an assistant presiding judge of statutory probate courts. The assistant presiding judge may assign probate judges as provided by this Act and perform the duties of the office of presiding judge:

(1) on the death or resignation of the residing judge and until a successor presiding judge is elected;

(2) when the presiding judge is unable to perform the duties of the office for a period of time because of absence, disabling illness, or other incapacity; and

(3) in a particular matter if the presiding judge disqualifies himself from performing the duties of presiding judge in that matter.

Assignment of Judges

Sec. 7. Judges may be assigned in the manner provided by this Act to hold court in a constitutional county court, statutory probate court, county court at law exercising probate jurisdiction, or any statutory court exercising probate jurisdiction when:

(1) the regular judge requests assignment of another judge to his court;

(2) the regular judge is absent or is disabled or disqualified for any cause;

(3) the regular judge is present or is trying cases as authorized by the constitution and laws of this state; or

(4) the office of the regular judge is vacant by reason of death, resignation, or other cause.

Judges Subject to Assignment

Sec. 8. A judge or retired judge of a statutory probate court may be assigned as provided by this Act by the presiding judge.

Meetings

Sec. 9. (a) The presiding judge shall call and preside over an annual meeting of the judges of the statutory probate courts on a date and at a time and place in this state designated by the presiding judge.

(b) The presiding judge of the statutory probate courts may call and convene additional meetings of the judges of the statutory probate courts that he considers necessary for the promotion of the orderly and efficient administration of justice.

(c) At the meeting, the judges shall:

(1) study the statistics reflecting the condition of the dockets of the probate courts of the state to determine the need for the assignment of judges under this Act; and

(2) compare the local rules of court to achieve the uniformity of rules that is practical and consistent with local conditions.

(d) The expenses of a judge attending these meetings shall be paid as provided by Section 13 of this Act.

Jurisdiction, Powers, and Duties of Assigned Judge

Sec. 10. A judge assigned as provided by this Act has the jurisdiction, powers, and duties given by Sections 5 and 5A, Texas Probate Code, to the regular judge of the court to which he is assigned.

Compensation and Expenses

Sec. 11. (a) Except as provided by this Act, the salary, compensation, and expenses of a judge while assigned under this Act shall be paid in accordance with state law.

(b) The daily compensation of a retired judge for purposes of this Act shall be set at an amount equal to $\frac{1}{365}$ th of the annual salary of a judge of a statutory probate court in the county in which the assigned judge served immediately preceding his retirement.

(c) While assigned under this Act, a judge shall receive reasonable and necessary expenses for travel, lodging, and food. The assigned judge shall furnish the presiding judge, for certification, an accounting of those expenses with a statement of the number of days the judge served.

(d) The presiding judge shall certify to the county judge in the county in which the assigned judge served:

(1) the actual expenses approved under Subsection (c) of this Act; and

(2) a determination of the assigned judge's salary.

(e) The county in which the assigned judge served shall pay out of the general fund of the county:

(1) actual expenses certified under Subsection (c) of this Act to the assigned judge; and

(2) the salary certified under Subsection (c) of this Act to the county in which the assigned judge serves, or if the assigned judge is retired, to the assigned judge.

Per Diem

Sec. 12. In addition to all compensation and expenses authorized by this Act and other law, a judge who is assigned to a court outside the county of the judge's residence is entitled to receive \$25 for each day or fraction of a day served. The county in which the judge served shall pay the compensation from the general fund of the county on certification of the presiding judge of the statutory probate courts.

Expenses at Meetings

Sec. 13. When required to attend an annual or special meeting prescribed by this Act, a judge, in addition to all other compensation allowed by law, shall receive his actual and necessary travel expenses going to and returning from the place of the meeting and his actual and necessary expenses while attending the meeting. On certification by the presiding judge, the judge's county of residence shall pay the expenses from the general fund of the county.

Effective Date

Sec. 14. This Act becomes effective only if a constitutional amendment authorizing the legislature to enact laws providing for assignment of judges of statutory courts to other statutory county courts with probate jurisdiction and to county courts is proposed by the 68th Legislature and adopted by the voters. This Act is effective on the date the amendment becomes a part of the Texas Constitution.

[Acts 1983, 68th Leg., p. 4603, ch. 781.]

Acts 1983, 68th Leg., p. 6719, H.J.R. No. 70, proposing the addition of Const. Art. 5, § 16a, which authorized the legislature to provide by law for a system for judges of statutory probate courts with probate jurisdiction to hold court in any county for any other statutory court judge with probate jurisdiction or for a judge of constitutional county court was approved by the voters at an election held November 8, 1983.

Art. 1970. County Courts at Law

All county courts at law and all similar courts by whatever name known, which now exist, shall be

continued in force, together with their organization, jurisdiction, duties, powers, procedure and emoluments that now exist by law, until otherwise changed by law.

[Acts 1925, S.B. 84.]

Art. 1970a. Amount in Controversy

All county courts at law, county civil courts, and other statutory courts exercising civil jurisdiction corresponding to the constitutional jurisdiction of the county court in civil cases shall have jurisdiction concurrent with that of the district court when the matter in controversy shall exceed in value Five Hundred Dollars (\$500) and shall not exceed Five Thousand Dollars (\$5,000) exclusive of interest.

[Acts 1971, 62nd Leg., p. 2814, ch. 915, § 1, eff. June 15, 1971.]

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

DALLAS COUNTY

Art. 1970-1. Creation

There is hereby created a court to be held in Dallas county, to be called the "County Court of Dallas County, at Law."¹

[Acts 1907, p. 115, § 1.]

¹Name of County Court of Dallas County at Law changed to "County Court of Dallas County, at Law No. 1," see art. 1970-2.

Art. 1970-2. Name of County Court of Dallas County at Law Changed

The County Court of Dallas County at Law shall hereafter be known and designated as the County Court of Dallas County at Law No. 1. The judge and all officers of the County Court of Dallas County at Law shall continue as such respective officers of the County Court of Dallas County at Law No. 1, and all of the jurisdiction and powers of the County Court of Dallas County at Law and of the judges thereof, shall be preserved and continued as the County Court of Dallas County at Law No. 1. No change in the organization of the County Court of Dallas County at Law is effected hereby except the change of name, nor shall this section in any way effect¹ any case pending in said court. All process issued out of the County Court of Dallas County at Law before this Act takes effect, and all bonds executed and recognizances entered of record in said court shall bind the parties for their appearance or to fulfil the obligation of such bonds and recognizances in the County Court of Dallas County at Law and the acts of the judge thereof, shall be as valid and binding as before this Act takes effect, and remain unaffected thereby. All pleadings, process, writs, bonds and recognizances in the County Court of Dallas County at Law may be amended at

any time under the direction of the judge, to conform to this change in name.

[Acts 1923, 38th Leg., ch. 24, § 1.]

¹So in enrolled bill. Should probably read "affect".

Art. 1970-3. Jurisdiction of Said Court

The County Court of Dallas County at Law¹ shall have original and concurrent jurisdiction with the County Court of Dallas County in all matters and causes, civil and criminal, original and appellate, over which, by the general laws of the State, county courts have jurisdiction, except as provided in Section 3 of this Act;² but this provision shall not affect jurisdiction of the commissioners court, or of the county judge of Dallas county as the presiding officer of such commissioners court, as to roads, bridges, and public highways, and matters of eminent domain which are now within the jurisdiction of the commissioners court or the judge thereof.

[Acts 1907, p. 115, § 2; Acts 1917, ch. 115, § 1.]

¹Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

²Article 1970-4.

Art. 1970-4. Jurisdiction Retained by County Court of Dallas County

The County Court of Dallas County shall retain, as heretofore, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by law; and the said court, or the judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said court; and also to punish contempts under such provisions as are or may be provided by general law governing county courts throughout the State. The county judge of Dallas county shall be the judge of the County Court of Dallas County. All ex officio duties of the county judge shall be exercised by the said judge of the County Court of Dallas County except in so far as the same shall, by this Act, be committed to the judge of the County Court of Dallas County, at Law.¹

[Acts 1907, p. 115, § 3; Acts 1917, ch. 115, § 2.]

¹Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-5. Terms of County Court of Dallas County, at Law; Practice, etc.

The terms¹ of the county court of Dallas county, at law,² and the practice therein, and appeals and writs of error therefrom, shall be as prescribed by laws relating to county courts. The terms of the

county court of Dallas county, at law, shall be held as now established for the terms of the county court of Dallas county, until the same may be changed in accordance with the law.

[Acts 1907, p. 115, § 4.]

¹ Terms of court. See article 1970-28.

² Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-6. Judge to be Elected, When, etc., Qualifications; Term

There shall be elected in said county, by the qualified voters thereof, at each general election, a judge of the county court of Dallas county, at law,¹ who shall be well informed in the laws of the State, who shall hold his office for two years, and until his successor shall have duly qualified.

[Acts 1907, p. 115, § 5.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-7. Bond and Oath of Judge

The judge of the county court of Dallas county, at law,¹ shall execute a bond² and take the oath of office as required by the law relating to county judges.

[Acts 1907, p. 115, § 6.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

² Provision for bond superseded by article 1970-30.

Art. 1970-8. Special Judge Elected or Appointed, How

A special judge of the county court of Dallas county, at law,¹ may be appointed or elected as provided by laws relating to county courts and to the judges thereof.

[Acts 1907, p. 115, § 7.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-9. May Issue Writs

The county court of Dallas county, at law,¹ or the judges thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari and supersedeas, and all writs necessary to the enforcement of the jurisdiction of said court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said court, or of any other court or tribunal inferior to said court.

[Acts 1907, p. 115, § 8.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-10. Clerk of; Seal; Sheriff to Attend When, etc.

The county clerk of Dallas county shall be the clerk of the county court of Dallas county, at law.¹ The seal of the said court shall be the same as that provided by law for county courts, except that the

seal shall contain the words "County Court of Dallas County, at Law;" the sheriff of Dallas county shall, in person or by deputy, attend the said court when required by the judge thereof.

[Acts 1907, p. 115, § 9.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-11. Appointment of Jury Commissioners; Selection, etc., of Juries

The jurisdiction and authority now vested by law in the county court for the appointment of jury commissioners and the selection and service of jurors, shall be exercised by the county court of Dallas county, at law.¹

[Acts 1907, p. 115, § 10.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-12. Vacancy in Office of Judge, How Filled

Any vacancy in the office of the judge of the county court of Dallas county, at law,¹ may be filled by the commissioners' court of Dallas county until the next general election.

[Acts 1907, p. 115, § 11.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-13. Fees and Salary of Judge

The judge of the county court of Dallas county, at law,¹ shall collect the same fees as are now established by law relating to county judges, all of which shall be by him paid monthly into the county treasury, and he shall receive an annual salary of three thousand dollars per annum,² payable monthly, to be paid out of the county treasury by the commissioners' court.

[Acts 1907, p. 115, § 12.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

² Now \$5,000. See article 1970-31. See, also, article 1970-30, relative to fees.

Art. 1970-14. Salary of County Judge of Dallas County

The county judge of Dallas county shall hereafter receive from the county treasury, in addition to the fees allowed him by law, such a salary, for the ex-officio duties of his office, as may be allowed him by the commissioners' court, not less than twelve hundred dollars per year.

[Acts 1907, p. 115, § 13.]

Art. 1970-15. County Court of Dallas County, at Law, No. 2, Created

There is hereby created a court to be held in Dallas county, Texas, to be known and designated

as the "County Court of Dallas County, at Law, No. 2."

[Acts 1917, ch. 101, § 1.]

Art. 1970-16. Jurisdiction

The County Court of Dallas County at Law, No. 2, shall have exclusive concurrent civil and criminal jurisdiction of all cases, original and appellate, over which by the laws of the State of Texas, the existing County Court of Dallas County at Law,¹ of Dallas county, Texas, would have original and appellate jurisdiction; provided all civil and criminal cases appealed from the several justice's courts of Dallas county shall be by the county clerk, filed in the County Court of Dallas County, at Law, and the County Court of Dallas County, at Law, No. 2, alternately as said appealed cases are received by said clerk from the several justices of the peace in said county, except in cases wherein the judge of either of said courts, at law, has granted the writ of certiorari, in which case the same shall be docketed in the court so granting said writ, and shall not be transferred from said court.

[Acts 1917, ch. 101, § 2.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-17. Courts How Designated; Transfer of Cases

The County Court of Dallas County at Law¹ shall be known and designated as the "A" Court and the County Court of Dallas County at Law, No. 2, shall be known and designated as the "B" Court. The county clerk shall number consecutively all cases filed in said courts, affixing immediately following the number of all cases falling in the County Court of Dallas County, at Law, the letter "A," and immediately following the number of all cases falling in the County Court of Dallas County, at Law, No. 2, the letter "B," and he shall make up the trial docket of each of said courts with respect to said numbers. The judge of either of said courts shall have the power to transfer to the other court any case pending upon the docket of his court, except in cases where the writ of certiorari has been granted; provided there shall never be transferred from the docket of one of said courts to that of the other a sufficient number of cases to reduce the number of cases on the docket of the court from which said case was transferred to a less number than the number of cases pending upon the docket of the court to which the same is transferred, without the consent of the judge to which said case is transferred. It shall be the duty of the judge to whose court said case is transferred to receive and try the case, and he shall not have the power to retransfer the same back to the court from which it came except he be disqualified to try the same, in which case it shall be his duty to retransfer the said case.

[Acts 1917, ch. 101, § 3.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-18. Jurisdiction of Other County Courts

Nothing in this Act shall be construed as in anywise altering or changing the present jurisdiction provided by law of the County Court of Dallas County, at Law,¹ nor of the County Court of Dallas County, except that the jurisdiction of the County Court of Dallas County at Law, is hereby made concurrent with the jurisdiction of the County Court of Dallas County, at Law, No. 2, as relates to the civil and criminal jurisdiction of said County Court of Dallas County at Law, as prescribed by the laws of the State of Texas.

[Acts 1917, ch. 101, § 4.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-19. Power to Issue Writs

The said County Court of Dallas County, at Law, No. 2, or the judge thereof, shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas, and all other writs and process necessary to the enforcement of its jurisdiction; and also power to punish for contempts under such provisions as are or may be provided by the general laws governing county courts throughout the State.

[Acts 1917, ch. 101, § 5.]

Art. 1970-20. Terms of Court

The terms¹ of the County Court of Dallas County, at Law, No. 2, and the practice therein and appeals and writs of error therefrom, shall be as prescribed by the law relating to the county courts. The terms¹ of the County Court of Dallas County, at Law, No. 2, shall be held five times each year on the second Monday in January, March, May, September and November, and each term of said court shall extend over a period of two months; provided, further there shall be a term of said court convened by the judge thereof not later than two weeks after he has qualified as such, as provided by law, and such term when so convened, shall continue until the beginning of the ensuing term, as provided herein.

[Acts 1917, ch. 101, § 6.]

¹ As to terms of court, see article 1970-28.

Art. 1970-21. Judge; Qualifications; Salary

There shall be elected in said county by the duly qualified voters thereof at each general election a judge of the County Court of Dallas County, at Law, No. 2, who shall be a licensed attorney in this State, well informed in the laws of the State, who shall have resided in, and been actively engaged in the practice of law in Dallas county for a period of not less than four years prior to such general election, who shall hold his office for two years and until his successor shall be duly qualified. The judge of said court shall receive a salary of three thousand (\$3,000.00) dollars per annum,¹ payable

monthly out of the county treasury by the commissioners' court.

[Acts 1917, ch. 101, § 7.]

¹ Now \$5,000. See article 1970-31.

Art. 1970-22. Special Judge

A special judge of the County Court of Dallas County, at Law, No. 2, may be appointed or elected as provided for by the laws relating to county courts and the judges thereof.

[Acts 1917, ch. 101, § 8.]

Art. 1970-23. Jurors

The jurisdiction and authority now vested by law in the county court for the appointment of jury commissioners and the selection and service of jurors shall be exercised by the County Court of Dallas County, at Law, No. 2.

[Acts 1917, ch. 101, § 9.]

Art. 1970-24. Vacancy

Any vacancy in the office of the County Court of Dallas County, at Law, No. 2, shall be filled by the commissioners' court of Dallas county until the next regular election.

[Acts 1917, ch. 101, § 10.]

Art. 1970-25. Transfer of Cases

It shall be the duty of the judge of the County Court of Dallas County, at Law,¹ to immediately transfer from the docket of the County Court of Dallas County, at Law, to the docket of the County Court of Dallas County, at Law, No. 2, one-half of the civil cases pending upon said docket, which shall be done by beginning with the oldest case pending upon the docket of his court and transferring every second case without reference to whether any particular case be pending upon the jury or non-jury docket of said court.

[Acts 1917, ch. 101, § 12.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-26. Qualifications of Judges

The judge of the County Court of Dallas County at Law No. 1 and the judge of the County Court of Dallas County at Law No. 2, shall each be a licensed attorney, well informed in the law, who shall have resided in and been actively engaged in the practice of law in Dallas County, or been judge of a court therein, for a period of at least four years prior to the general election at which he is elected.

[Acts 1923, 38th Leg., ch. 24, § 2.]

Art. 1970-27. Holding Court For or With Other Judge

The judge of the County Court of Dallas County at Law No. 1, and the judge of the County Court of

Dallas County at Law No. 2, may hold court for or with one another.

[Acts 1923, 38th Leg., ch. 24, § 3.]

Art. 1970-28. Terms of Court

The terms of the County Court of Dallas County at Law No. 1, shall be held six times each year, on the first Monday in January, March, May, July, September and November and each term shall continue to the commencement of the following term. The terms of the County Court of Dallas County at Law No. 2, shall be held six times each year on the first Monday in February, April, June, August, October and December, and each term shall continue to the commencement of the following term.

[Acts 1923, 38th Leg., ch. 24, § 4.]

Art. 1970-29. Current Term of County Court at Law No. 2; Effect of Change of Terms

The term of the County Court of Dallas County at Law No. 2, current at the time of the taking effect of this Act, shall continue until the commencement of the following term as fixed by this Act. All process issued out of said court before this Act takes effect is hereby made returnable to the terms of this court as fixed by this Act. All bonds heretofore executed and recognizances entered of record in said court shall bind the parties for their appearance or to fulfil the obligation of such bonds and recognizances at the terms of the said court as fixed by this Act. All process heretofore returned, as well as all bonds, and recognizances heretofore taken in this court, and all judgments, writs and decrees thereof, shall be as valid as if no change had been made in the time of the holdings of this court.

[Acts 1923, 38th Leg., ch. 24, § 5.]

Art. 1970-30. Oath of Office; Bond; Fees

The judge of the County Court of Dallas¹ at Law No. 1, and the judge of the County Court of Dallas County at Law No. 2, shall each take the oath of office prescribed by the law relating to county judges, but no bond shall be required of them. They shall be enabled to collect the same fees as are stipulated by law relating to county judges, all of which shall be collected by the county clerk of Dallas County, paid by him monthly into the county treasury of Dallas County, in accordance with the orders of the commissioners' court.

[Acts 1923, 38th Leg., ch. 24, § 6.]

¹ So in enrolled bill. Word "County" should probably be inserted.

Art. 1970-31. Salaries of Judges of County Courts at Law

The Judge of the County Court of Dallas County at Law No. 1 and the Judge of the County Court of Dallas County at Law No. 2 shall each receive a salary of Five Thousand Dollars (\$5,000.00) per annum, payable monthly, out of the Treasury of Dal-

las County, under the orders of the Commissioners' Court and said Judges shall devote their entire time to the duties of their offices, and shall not engage in the practice of law while in office.

[Acts 1923, 38th Leg., ch. 176, § 1. Amended by Acts 1929, 41st leg., 1st C.S., p. 60, ch. 26, § 1.]

Art. 1970-31.1. County Courts of Dallas County at Law Nos. 3 and 4

Sec. 1. There are hereby created two (2) County Courts to be held in Dallas County, Texas, to be known as and designated as "County Court of Dallas County at Law Number 3" and "County Court of Dallas County at Law Number 4," and the seal of said Courts shall be the same as provided by law for County Courts except the seal shall contain the words "County Court of Dallas County at Law Number 3" and "County Court of Dallas County at Law Number 4."

Sec. 2. The Courts hereby created shall have exclusive, concurrent civil jurisdiction of all cases, original and appellate, over which by the laws of the State of Texas the existing County Court of Dallas County at Law Number 1 and County Court of Dallas County at Law Number 2 have original and appellate jurisdiction; in addition thereto, it is hereby specifically provided that the County Court of Dallas County at Law Number 1, the County Court of Dallas County at Law Number 2, the County Court of Dallas County at Law Number 3, and the County Court of Dallas County at Law Number 4 shall have concurrent and coextensive and equal jurisdiction over all civil, administrative and ministerial acts and over the filing and disposition of all proceedings in eminent domain matters; provided that the Judge of any County Court at Law of Dallas County may sit for the Judge of any other County Court at Law of Dallas County when such Judge is unavailable for the performing of any of the administrative acts in connection with eminent domain proceedings, but the performing of the same shall not transfer the cause or proceedings from the Court for which the act was performed; provided all civil cases appealed from the several Justice Courts of Dallas County shall be by the County Clerk filed in the several County Courts of Dallas County at Law consecutively as said appealed cases are received by said Clerk from the several Justices of the Peace in said County, except in cases wherein the Judge of either of said County Courts at Law has granted a writ of certiorari, in which case the same shall be docketed in the Court so granting said writ and shall not be transferred from said Court.

Sec. 3. The County Court of Dallas County at Law Number 3 shall be known and designated as the "C" Court and the County Court of Dallas County at Law Number 4 shall be known and designated as the "D" Court. The County Clerk shall number consecutively all cases filed in the County Courts of Dallas County at Law affixing immediately following the number of all cases the letter A, B, C or D, according to which County Court at Law of

Dallas County said case is assigned, and each case so filed shall be filed in rotation in each of the County Courts of Dallas County at Law with the letter designation being used to denote the Court in which the case is filed. The Judge of either of said County Courts of Dallas County at Law shall have the power to transfer to any of the other of said Courts any case pending upon the docket of said Court except where a writ of certiorari has been granted; provided that such cases so transferred shall be for the purpose of equalizing the dockets of each of said County Courts of Dallas County at Law and each of the Judges of said Courts shall together at least once a year, transfer cases from one to the other in order to equalize said dockets.

Sec. 4. All of the County Courts of Dallas County at Law and the respective Judges thereof shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, super-sedeas and all other writs and processes necessary to the enforcement of their jurisdiction, and also power to punish for contempt under such provisions as are or may be provided by the General Laws governing county courts throughout the State.

Sec. 5. The terms of the County Court of Dallas County at Law Number 3 shall be held six (6) times each year on the first Monday in January, March, May, July, September and November, and each term shall continue until the business is disposed of. The terms of the County Court of Dallas County at Law Number 4 shall be held six (6) times each year on the first Monday in February, April, June, August, October and December, and each term shall continue until the business is disposed of.

Sec. 6. The Judge of the County Court of Dallas County at Law Number 3 and the Judge of the County Court of Dallas County at Law Number 4, shall be a licensed attorney in this State and informed in the laws of the State, who shall have resided in and actively engaged in the practice of law in Dallas County for a period of not less than four (4) years prior to the general election, and such Judge shall hold his office for four (4) years and until his successor shall be duly qualified. The Judges of said Courts shall receive the same salary now provided by law or hereafter provided by law to be paid to the Judges of other County Courts of Dallas County at Law. As soon as possible after the effective date of this Act, the Commissioners Court of Dallas County shall appoint a Judge to each of said Courts to function on the same date, who shall hold office until January 1st following the next general election or until his successor shall be duly qualified. The successor shall hold office for a period of four (4) years.

Sec. 7. It shall be the duty of the Judges of the County Court of Dallas County at Law Number 1 and the County Court of Dallas County at Law Number 2 to immediately transfer from their dockets one half (½) of the civil cases pending upon said dockets to the Courts hereby created, which shall be

done by beginning with the oldest case pending upon the docket of said Courts and transferring every second case without reference to whether any particular case be pending upon the jury or nonjury docket of said Courts.

Sec. 8. In case of disqualification, an overcrowded docket, sickness or absence from the County of any of the Judges of the County Courts of Dallas County at Law Number 1, Number 2, Number 3 or Number 4, any other Judge of said Courts may exchange benches with said Judge, and when so exchanging benches with any of the other Judges of the County Courts at Law shall have all of the power and jurisdiction of the Court and Judge for whom he is sitting while so exchanging benches, and may sign orders, judgments and decrees or other process of any kind as "Judge Presiding" when acting for such disqualified or absent Judge upon request, or in an emergency without request, or for any other good cause shown. This shall be in addition to the provisions hereinabove made for performing administrative matters for each other.

Sec. 9. Except as herein otherwise provided, all laws applicable to County Court of Dallas County at Law Number 1 and County Court of Dallas County at Law Number 2 shall be applicable to County Court of Dallas County at Law Number 3 and County Court of Dallas County at Law Number 4. [Acts 1963, 58th Leg., p. 720, ch. 263.]

Art. 1970-31.2. County Court of Dallas County at Law No. 5

Sec. 1. On January 1, 1979, there is created a county court to be held in Dallas County to be known as "County Court of Dallas County at Law No. 5." The seal of the court shall be the same as provided by law for county courts, except the seal shall contain the words "County Court of Dallas County at Law No. 5."

Sec. 2. The court hereby created shall have exclusive, concurrent civil jurisdiction of all cases, original and appellate, over which by the laws of the State of Texas the existing County Courts of Dallas County at Law Nos. 1, 2, 3, and 4 have original and appellate jurisdiction. In addition thereto, it is specifically provided that the County Courts of Dallas County at Law Nos. 1, 2, 3, 4, and 5 shall have concurrent and coextensive and equal jurisdiction over all civil, administrative, and ministerial acts and over the filing and disposition of all proceedings in eminent domain matters. The judge of any county court at law of Dallas County may sit for the judge of any other county court at law of Dallas County when such judge is unavailable for the performing of any of the administrative acts in connection with eminent domain proceedings, but the performing of the same shall not transfer the cause or proceedings from the court for which the act was performed. All civil cases appealed from the several justice courts of Dallas County shall be filed by the county clerk in the several county

courts of Dallas County at law consecutively as the appeal cases are received by the clerk from the several justices of the peace in the county, except in cases wherein the judge of any one of the county courts at law has granted a writ of certiorari, in which case the same shall be docketed in the court so granting the writ and shall not be transferred from that court.

Sec. 3. The County Court of Dallas County at Law No. 5 shall be known as the "E" Court. The county clerk shall number consecutively all cases filed in the county courts of Dallas County at law affixing immediately following the number of all cases the letter A, B, C, D, or E, according to which county court of Dallas County at law the case is assigned, and each case so filed shall be filed in rotation in each of the county courts of Dallas County at law with the letter designation being used to denote the court in which the case is filed. The judge of any one of the county courts of Dallas County at law shall have the power to transfer to any of the other of those courts any case pending on the docket of the court, except where a writ of certiorari has been granted, provided that the cases so transferred shall be for the purpose of equalizing the dockets of each of the county courts of Dallas County at law. Each of the judges of those courts shall together at least once a year transfer cases from one to another in order to equalize the dockets.

Sec. 4. All of the county courts of Dallas County at law and the respective judges thereof shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, and supersedeas and all other writs and processes necessary to the enforcement of their jurisdiction, and also power to punish for contempt under such provisions as are or may be provided by the general laws governing county courts throughout the state.

Sec. 5. The terms of the County Court of Dallas County at Law No. 5 shall be held six times each year on the first Monday in January, March, May, July, September, and November, and each term shall continue until the business is disposed of.

Sec. 6. (a) The judge of the County Court of Dallas County at Law No. 5 shall be a licensed attorney in this state, informed in the laws of the state, and shall have resided in and shall have been actively engaged in the practice of law in Dallas County for a period of not less than four years prior to his election or appointment. The commissioners court shall fix the salary of each of the judges of the county courts of Dallas County at law at not less than \$1,000 less per annum than the total annual salary, including supplements, received by judges of the district courts in Dallas County, which shall be paid in 12 equal monthly installments.

(b) At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Dallas County a judge of the court created in this Act for regular terms of four

years beginning on January 1, 1979, as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy in the office of judge shall be filled by appointment by the Commissioners Court of Dallas County, and the appointee shall hold office until the next general election and until his successor is duly elected and has qualified.

Sec. 7. After this court is created, it shall be the duty of the judges of the county courts of Dallas County at law to transfer immediately from their dockets a portion of the civil cases pending on their dockets to the court hereby created, which shall be done by beginning with the oldest case pending on the docket of each court and transferring cases without reference to whether any particular case is pending on the jury or nonjury docket of that court.

Sec. 8. In case of disqualification, an overcrowded docket, sickness, or absence from the county of any of the judges of the County Courts of Dallas County at Law Nos. 1, 2, 3, 4, and 5, any other judge of those courts may exchange benches with that judge, and, when exchanging benches with any of the other judges of the county courts at law, shall have all of the power and jurisdiction of the court and judge for whom he is sitting while exchanging benches and may sign orders, judgments, and decrees or other process of any kind as "Judge Presiding" when acting for a disqualified or absent judge on request, or in an emergency without request, or for any other good cause shown. This authority is in addition to the provisions hereinabove made for performing administrative matters for each other.

Sec. 9. Except as otherwise provided in this Act, all laws applicable to County Courts of Dallas County at Law Nos. 1, 2, 3, and 4 shall be applicable to County Court of Dallas County at Law No. 5.

[Acts 1977, 65th Leg., p. 1730, ch. 690, eff. Aug. 29, 1977.]

Art. 1970-31.10. County Criminal Court of Dallas County, Creation, Jurisdiction, etc.

Sec. 1. There shall be created a court to be held in Dallas County, Texas, to be known and designated as "The County Criminal Court of Dallas, County, Texas."

Sec. 2. The county criminal court of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and laws of Texas, except as provided in Section Three of this Act.

Sec. 3. The county court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis,

and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The county judge of Dallas County shall be the judge of the county court of Dallas County, Texas, and all ex-officio duties of the county judge shall be exercised by the said judge of the said county court, except as in so far as the same shall, by this Act, be committed to the judge of the county criminal court of Dallas County, Texas; and except such as have heretofore been conferred upon the judges of the County Court at Law, Number One, and the County Court at Law, Number Two, of Dallas County, Texas.

Sec. 4. The county criminal court of Dallas County, Texas, or the judge thereof shall have the power of [to] issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing county courts throughout the State.

Sec. 5. The terms of the county criminal court of Dallas County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of said county criminal court shall be held not less than four times each year and the commissioners' court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

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

Sec. 7. The judge of the county court of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 8. A special judge of the county criminal court of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the county criminal court of Dallas County, Texas, the seal of said court shall be the same as provided for county courts except that the seal shall contain the words "The county criminal court, Dallas County, Texas." The sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the judge thereof. The Judge of the County Criminal Court of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 10. The Judge of the County Criminal Court of Dallas County, Texas, shall collect the same fee provided by law for County Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said Court shall receive a salary of Five Thousand Dollars, (\$5,000.00) annually, to be paid monthly out of the County Treasury by the Commissioners' Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

Sec. 11. The judge of the county criminal court of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county judge may be removed under the laws of this State.

Sec. 12. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the county criminal court of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the general laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3.00) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3.00), when collected to be paid into the County Treasury of Dallas County, Texas.

Sec. 13. As soon as may be, after this Act takes effect, the clerk of the County Court of Law Number One of Dallas County, Texas, and the County Court at Law Number Two, shall transfer to the docket of the County Criminal Court of Dallas County, Texas, hereby created, all of the criminal cases then pending in the County Courts at Law Number One and Number Two of Dallas County, Texas. The clerk shall note such transfer when made on the minutes of the County Courts at Law Number One and Number Two of Dallas County, Texas.

[Acts 1927, 40th Leg., p. 36, ch. 25. Amended by Acts 1929, 41st Leg., 1st C.S., p. 61, ch. 27; Acts 1975, 64th Leg., p. 1348, ch. 507, § 1, eff. Sept. 1, 1975.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1970-31.11. County Criminal Court No. 2 of Dallas County

Sec. 1. There shall be created a court to be held in Dallas County, Texas, to be known and designated as "The County Criminal Court No. 2 of Dallas County, Texas."

Sec. 2. The County Criminal Court No. 2 of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The county Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county Judge shall be exercised by the said Judge of the said County Court, except as in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court No. 2 of Dallas County, Texas; and except such as have heretofore been conferred upon the Judges of the County Court at Law, Number One, and the County Court at Law, Number Two, of Dallas County, Texas.

Sec. 4. The County Criminal Court, Number Two, of Dallas County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is

within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the State.

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

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

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

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

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Two, Dallas County, Texas." The sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof. The Judge of the County Criminal Court Number Two of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 10. The Judge of the County Criminal Court, Number Two, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the

Judge of said court shall receive a salary as fixed by the Commissioners Court not to exceed Eight Thousand, Three Hundred Dollars (\$8,300) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

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

Sec. 12. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court, Number Two, of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3), when collected, to be paid into the County Treasury of Dallas County, Texas.

Sec. 13. As soon as may be after this Act takes effect the clerk of the County Criminal Court, Number One, of Dallas County, Texas, may transfer to the docket of the County Criminal Court, Number Two, of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Dallas County, Texas, and thereafter the Judge of either of said courts may in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered in the minutes of his court, and the Judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

[Acts 1951, 52nd Leg., p. 52, ch. 32. Amended by Acts 1975, 64th Leg., p. 1348, ch. 507, § 2, eff. Sept. 1, 1975.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1970-31.12. County Criminal Court No. 3 of Dallas County

Sec. 1. There shall be created a court to be held in Dallas County, Texas, to be known and designated as "The County Criminal Court No. 3 of Dallas County, Texas."

Sec. 2. The County Criminal Court No. 3 of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county Judge shall be exercised by the said Judge of the said County Court, except as in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court No. 3 of Dallas County, Texas; and except such as have heretofore been conferred upon the Judges of the County Court at Law, Number One, and the County Court at Law, Number Two, of Dallas County, Texas.

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

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

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the Commis-

sioners Court of Dallas County in accordance with the law, a Judge of the County Criminal Court, Number Three, hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said court elected at any General Election shall hold office for two (2) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a Judge of a court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Dallas for two (2) years next preceding his appointment or election.

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

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

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court, Number Three, of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Three, Dallas County, Texas." The sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof. The Judge of the County Criminal Court Number Three of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 10. The Judge of the County Criminal Court, Number Three, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court of not less than Eight Thousand, Two Hundred Dollars (\$8,200) nor more than Ten Thousand, Six Hundred Dollars (\$10,600) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

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

Sec. 12. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal

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

Sec. 13. As soon as may be after this Act takes effect the clerk of the County Criminal Court, Number One, of Dallas County, Texas, and the clerk of the County Criminal Court, Number Two, of Dallas County, Texas, may transfer to the docket of the County Criminal Court, Number Three, of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court, Number One, of Dallas County, Texas, and the County Criminal Court, Number Two, of Dallas County, Texas, and thereafter the Judge of either of said courts may be in his discretion transfer any cause or causes that may at any time be pending in his court to the other courts by an order or orders entered in the minutes of his court, and the Judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

Sec. 13-A. The Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas County, Texas, and the Judge of County Criminal Court No. 3 of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

[Acts 1954, 53rd Leg., 1st C.S., p. 100, ch. 49. Amended by Acts 1959, 56th Leg., 2nd C.S., p. 84, ch. 2, § 1; Acts 1975, 64th Leg., p. 1349, ch. 507, § 3, eff. Sept. 1, 1975.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1970-31.13. County Criminal Court No. 4 of Dallas County

Sec. 1. There is hereby created a court to be held in Dallas County, Texas, to be known and

designated as "County Criminal Court Number Four of Dallas County, Texas."

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

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore its jurisdiction as a juvenile court and the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians. The county judge of Dallas County shall be the judge of the County Court of Dallas County, Texas, and all ex officio duties of the county judge shall be exercised by the said judge of the said county court, except insofar as the same shall, by this Act, be committed to the judge of the County Criminal Court Number Four of Dallas County, Texas; and except such as have heretofore been conferred upon the judges of the county courts at law of Dallas County, Texas.

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

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

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a judge of the county criminal court number four, hereby created, who shall be well informed in the laws of the state and who shall hold his office until the next succeeding general election and until his successor shall have duly qualified. The judge of said court elected at any general election shall hold office for four years and until his successor shall have duly qualified; provided, that no person shall be eligible for judge of said court unless he shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of

this state or a judge of a court in said state for four years next preceding his appointment or election, and who shall have resided in the county of Dallas for two years next preceding his appointment or election.

Sec. 7. The judge of the County Criminal Court Number Four of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 8. A special judge of the County Criminal Court Number Four of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court Number Four of Dallas County, Texas; and the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court Number Four, Dallas County, Texas." The Sheriff of Dallas County, Texas, shall, in person or by deputy, attend said court when required by the judge thereof. The Judge of the County Criminal Court Number Four of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 10. The judge of the County Criminal Court Number Four of Dallas County, Texas, shall collect the same fee provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county treasury, and the judge of said court shall receive a salary as fixed by the commissioners court, which shall be the same salary fixed by the commissioners court for the judges of the other county criminal courts of Dallas County, Texas, the same to be paid monthly out of the county treasury by the commissioners court; such judge shall devote his entire time to the duties of his office and shall not engage in the practice of the law while in office.

Sec. 11. The judge of the County Criminal Court Number Four of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county judge may be removed under the laws of this state.

Sec. 12. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court Number Four of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the general laws of Texas relating to the appointment of stenographers for the district courts shall, and is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the

same oath as are in said laws provided for the stenographers of district courts of this state, and also be governed by any other laws covering the stenographers of the district courts of this state; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the judge demands it; but where the testimony is taken by said reporter a fee of \$3 shall be taxed by the clerk as costs in the case, the said \$3, when collected, to be paid into the county treasury of Dallas County, Texas.

Sec. 13. As soon as may be after this Act takes effect, the clerk of the County Criminal Court of Dallas County, Texas, and the clerk of the County Criminal Court Number Two of Dallas County, Texas, and the clerk of the County Criminal Court Number Three of Dallas County, Texas may transfer to the docket of the County Criminal Court Number Four of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court Number One of Dallas County, Texas, and the County Criminal Court Number Two of Dallas County, Texas, and the County Criminal Court Number Three of Dallas County, Texas, and thereafter the judge of either of said courts may in his discretion transfer any cause or causes that may at any time be pending in his court to the other courts by an order or orders entered in the minutes of his court, and the judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

Sec. 14. The judge of County Criminal Court of Dallas County, Texas, and the judge of County Criminal Court Number Two of Dallas County, Texas, and the judge of County Criminal Court Number Three of Dallas County, Texas, and the judge of County Criminal Court Number Four of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

[Acts 1973, 63rd Leg., p. 525, ch. 227, art. 1, eff. June 11, 1973. Amended by Acts 1975, 64th Leg., p. 1349, ch. 507, § 4, eff. Sept. 1, 1975.]

Section 15 of article 1 of the 1973 Act read:

"If any provision of the Act is held unconstitutional or invalid, such invalidity shall not affect the remaining provisions of this Act. Except as otherwise provided in this Act all laws now in effect with respect to county criminal courts of Dallas County, Texas shall apply respectively to the court created by this Act."

Art. 1970-31.14. County Criminal Court No. 5 of Dallas County

Sec. 1. There is hereby created a court to be held in Dallas County, Texas, to be known and designated as "County Criminal Court Number Five of Dallas County, Texas."

Sec. 2. The County Criminal Court Number Five of Dallas County, Texas, shall have, and the same is

hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore its jurisdiction as a juvenile court and the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians. The county judge of Dallas County shall be the judge of the County Court of Dallas County, Texas, and all ex officio duties of the county judge shall be exercised by the said judge of the said county court, except insofar as the same shall, by this Act, be committed to the judge of the County Criminal Court Number Five of Dallas County, Texas; and except such as have heretofore been conferred upon the judges of the county courts at law of Dallas County, Texas.

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

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

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a judge of the county criminal court number five, hereby created, who shall be well informed in the laws of the state and who shall hold his office until the next succeeding general election and until his successor shall have duly qualified. The judge of said court elected at any general election shall hold office for four years and until his successor shall have duly qualified; provided, that no person shall be eligible for judge of said court unless he shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state or a judge of a court in said state for four years next preceding his appointment or election, and who shall have resided in the county of Dallas

for two years next preceding his appointment or election.

Sec. 7. The judge of the County Criminal Court Number Five of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 8. A special judge of the County Criminal Court Number Five of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court Number Five of Dallas County, Texas; and the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court Number Five, Dallas County, Texas." The sheriff of Dallas County, Texas, shall, in person or by deputy, attend said court when required by the judge thereof. The Judge of the County Criminal Court Number Five of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 10. The judge of the County Criminal Court Number Five of Dallas County, Texas, shall collect the same fee provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county treasury, and the judge of said court shall receive a salary as fixed by the commissioners court, which shall be the same salary fixed by the commissioners court for the judges of the other county criminal courts of Dallas County, Texas, the same to be paid monthly out of the county treasury by the commissioners court; such judge shall devote his entire time to the duties of his office and shall not engage in the practice of the law while in office.

Sec. 11. The judge of the County Criminal Court Number Five of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county judge may be removed under the laws of this state.

Sec. 12. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court Number Five of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the general laws of Texas relating to the appointment of stenographers for the district courts shall, and is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of district courts of this state, and also be governed by any other laws covering the

stenographers of the district courts of this state; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the judge demands it; but where the testimony is taken by said reporter a fee of \$3 shall be taxed by the clerk as costs in the case, the said \$3, when collected, to be paid into the county treasury of Dallas County, Texas.

Sec. 13. As soon as may be after this Act takes effect, the clerk of the County Criminal Court of Dallas County, Texas, and the clerk of the County Criminal Court Number Two of Dallas County, Texas, and the clerk of the County Criminal Court Number Three of Dallas County, Texas may transfer to the docket of the County Criminal Court Number Five of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court Number One of Dallas County, Texas, and the County Criminal Court Number Two of Dallas County, Texas, and the County Criminal Court Number Three of Dallas County, Texas, and thereafter the judge of either of said courts may in his discretion transfer any cause or causes that may at any time be pending in his court to the other courts by an order or orders entered in the minutes of his court, and the judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

Sec. 14. The judge of County Criminal Court of Dallas County, Texas, and the judge of County Criminal Court Number Two of Dallas County, Texas, and the judge of County Criminal Court Number Three of Dallas County, Texas, and the judge of County Criminal Court Number Four of Dallas County, Texas, and the judge of County Criminal Court Number Five of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

[Acts 1973, 63rd Leg., p. 527, ch. 227, art. 2, eff. June 11, 1973. Amended by Acts 1975, 64th Leg., p. 1349, ch. 507, § 5, eff. Sept. 1, 1975.]

Section 15 of article 2 of the 1973 Act read:

"If any provision of the Act is held unconstitutional or invalid, such invalidity shall not affect the remaining provisions of this Act. Except as otherwise provided in this Act all laws now in effect with respect to county criminal courts of Dallas County, Texas shall apply respectively to the court created by this Act."

Art. 1970-31.15. County Criminal Courts Nos. 6 and 7 of Dallas County

Sec. 1. On September 1, 1977, there are created two courts to be held in Dallas County to be known and designated as the "County Criminal Court Number 6 of Dallas County, Texas," and the "County Criminal Court Number 7 of Dallas County, Texas."

Sec. 2. The County Criminal Courts Nos. 6 and 7 of Dallas County shall have and the same are vested with concurrent jurisdiction within the county of all criminal matters and causes, original and appellate, that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. Each of the County Criminal Courts Nos. 6 and 7 of Dallas County, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of that court or any court or tribunal inferior to that court and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

Sec. 4. The terms of the County Criminal Courts Nos. 6 and 7 of Dallas County and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms shall be held not less than four times each year and the Commissioners Court of Dallas County shall fix the time at which the courts shall hold their terms until the same may be changed according to law.

Sec. 5. As soon as practicable after the creation of these courts, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law a judge of each court created in this Act, who shall be well informed in the laws of the state and who shall hold his office until the next succeeding general election and until his successor shall have duly qualified. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Dallas County a judge of each of the county criminal courts of Dallas County created in this Act for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. No person shall be eligible for judge of a court created in this Act unless he shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding his appointment or election and who shall have resided in the county of Dallas for two years next preceding his appointment or election.

Sec. 6. Each judge of a court created in this Act shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 7. A special judge of each of the courts created in this Act may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Sec. 8. The county clerk of Dallas County shall be the clerk of the courts created in this Act. The seals of the County Criminal Courts Nos. 6 and 7 of Dallas County shall be the same as provided for county courts, except that the seals shall contain the words "The County Criminal Court, Number

Six, Dallas County, Texas," and the words "The County Criminal Court, Number Seven, Dallas County, Texas," respectively. The sheriff of Dallas County shall in person or by deputy attend each court created in this Act when required by the judge thereof. The judge of each court created in this Act shall have an administrative assistant to aid him in the performance of his duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 9. The judge of each court created in this Act shall collect the same fee provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county treasury. The commissioners court shall fix the salary of each of the judges of the county criminal courts of Dallas County at not less than \$1,000 less per annum than the total annual salary, including supplements, received by judges of the district courts in Dallas County, which shall be paid in 12 equal monthly installments out of the county treasury by the commissioners court. The judge shall devote his entire time to the duties of his office and shall not engage in the practice of the law while in office.

Sec. 10. The judge of each court created in this Act may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

Sec. 11. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of each court created in this Act shall appoint an official shorthand reporter, who shall be well-skilled in his profession, shall be a sworn officer of the court, and who shall hold his office at the pleasure of the court. The provisions of the general laws of Texas relating to the appointment of stenographers for the district courts shall and are hereby made to apply, in all their provisions insofar as they are applicable, to the official shorthand reporters herein authorized to be appointed, and the reporters shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are provided for the stenographers of district courts of this state and shall also be governed by any other laws covering the stenographers of the district courts of this state. The official shorthand reporter of each of these courts shall not be required to take testimony in cases where neither party litigant nor the judge demands it. Where the testimony is taken by the reporter, a fee of \$3 shall be taxed by the clerk as costs in the case to be paid into the county treasury of Dallas County.

Sec. 12. As soon as practicable after the creation of these courts, the clerk of the county criminal courts of Dallas County may transfer to the dockets of the courts created by this Act any of the criminal cases then pending in the County Criminal Court or the County Criminal Court No. 2, 3, 4, or 5 of Dallas County, and thereafter the judge of any of these courts may in his discretion transfer any

cause or causes that may at any time be pending in his court to the other courts by an order or orders entered in the minutes of his court, and the judge of the court to which such transfer or transfers are made shall dispose of the cause or causes in the same manner as if the cause or causes were originally instituted in his court.

Sec. 13. The judges of the County Criminal Court of Dallas County and the County Criminal Courts Nos. 2, 3, 4, 5, 6, and 7 may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending and try or otherwise dispose of same.

[Acts 1977, 65th Leg., p. 1727, ch. 689, eff. Aug. 29, 1977.]

Art. 1970-31.16. County Criminal Court No. 8 of Dallas County

Creation

Sec. 1. There is created a court to be held in Dallas County to be known and designated as "County Criminal Court No. 8 of Dallas County, Texas."

Jurisdiction

Sec. 2. The County Criminal Court No. 8 shall have and is vested with concurrent jurisdiction with in the county of all criminal matters and causes, original and appellate, that is now vested in the county courts having jurisdiction in civil and criminal cases under the constitution and laws of Texas.

Writ Power

Sec. 3. The County Criminal Court No. 8, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of the court or any court or tribunal inferior to the court and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

Terms

Sec. 4. The terms of the County Criminal Court No. 8 and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms shall be held not less than four times each year and the Commissioners Court of Dallas County shall fix the times at which the court shall hold its terms until the same may be changed according to law.

Judge

Sec. 5. (a) No person is eligible for judge of the County Criminal Court No. 8 unless the person is a citizen of the United States and of this state who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding the appointment or election and who shall

have resided in the county of Dallas for two years next preceding the appointment or election.

(b) At the primaries and general election in 1980, there shall be elected by the qualified voters of Dallas County a judge of the County Criminal Court No. 8 for a two-year term beginning on January 1, 1981. At the general election in 1982, the judge shall be elected by the qualified voters of the county for a four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy in the office shall be filled by appointment by the Commissioners Court of Dallas County, and the appointee shall hold office until the next general election and until his or her successor is duly elected and qualified.

Bond and Oath

Sec. 6. The judge of the County Criminal Court No. 8 shall execute a bond and take the oath of office as required by the law relating to county judges.

Special Judge

Sec. 7. A special judge of the County Criminal Court No. 8 may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Court Officials and Seal

Sec. 8. The county clerk of Dallas County shall be the clerk of the County Criminal Court No. 8. The seal of the court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Eight, Dallas County, Texas." The sheriff of Dallas County shall in person or by deputy attend the court when required by the judge. The judge of the County Criminal Court No. 8 shall have an administrative assistant to aid the judge in the performance of his or her duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Fees and Compensation

Sec. 9. The judge of the County Criminal Court No. 8 shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by the judge monthly into the county treasury. The judge of the court shall receive a salary as fixed by the commissioners court at an amount that is at least equal to the sum that is \$1,000 less per annum than the total annual salary, including supplements, received by judges of the district courts in Dallas County, which shall be paid in 12 equal monthly installments out of the county treasury by the commissioners court. The judge shall devote his or her entire time to the duties of the office and shall not engage in the practice of the law while in office.

Removal

Sec. 10. The judge of the County Criminal Court No. 8 may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

Court Reporter

Sec. 11. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court No. 8 shall appoint an official court reporter, who shall have the qualifications provided by law, shall be a sworn officer of the court, and shall hold the office at the pleasure of the court. The provisions of the general laws of Texas relating to the appointment of official court reporters for the district courts shall apply in all provisions, insofar as they are applicable, to the official court reporter herein authorized to be appointed. The reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are provided for the official court reporters of district courts of this state and shall be governed by any other laws covering the official court reporters of the district courts of this state. The official court reporter of this court shall not be required to take testimony in cases where neither party litigant nor the judge demands it. Where the testimony is taken by the reporter, a fee of \$3 shall be taxed by the clerk as costs in the case, the \$3, when collected, to be paid into the county treasury of Dallas County.

Transfer of Cases

Sec. 12. As soon as practicable after this Act takes effect, the clerk of the County Criminal Courts of Dallas County may transfer to the docket of the County Criminal Court No. 8 any of the criminal cases then pending in those courts, and thereafter the judge of any of those courts may in the judge's discretion transfer any cause or causes that may at any time be pending in his or her court to the other courts by an order or orders entered in the minutes of that judge's court, and the judge of the court to which such transfer or transfers are made shall dispose of the cause or causes in the same manner as if the cause or causes were originally instituted in his or her court.

Exchange of Benches

Sec. 13. The judges of the County Criminal Courts of Dallas County may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

Effective Dates

Sec. 14. Except as provided by Subsection (b) of Section 5 of this Act, this Act takes effect on January 1, 1981.

[Acts 1979, 66th Leg., p. 1656, ch. 692, eff. Jan. 1, 1981.]

Art. 1970-31.17. County Criminal Court No. 9 of Dallas County

Creation

Sec. 1. There is created a court to be held in Dallas County to be known and designated as "County Criminal Court No. 9 of Dallas County, Texas."

Jurisdiction

Sec. 2. The County Criminal Court No. 9 shall have and is vested with concurrent jurisdiction within the county of all criminal matters and causes, original and appellate, that is now vested in the county courts having jurisdiction in civil and criminal cases under the constitution and laws of Texas.

Writ Power

Sec. 3. The County Criminal Court No. 9, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of the court or any court or tribunal inferior to the court and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

Terms

Sec. 4. The terms of the County Criminal Court No. 9 and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms shall be held not less than four times each year and the Commissioners Court of Dallas County shall fix the times at which the court shall hold its terms until the same may be changed according to law.

Judge

Sec. 5. (a) No person is eligible for judge of the County Criminal Court No. 9 unless the person is a citizen of the United States and of this state who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding the appointment or election and who shall have resided in the county of Dallas for two years next preceding the appointment or election.

(b) At the primaries and general election in 1980, there shall be elected by the qualified voters of Dallas County a judge of the County Criminal Court No. 9 for a two-year term beginning on January 1, 1981. At the general election in 1982, the judge shall be elected by the qualified voters of the county for a four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy in the office shall be filled by appointment by the Commissioners Court of Dallas County, and the appointee shall hold office until the

next general election and until his or her successor is duly elected and qualified.

Bond and Oath

Sec. 6. The judge of the County Criminal Court No. 9 shall execute a bond and take the oath of office as required by the law relating to county judges.

Special Judge

Sec. 7. A special judge of the County Criminal Court No. 9 may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Court Officials and Seal

Sec. 8. The county clerk of Dallas County shall be the clerk of the County Criminal Court No. 9. The seal of the court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Nine, Dallas County, Texas." The sheriff of Dallas County shall in person or by deputy attend the court when required by the judge. The judge of the County Criminal Court No. 9 shall have an administrative assistant to aid the judge in the performance of his or her duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Fees and Compensation

Sec. 9. The judge of the County Criminal Court No. 9 shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by the judge monthly into the county treasury. The judge of the court shall receive a salary as fixed by the commissioners court at an amount that is at least equal to the sum that is \$1,000 less per annum than the total annual salary, including supplements, received by judges of the district courts in Dallas County, which shall be paid in 12 equal monthly installments out of the county treasury by the commissioners court. The judge shall devote his or her entire time to the duties of the office and shall not engage in the practice of the law while in office.

Removal

Sec. 10. The judge of the County Criminal Court No. 9 may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

Court Reporter

Sec. 11. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court No. 9 shall appoint an official court reporter, who shall have the qualifications provided by law, shall be a sworn officer of the court, and shall hold the office at the pleasure of the court. The provisions

of the general laws of Texas relating to the appointment of official court reporters for the district courts shall apply in all provisions, insofar as they are applicable, to the official court reporter herein authorized to be appointed. The reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are provided for the official court reporters of district courts of this state and shall be governed by any other laws covering the official court reporters of the district courts of this state. The official court reporter of this court shall not be required to take testimony in cases where neither party litigant nor the judge demands it. Where the testimony is taken by the reporter, a fee of \$3 shall be taxed by the clerk as costs in the case, the \$3, when collected, to be paid into the county treasury of Dallas County.

Transfer of Cases

Sec. 12. As soon as practicable after this Act takes effect, the clerk of the County Criminal Courts of Dallas County may transfer to the docket of the County Criminal Court No. 9 any of the criminal cases then pending in those courts, and thereafter the judge of any of those courts may in the judge's discretion transfer any cause or causes that may at any time be pending in his or her court to the other courts by an order or orders entered in the minutes of that judge's court, and the judge of the court to which such transfer or transfers are made shall dispose of the cause or causes in the same manner as if the cause or causes were originally instituted in his or her court.

Exchange of Benches

Sec. 13. The judges of the County Criminal Courts of Dallas County may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

Effective Dates

Sec. 14. Except as provided by Subsection (b) of Section 5 of this Act, this Act takes effect on January 1, 1981.

[Acts 1979, 66th Leg., p. 1120, ch. 534, eff. Jan. 1, 1981.]

Art. 1970-31.18. County Criminal Court No. 10 of Dallas County

Creation

Sec. 1. There is created a court to be held in Dallas County to be known and designated as "County Criminal Court No. 10 of Dallas County, Texas."

Jurisdiction

Sec. 2. The County Criminal Court No. 10 shall have and is vested with concurrent jurisdiction with in the county of all criminal matters and causes, original and appellate, that is now vested in the

county courts having jurisdiction in civil and criminal cases under the constitution and laws of Texas.

Writ Power

Sec. 3. The County Criminal Court No. 10, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of the court or any court or tribunal inferior to the court and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

Terms

Sec. 4. The terms of the County Criminal Court No. 10 and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms shall be held not less than four times each year and the Commissioners Court of Dallas County shall fix the times at which the court shall hold its terms until the same may be changed according to law.

Judge

Sec. 5. (a) No person is eligible for judge of the County Criminal Court No. 10 unless the person is a citizen of the United States and of this state who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding the appointment or election and who shall have resided in the county of Dallas for two years next preceding the appointment or election.

(b) At the primaries and general election in 1980, there shall be elected by the qualified voters of Dallas County a judge of the County Criminal Court No. 10 for a two-year term beginning on January 1, 1981. At the general election in 1982, the judge shall be elected by the qualified voters of the county for a four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy in the office shall be filled by appointment by the Commissioners Court of Dallas County, and the appointee shall hold office until the next general election and until his or her successor is duly elected and qualified.

Bond and Oath

Sec. 6. The judge of the County Criminal Court No. 10 shall execute a bond and take the oath of office as required by the law relating to county judges.

Special Judge

Sec. 7. A special judge of the County Criminal Court No. 10 may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Court Officials and Seal

Sec. 8. The county clerk of Dallas County shall be the clerk of the County Criminal Court No. 10. The seal of the court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Ten, Dallas County, Texas." The sheriff of Dallas County shall in person or by deputy attend the court when required by the judge. The judge of the County Criminal Court No. 10 shall have an administrative assistant to aid the judge in the performance of his or her duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Fees and Compensation

Sec. 9. The judge of the County Criminal Court No. 10 shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by the judge monthly into the county treasury. The judge of the court shall receive a salary as fixed by the commissioners court at an amount that is at least equal to the sum that is \$1,000 less per annum than the total annual salary, including supplements, received by judges of the district courts in Dallas County, which shall be paid in 12 equal monthly installments out of the county treasury by the commissioners court. The judge shall devote his or her entire time to the duties of the office and shall not engage in the practice of the law while in office.

Removal

Sec. 10. The judge of the County Criminal Court No. 10 may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

Court Reporter

Sec. 11. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court No. 10 shall appoint an official court reporter, who shall have the qualifications provided by law, shall be a sworn officer of the court, and shall hold the office at the pleasure of the court. The provisions of the general laws of Texas relating to the appointment of official court reporters for the district courts shall apply in all provisions, insofar as they are applicable, to the official court reporter herein authorized to be appointed. The reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are provided for the official court reporters of district courts of this state and shall be governed by any other laws covering the official court reporters of the district courts of this state. The official court reporter of this court shall not be required to take testimony in cases where neither party litigant nor the judge demands it. Where the testimony is taken by the reporter, a fee of \$3 shall be taxed by

the clerk as costs in the case, the \$3, when collected, to be paid into the county treasury of Dallas County.

Transfer of Cases

Sec. 12. As soon as practicable after this Act takes effect, the clerk of the County Criminal Courts of Dallas County may transfer to the docket of the County Criminal Court No. 10 any of the criminal cases then pending in those courts, and thereafter the judge of any of those courts may in the judge's discretion transfer any cause or causes that may at any time be pending in his or her court to the other courts by an order or orders entered in the minutes of that judge's court, and the judge of the court to which such transfer or transfers are made shall dispose of the cause or causes in the same manner as if the cause or causes were originally instituted in his or her court.

Exchange of Benches

Sec. 13. The judges of the County Criminal Courts of Dallas County may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

Effective Dates

Sec. 14. Except as provided by Subsection (b) of Section 5 of this Act, this Act takes effect on January 1, 1981.

[Acts 1979, 66th Leg., p. 1117, ch. 533, eff. Jan. 1, 1981.]

Art. 1970-31.20. County Criminal Court of Appeals of Dallas County

Sec. 1. That there is hereby created a County Court to be held in and for Dallas County, Texas, to be called County Criminal Court of Appeals of Dallas County, Texas.

Sec. 2. The County Criminal Court of Appeals of Dallas County, Texas, shall have and same is hereby vested with the sole jurisdiction within said County of all appeals from Criminal convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Dallas County, Texas, in Justice Court, Corporation Courts and other municipal Courts in said County; and the said County Criminal Court of Appeals of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within said County of all criminal matters and causes, original and appellate, that is now vested in the County Courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 4 of this Act.

Sec. 3. On the first day of the initial term of the County Criminal Court of Appeals of Dallas County, Texas, there shall be transferred to the docket of said Court, under the direction of the Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas

County, Texas, and the Judge of County Criminal Court No. 3 of Dallas County, Texas, and by order entered on the Minutes of County Criminal Court of Appeals of Dallas County, Texas, and County Criminal Court No. 2 of Dallas County, Texas, and County Criminal Court No. 3 of Dallas County, Texas, all of such appeals from convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Dallas County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, now pending in County Criminal Court of Dallas County, Texas, and County Criminal Court No. 2 of Dallas County, Texas, and County Criminal Court No. 3 of Dallas County, Texas, and all writs and processes theretofore issued by or out of the said Courts in such matters or proceedings shall be returnable to the County Criminal Court of Appeals of Dallas County, Texas, as though originally issued therefrom. All such new appeals from convictions had under the laws of the State of Texas and ordinances of the municipalities located in Dallas County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, filed on said day, or thereafter filed, with the County Clerk of Dallas County, irrespective of the Court or Judge to which said appeal is addressed shall be filed by said Clerk in the County Criminal Court of Appeals of Dallas County, Texas.

Sec. 4. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county judge shall be exercised by the said Judge of the said County Court, except as insofar as the same shall, by this Act, be committed to the Judge of the County Criminal Court of Appeals of Dallas County, Texas; and except such as to have heretofore been conferred upon the Judges of the County Court at Law No. 1 and the County Court of Law No. 2 of Dallas County, Texas.

Sec. 5. The County Criminal Court of Appeals, of Dallas County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are

now or may be provided by the General Law governing County Courts throughout the State.

Sec. 6. The terms of the County Criminal Court of Appeals, of Dallas County, Texas, and the practice therein and appeals therefrom shall be prescribed by law relating to the county courts. The terms of said County Criminal Court of Appeals, shall be held not less than four (4) times each year and the Commissioners Court of Dallas County, Texas, shall fix the time at which said court shall hold its terms until the same may be changed according to law.

Sec. 7. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a Judge of the County Criminal Court of Appeals, hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said court elected at any General Election shall hold office for four (4) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a Judge of a court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Dallas for two (2) years next preceding his appointment or election.

Sec. 8. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 9. A special Judge of the County Criminal Court of Appeals, of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the Judges thereof.

Sec. 10. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court of Appeals, of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court of Appeals, Dallas County, Texas." The Sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof. The Judge of the County Criminal Court of Appeals of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 11. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court of not less than Ten Thousand Dollars (\$10,000) nor more than Fourteen

Thousand, Four Hundred Dollars (\$14,400) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall not engage in the practice of law while in office.

Sec. 12. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county Judge may be removed under the laws of this State.

Sec. 13. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3), when collected, to be paid into the County Treasury of Dallas County, Texas.

Sec. 14. As soon as may be after this Act takes effect the clerk of the County Criminal Court of Dallas County, Texas, and the clerk of the County Criminal Court No. 2 of Dallas County, Texas, and the clerk of the County Criminal Court No. 3 of Dallas County, Texas, may transfer to the docket of the County Criminal Court of Appeals of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Dallas County, Texas, and the County Criminal Court No. 2 of Dallas County, Texas, and the County Criminal Court No. 3 of Dallas County, Texas, and thereafter the Judge of either of said courts may in his discretion, transfer any cause or causes that may at any time be pending in his Court to the other Courts by an order or orders, entered in the minutes of his Court, and the Judge of the Court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

Sec. 15. The Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas County, Texas, and the Judge of County Criminal Court No. 3 of Dallas

County, Texas, and the Judge of County Criminal Court of Appeals of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

[Acts 1961, 57th Leg., p. 698, ch. 326. Amended by Acts 1975, 64th Leg., p. 1349, ch. 507, § 6, eff. Sept. 1, 1975.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1970-31.21. County Criminal Court of Appeals No. 2 of Dallas County

Creation

Sec. 1. There is created a court to be held in Dallas County to be called County Criminal Court of Appeals No. 2 of Dallas County, Texas.

Jurisdiction

Sec. 2. The County Criminal Court of Appeals No. 2 shall have and is vested with concurrent jurisdiction within the county of all appeals from criminal convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Dallas County in the justice courts and municipal courts in the county, which jurisdiction is concurrent with the jurisdiction of the County Criminal Court of Appeals of Dallas County. The County Criminal Court of Appeals No. 2 shall have and is vested with concurrent jurisdiction within the county of all criminal matters and causes, original and appellate, that is now vested in the county courts having jurisdiction in civil and criminal cases under the constitution and laws of Texas.

Writ Power

Sec. 3. The County Criminal Court of Appeals No. 2, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of the court or any court or tribunal inferior to the court and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

Terms

Sec. 4. The terms of the County Criminal Court of Appeals No. 2 and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms shall be held not less than four times each year and the Commissioners Court of Dallas County shall fix the times at which the court shall hold its terms until the same may be changed according to law.

Judge

Sec. 5. (a) No person is eligible for judge of the County Criminal Court of Appeals No. 2 unless the person is a citizen of the United States and of this

state who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding the appointment or election and who shall have resided in the County of Dallas for two years next preceding the appointment or election.

(b) At the primaries and general election in 1980, there shall be elected by the qualified voters of Dallas County a judge of the County Criminal Court of Appeals No. 2 for a two-year term beginning on January 1, 1981. At the general election in 1982, the judge shall be elected by the qualified voters of the county for a four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy in the office shall be filled by appointment by the Commissioners Court of Dallas County, and the appointee shall hold office until the next general election and until his or her successor is duly elected and qualified.

Bond and Oath

Sec. 6. The judge of the County Criminal Court of Appeals No. 2 shall execute a bond and take the oath of office as required by the law relating to county judges.

Special Judge

Sec. 7. A special judge of the County Criminal Court of Appeals No. 2 may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Court Officials and Seal

Sec. 8. The county clerk of Dallas County shall be the clerk of the County Criminal Court of Appeals No. 2. The seal of the court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court of Appeals No. 2 of Dallas County, Texas." The sheriff of Dallas County shall in person or by deputy attend the court when required by the judge. The judge of the County Criminal Court of Appeals No. 2 shall have an administrative assistant to aid the judge in the performance of his or her duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Fees and Compensation

Sec. 9. The judge of the County Criminal Court of Appeals No. 2 shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by the judge monthly into the county treasury. The judge of the court shall receive a salary as fixed by the commissioners court at an amount that is at least equal to the sum that is \$1,000 less per annum than the total annual salary, including supplements, received by judges of the district courts in Dallas County, which shall be paid in 12 equal monthly installments out of the county treasury by the commissioners court. The

judge shall devote his or her entire time to the duties of the office and shall not engage in the practice of the law while in office.

Removal

Sec. 10. The judge of the County Criminal Court of Appeals No. 2 may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

Court Reporter

Sec. 11. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court of Appeals No. 2 shall appoint an official court reporter, who shall have the qualifications provided by law, shall be a sworn officer of the court, and shall hold the office at the pleasure of the court. The provisions of the general laws of Texas relating to the appointment of official court reporters for the district courts shall apply in all provisions, insofar as they are applicable, to the official court reporter herein authorized to be appointed. The reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are provided for the official court reporters of district courts of this state and shall be governed by any other laws covering the official court reporters of the district courts of this state. The official court reporter of this court shall not be required to take testimony in cases where neither party litigant nor the judge demands it. Where the testimony is taken by the reporter, a fee of \$3 shall be taxed by the clerk as costs in the case, the \$3, when collected, to be paid into the county treasury of Dallas County.

Transfer of Cases

Sec. 12. (a) As soon as practicable after this Act takes effect, the clerk of the county criminal courts in Dallas County may transfer to the docket of the County Criminal Court of Appeals No. 2 any of the criminal cases then pending in the County Criminal Court of Appeals of Dallas County, and thereafter the judge of either of those courts may in the judge's discretion transfer any cause or causes that may at any time be pending in his or her court to the other court by an order or orders entered in the minutes of that judge's court, and the judge of the court to which such transfer or transfers are made shall dispose of the cause or causes in the same manner as if the cause or causes were originally instituted in his or her court. However, no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) In cases transferred to either of the county criminal courts of appeals, all processes, writs, bonds, recognizances, or other obligations issued or

made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(c) All new appeals from convictions had under the laws of the State of Texas and ordinances of the municipalities located in Dallas County in justice courts and municipal courts in the county, filed with the county clerk of Dallas County, irrespective of the court or judge to which the appeal is addressed, shall be filed by the clerk alternately in the County Criminal Court of Appeals of Dallas County, Texas, and the County Criminal Court of Appeals No. 2 of Dallas County, Texas.

Exchange of Benches

Sec. 13. The judges of the county criminal courts and county criminal courts of appeals of Dallas County may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending and try or otherwise dispose of same.

Effective Dates

Sec. 14. Except as provided by Subsection (b) of Section 5 of this Act, this Act takes effect on January 1, 1981.

[Acts 1979, 66th Leg., p. 1018, ch. 452, eff. Jan. 1, 1981.]

Art. 1970-31.30. Retired Judges as Substitutes in Dallas County

Sec. 1. (a) When the regular judge of a county court at law, county criminal court, county criminal court of appeals, or probate court for Dallas County is absent or is from any cause disabled or disqualified from presiding, the presiding judge of the First Administrative Judicial District may appoint a retired judge to sit for the regular judge, provided the retired judge:

- (1) voluntarily retired from office;
- (2) resides within the First Administrative Judicial District;
- (3) certifies his willingness to serve;
- (4) has previous judicial experience; and
- (5) otherwise meets the qualifications required of the regular judge.

(b) When the docket of a county court at law, county criminal court, county criminal court of appeals, or probate court for Dallas County becomes so excessive that the presiding judge deems it an emergency, he may appoint a retired judge who

meets the qualifications set out in Subsection (a) of this section to sit for the regular judge for as long as the emergency exists.

Sec. 2. A retired judge appointed to sit for a regular judge under the provisions of this Act shall execute the bond and take the oath of office which is required by law for the regular judge for whom he is sitting.

Sec. 3. A retired judge appointed under the provisions of this Act has all the power and jurisdiction of the court and the regular judge for whom he is sitting and may sign orders, judgments, decrees, or other process of any kind as "Judge Presiding" when acting for the regular judge.

Sec. 4. A retired judge appointed to sit for the regular judge under the provisions of this Act shall receive for the services actually performed the same amount of compensation which the regular judge is entitled to receive for such services. The amount to be paid for such services shall be paid out of the county funds on certification by the presiding judge of the First Administrative Judicial District that the retired judge has rendered the services and is entitled to receive the compensation. No part of the amount paid to a retired judge sitting for the regular judge shall be deducted or paid out of the salary of the regular judge.

Sec. 5. The provisions of the Act are cumulative of all laws pertaining to the election or appointment of a special judge, and if, in addition to a retired judge appointed to sit temporarily for a regular judge, a special judge is needed, he shall be appointed or elected as now authorized by law.

[Acts 1975, 64th Leg., p. 582, ch. 237, eff. May 20, 1975.]

Art. 1970-31a. Probate Court of Dallas County

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

Sec. 2. The Probate Court of Dallas County shall have the general jurisdiction of a Probate Court within the limits of Dallas County, concurrent with the jurisdiction of the County Court of Dallas County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. On the first day of the initial term of said Probate Court of Dallas County there shall be transferred to the docket of said Court, under the direction of the County Judge and by order entered on the Minutes of the County Court of Dallas County, such number of such proceedings and matters

then pending in the County Court of Dallas County as shall be, as near as may be, one half in number of the total of all of the same then pending, and all writs and processes theretofore issued by or out of said County Court of Dallas County in such matters or proceedings shall be returnable to the Probate Court of Dallas County as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed, with the County Clerk of Dallas County, irrespective of the Courts or Judge to which the matter or proceeding is addressed, shall be filed by said Clerk alternately in said respective Courts in the order in which the same are deposited with him for filing, beginning first with the County Court of Dallas County. The County Judge of Dallas County, in his discretion, may, by an order entered upon the Minutes of the County Court of Dallas County, on or after the first day of the initial term of said Probate Court of Dallas County, transfer to said Probate Court any such matter or proceeding then or thereafter pending in the County Court of Dallas County, and all processes extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made.

Sec. 4. The County Court of Dallas County shall retain, as heretofore, the powers and jurisdiction of said Court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature other than those provided in Section 3 of this Act to be transferred to and filed in the Probate Court of Dallas County. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County, and all ex-officio duties of the County Judge of Dallas County, as they now exist, shall be exercised by the County Judge of Dallas County, except in so far as the same shall by this Act expressly be committed to the Judge of the Probate Court of Dallas County. Nothing in this Act contained shall be construed as in anywise impairing or affecting the jurisdiction of the County Court of Dallas County at Law No. 1, or the County Court of Dallas County at Law No. 2.

Sec. 5. The practice and procedure in the Probate Court of Dallas County shall be the same as that provided by law generally for the County Courts of this State; and all Statutes and laws of the State, as well as all rules of court relating to proceedings in the County Courts of this State, or to the review thereof or appeals therefrom, shall, as to all matters within the jurisdiction of said Court, apply equally thereto.

Sec. 6. The Probate Court of Dallas County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said Court, and also the power to punish for contempt under such provisions as are

or may be provided by the general laws governing County Courts throughout the State.

Sec. 7. There shall be two (2) terms of said Probate Court of Dallas County in each year, and the first of such terms shall be known as the January-June Term; it shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January. The initial term of said Court shall begin on the first Monday after the effective date of this Act.

Sec. 8. There shall be elected in said County by the qualified voters thereof, at the General Election, for a term of two (2) years and until his successor shall have been duly qualified, a Judge of the Probate Court of Dallas County, who shall be well informed in the laws of the State, and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years prior to his election. A Judge of said Court shall be appointed by the Commissioners Court of Dallas County as soon as may be after the passage of this Act, who shall hold office from the date of his appointment until the next General Election and until his successor shall be duly elected and qualified.

Sec. 9. The Judge of the Probate Court of Dallas County shall execute a bond and take the oath of office as required by the laws relating to County Judges.

Sec. 10. Any vacancy in the office of the Judge of the Probate Court of Dallas County may be filled by the Commissioners Court of Dallas County by the appointment of a Judge of said Court, who shall serve until the next General Election and until his successor shall be duly elected and qualified.

Sec. 11. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Dallas County, the County Judge of Dallas County shall sit and act as Judge of said Court, and may hear and determine, either in his own courtroom or in the courtroom of said Court, any matter or proceeding there pending, and may enter any orders in such matters or proceedings as the Judge of said Court might enter if personally presiding therein.

Sec. 12. In the case of the absence, disqualification or incapacity of the Judge of the Probate Court of Dallas County and the County Judge of Dallas County, a Special Judge of the Probate Court of Dallas County may be appointed or elected, as provided by the general laws relating to County Courts and to the Judges thereof.

Sec. 13. The County Clerk of Dallas County shall be the Clerk of the Probate Court of Dallas County. The seal of such Court shall be the same as that provided by law for County Courts except

that the seal shall contain the words "Probate Court of Dallas County, Texas." The Sheriff of Dallas County shall in person or by deputy attend the said Court when required by the Judge thereof. The Judge of the Probate Court of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of said administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 14. The Judge of the Probate Court of Dallas County shall collect the same fees as are now or hereafter established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected, and from and after the date of his qualification as Judge of said Court he shall receive an annual salary to be fixed by order of the Commissioners Court of Dallas County, of not less than Six Thousand, Five Hundred Dollars (\$6,500) nor more than Eight Thousand, Two Hundred and Fifty Dollars (\$8,250), payable monthly, to be paid out of the County Treasury by the Commissioners Court.

Sec. 15. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative.

Sec. 16. If any section, paragraph, sentence, clause, phrase or word contained in this Act shall be held unconstitutional by the Courts of this State, the invalidity of such portion of the Act shall not be construed to affect any other part of the Act.

[Acts 1951, 52nd Leg., p. 293, ch. 174. Amended by Acts 1969, 61st Leg., p. 1667, ch. 530, § 1, eff. June 10, 1969.]

Art. 1970-31b. Probate Court No. 2 of Dallas County

Sec. 1. There is hereby created a County Court to be held in and for Dallas County to be called the Probate Court Number 2 of Dallas County.

Sec. 2. Probate Court Number 2 of Dallas County shall have the general jurisdiction of the Probate Court within the limits of Dallas County concurrent with the jurisdiction of the Probate Court of Dallas County and of the County Court of Dallas County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and administrative, settle accounts of executor, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. On the first day of the initial term of said Probate Court Number two of Dallas County there shall be transferred to the docket of said Court under the jurisdiction of the County Judge and of the Judge of the Probate Court of Dallas County and by order entered on the minutes of the

County Court of Dallas County and of the Probate Court of Dallas County such number of such proceedings and matters then pending in the Probate Court of Dallas County and in the County Court of Dallas County as will equalize the number of such cases pending on the dockets of each of said three (3) Courts, and all writs and processes theretofore issued by or out of said Probate Court of Dallas County and said County Court of Dallas County in such matters or proceedings shall be returnable to the Probate Court Number 2 of Dallas County as though originally issued therefrom. All such new matters and proceedings filed on said day or thereafter filed with the County Clerk of Dallas County irrespective of the Courts or Judge to which the matter or proceeding is addressed, shall be filed by said Clerk in rotation in said respective Courts in the order in which the same are deposited with him for filing.

Sec. 4. The County Court of Dallas County shall retain as heretofore the powers and jurisdiction of said Court existing at the time of the passage of this Act and shall exercise its own powers and jurisdiction as the Probate Court with respect to all matters and proceedings of such nature other than those provided hereinabove to be transferred to and filed in the Probate Court Number 2 of Dallas County. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County and all ex officio duties of the County Judge of Dallas County as they now exist shall be exercised by the County Judge of Dallas County except insofar as the same shall have been committed heretofore to the Judge of the Probate Court of Dallas County, or as the same shall by this Act expressly be committed to the Judge of the Probate Court Number 2 of Dallas County. Nothing in this Act shall be construed as in anywise impairing or affecting the jurisdiction of the County Court of Dallas County, the Probate Court of Dallas County, the County Court of Dallas County at Law Number 1 or the County Court of Dallas County at Law Number 2, or any other County Court of Dallas County at Law heretofore or hereafter created.

Sec. 5. There shall be two (2) terms of said Probate Court Number 2 of Dallas County in each year and the first term shall be known as the January-June term, which shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July, and the second of such terms shall be known as the July-December term and shall begin on the first Monday in July and continue until and including Sunday next before the first Monday in the following January. The initial term of said Court shall begin on the first Monday after the effective date of this Act.

Sec. 6. There shall be elected in said County by the qualified voters thereof at the general election for a term of two (2) years and until his successor shall have been duly qualified, a Judge of the Probate Court Number 2 of Dallas County who shall be

well-informed on the laws of the State and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years prior to his election. A Judge of said Court shall be appointed by the Commissioners Court of Dallas County as soon as may be possible after the passage of this Act, who shall hold office from the date of his appointment until his successor shall be duly elected and qualified.

Sec. 7. The Judge of the Probate Court Number 2 of Dallas County shall execute a bond and take the oath of office as required by the laws relating to County Judges.

Sec. 8. Any vacancy in the office of the Judge of Probate Court Number 2 of Dallas County may be filled by the Commissioners Court of Dallas County by appointment of a Judge of said Court who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 9. In case of the absence, disqualification or incapacity of the Judge of of the Probate Court Number 2 of Dallas County, the County Judge of Dallas County shall sit and act as Judge of said Court and may hear and determine either in his own courtroom or in the courtroom of said Court any matter or proceeding there pending and may enter such orders in such matters or proceedings as the Judge of said Probate Court Number 2 of Dallas County might enter if personally presiding therein.

Sec. 10. The Judge of the Probate Court of Dallas County may sit for the Judge of the Probate Court Number 2 of Dallas County and the Judge of the Probate Court Number 2 of Dallas County may sit for the Judge of the Probate Court of Dallas County on any matters or proceedings pending in either of said Courts. In the case of the absence, disqualification or incapacity of the County Judge of Dallas County, the Judge of the Probate Court of Dallas County and the Judge of Probate Court Number 2 of Dallas County, a special Judge of the Probate Court Number 2 of Dallas County may be appointed or elected as provided by the General Laws relating to County Courts and to the Judges thereof.

Sec. 11. The County Clerk of Dallas County shall be the Clerk of the Probate Court Number 2 of Dallas County. The seal of such Court shall be the same as that provided by law for County Courts except that the seal shall contain the words "Probate Court Number 2 of Dallas County, Texas." The Sheriff of Dallas County shall in person or by deputy attend the said Court when required by the Judge thereof. The Judge of the Probate Court Number 2 of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of said administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 12. The Judge of the Probate Court Number 2 of Dallas County shall collect the same fees as

are now or hereafter established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected and from after the date of his qualification as Judge of said Probate Court Number 2 of Dallas County he shall receive an annual salary to be fixed by order of the Commissioners Court of Dallas County which shall be the same salary as that paid to the Judge of the Probate Court of Dallas County.

Sec. 13. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. All other laws applicable to the Probate Court of Dallas County shall be applicable to Probate Court Number 2 of Dallas County. As to all other laws and parts of laws this Act shall be cumulative.

Sec. 13a. Regardless of any provisions of this Act to the contrary notwithstanding, the provisions of this Act shall not become effective until January 1, 1965.

[Acts 1963, 58th Leg., p. 723, ch. 265. Amended by Acts 1969, 61st Leg., p. 1667, ch. 530, § 2, eff. June 10, 1969.]

Art. 1970-31c. Probate Court No. 3 of Dallas County

Sec. 1. There is created a county court to be held in and for Dallas County to be called the Probate Court Number 3 of Dallas County.

Sec. 2. Probate Court Number 3 of Dallas County shall have the general jurisdiction of the probate court within the limits of Dallas County concurrent with the jurisdiction of the Probate Court of Dallas County, the Probate Court Number 2 of Dallas County, and of the County Court of Dallas County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and administrative, settle accounts of executors, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, lunacy proceedings, and the apprenticing of minors as provided by law. It is the intention of this Act that the Probate Court Number 3 of Dallas County shall have the primary responsibility, at all times, for all mental illness proceedings.

Sec. 3. On the first day of the initial term of Probate Court Number 3 of Dallas County there shall be transferred to the docket of the court under the jurisdiction of the county judge and of the judges of the Probate Court of Dallas County and the Probate Court Number 2 of Dallas County, and by order entered on the minutes of the County Court of Dallas County and of the Probate Court of Dallas County and of the Probate Court Number 2 of Dallas County, such number of such proceedings and matters then pending in the Probate Court of Dallas County, in the Probate Court Number 2 of

Dallas County, and in the County Court of Dallas County as will equalize the number of such cases pending on the dockets of each of said four courts, with the Probate Court Number 3 of Dallas County having responsibility, at all times, for all mental illness proceedings. However, should an emergency or an overcrowded docket preclude the Probate Court Number 3 of Dallas County from effectively diminishing the number of mental illness proceedings before it, such cases may be transferred, with the concurrence of the judge of one or more of the other probate courts in Dallas County, to the dockets of one or more of the other probate courts of Dallas County. All writs and processes theretofore issued by or out of the Probate Court of Dallas County, Probate Court Number 2 of Dallas County, and County Court of Dallas County in such matters or proceedings shall be returnable to the Probate Court Number 3 of Dallas County as though originally issued therefrom. All new mental illness proceedings filed on said day or thereafter filed with the County Clerk of Dallas County irrespective of the court or judge to which the matter or proceeding is addressed, shall be filed by the clerk in the Probate Court Number 3 of Dallas County in the order in which the same are deposited with him for filing.

Sec. 4. The County Court of Dallas County shall retain as heretofore the powers and jurisdiction of the court existing at the time of the passage of this Act and shall exercise its own powers and jurisdiction as a probate court with respect to all matters and proceedings of such nature other than those provided hereinabove to be transferred to and filed in the Probate Court Number 3 of Dallas County. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County and all ex officio duties of the County Judge of Dallas County as they now exist shall be exercised by the County Judge of Dallas County except insofar as the same shall have been committed heretofore to the Judge of the Probate Court of Dallas County, or to the Judge of the Probate Court Number 2 of Dallas County, or as the same shall by this Act expressly be committed to the Judge of the Probate Court Number 3 of Dallas County. Nothing in this Act shall be construed as in anywise impairing or affecting the jurisdiction of the County Court of Dallas County, the Probate Court of Dallas County, the Probate Court Number 2 of Dallas County, the County Courts of Dallas County at Law Numbers 1, 2, 3, and 4, or any other County Court at Law of Dallas County heretofore or hereafter created.

Sec. 5. There shall be two terms of Probate Court Number 3 of Dallas County in each year and the first term shall be known as the January-June term, which shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July, and the second of such terms shall be known as the July-December term and shall begin on the first Monday in July and continue until and including Sunday next

before the first Monday in the following January. The initial term of the court shall begin on the first Monday after the effective date of this Act.

Sec. 6. The Judge of the Probate Court Number 3 of Dallas County shall be well informed on the laws of the state and shall have been a duly licensed and practicing member of the bar of this state for not less than five consecutive years prior to his election. A judge of the court shall be appointed by the Commissioners Court of Dallas County as soon as may be possible after the passage of this Act, who shall hold office from the date of his appointment until the next general election and until his successor is duly elected and has qualified. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Dallas County a judge of the Probate Court Number 3 of Dallas County for a regular term of four years as provided in Article V, Section 30 and Article XVI, Section 65 of the Texas Constitution.

Sec. 7. The Judge of the Probate Court Number 3 of Dallas County shall execute a bond and take the oath of office as required by the laws relating to county judges.

Sec. 8. Any vacancy in the office of the Judge of Probate Court Number 3 of Dallas County may be filled by the Commissioners Court of Dallas County by appointment of a judge of the court who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 9. In case of the absence, disqualification, or incapacity of the Judge of the Probate Court Number 3 of Dallas County, the County Judge of Dallas County shall sit and act as judge of the court and may hear and determine either in his own courtroom or in the courtroom of the court any matter or proceeding there pending and may enter such orders in such matters or proceedings as the Judge of said Probate Court Number 3 of Dallas County might enter if personally presiding therein.

Sec. 10. The Judge of the Probate Court of Dallas County and the Judge of the Probate Court Number 2 of Dallas County may sit for the Judge of the Probate Court Number 3 of Dallas County, and the Judge of the Probate Court Number 3 of Dallas County may sit for the Judge of the Probate Court of Dallas County and the Judge of the Probate Court Number 2 of Dallas County on any matters or proceedings pending in any of the courts. In the case of the absence, disqualification, or incapacity of the County Judge of Dallas County, the Judge of the Probate Court of Dallas County, the Judge of the Probate Court Number 2 of Dallas County, and the Judge of the Probate Court Number 3 of Dallas County, a special judge of the Probate Court Number 3 of Dallas County may be appointed or elected as provided by the general laws relating to county courts and to the judges thereof.

Sec. 11. The County Clerk of Dallas County shall be the Clerk of the Probate Court Number 3 of

Dallas County. The seal of the court shall be the same as that provided by law for county courts except that the seal shall contain the words "Probate Court Number 3 of Dallas County, Texas." The Sheriff of Dallas County shall in person or by deputy attend the court when required by the judge thereof. The Judge of the Probate Court Number 3 of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 12. The Judge of the Probate Court Number 3 of Dallas County shall collect the same fees as are now or hereafter established by law relating to county judges as to matters within the jurisdiction of the court, all of which shall be paid by him into the county treasury as collected and from after the date of his qualification as Judge of said Probate Court Number 3 of Dallas County he shall receive an annual salary to be fixed by order of the Commissioners Court of Dallas County which shall be the same salary as that paid to the Judge of the Probate Court of Dallas County and the Judge of the Probate Court Number 2 of Dallas County.

Sec. 13. All laws and parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict only. All other laws applicable to the Probate Court of Dallas County and the Probate Court Number 2 of Dallas County shall be applicable to Probate Court Number 3 of Dallas County. As to all other laws and parts of laws this Act shall be cumulative.

[Acts 1975, 64th Leg., p. 359, ch. 153, eff. May 8, 1975.]

TARRANT COUNTY

Art. 1970-32. Creation

There is hereby created a court to be held in Tarrant county, Texas, to be known and designated as the "County Court of Tarrant County for Civil Cases."¹

[Acts 1909, p. 48, § 1.]

¹Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-33. Jurisdiction of Said Court

(a) The County Court at Law No. 1 of Tarrant County shall have jurisdiction of all civil matters and causes, original and appellate, over which by the general laws of the state of Texas, the county court of said county would have jurisdiction, and its jurisdiction is concurrent with that of the County Court at Law No. 2 of Tarrant County in civil matters and causes, original and appellate. This provision shall not affect the jurisdiction of the commissioners' court or of the county judge of Tarrant county as the presiding officer of said court as to roads, bridges and public highways, and matters which are now within the jurisdiction of the commissioners' court or of the judge of the county court of Tarrant county. The county judge of Tarrant County shall be the judge of the county court of Tarrant County, and all ex officio duties of the

county judge shall be exercised by the judge of the county court of Tarrant County.

(b) The County Court at Law No. 1 of Tarrant County has jurisdiction concurrent with the district court in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of mandatory damages and penalties, attorney's fees, interest, and costs.

(c) In addition to the other jurisdiction conferred by law on the County Court at Law No. 1 of Tarrant County, the County Court at Law No. 1 has concurrent jurisdiction with the district court in Tarrant County in nonjury suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parent and child and between husband and wife. The provisions of this subsection do not diminish the jurisdiction of the district court in Tarrant County, and the district court shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

(d) The county clerk of Tarrant County is the clerk of the County Court at Law No. 1 of Tarrant County, except that the district clerk of Tarrant County shall serve as clerk of the County Court at Law No. 1 in the cases enumerated in Subsection (c) of this section. The district clerk may establish a separate docket for the County Court at Law No. 1 for family law matters filed originally in the district courts of Tarrant County. All cases of concurrent jurisdiction enumerated in Subsection (c) of this section shall be instituted in the district courts of Tarrant County but may be transferred between the district courts of Tarrant County and the County Court at Law No. 1 of Tarrant County. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred. Practice and procedure, rules of evidence, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving the matters of concurrent jurisdiction enumerated in Subsection (c) of this section shall be governed by the laws and rules pertaining to district courts as well as county courts.

[Acts 1909, p. 48, § 2. Amended by Acts 1981, 67th Leg., p. 2099, ch. 485, § 10, eff. Sept. 1, 1981.]

Art. 1970-34. Jurisdiction of Criminal Cases

In addition to the jurisdiction heretofore conferred by law upon the County Court of Tarrant County for Civil Cases,¹ of Tarrant County, Texas, and the judge thereof, the said County Court of Tarrant County for Civil Cases shall have jurisdiction within Tarrant County of all criminal matters and causes, original and appellate, over which the County Court at Law of Tarrant County now has jurisdiction, and the jurisdiction of said courts, over such matters, within said county, shall be concurrent, provided, that the jurisdiction of the County Court of Tarrant County shall remain as now fixed by law, and be in no wise affected by this Act.

[Acts 1925, 39th Leg., ch. 206, p. 679, § 1.]

¹ Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-35. Jurisdiction Retained by County Court of Tarrant County

The county court of Tarrant county shall retain, as heretofore the jurisdiction of all criminal cases, its jurisdiction as a juvenile court, its jurisdiction in matters pertaining to liquor licenses, forfeitures and bonds, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of administrator, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and shall apprentice minors as provided by law. The county judge of Tarrant county shall be the judge of the county court of Tarrant county; and all ex officio duties of the county judge shall be exercised by the said judge of the county court of Tarrant county, except in so far as the same shall, by this chapter, be committed to the judge of the county court of Tarrant county for civil cases.¹

[Acts 1909, p. 48, § 3.]

¹ See note under art. 1970-32.

Art. 1970-36. Both Courts May Issue Writs

Both the said county court of Tarrant county and the county court of Tarrant county for civil cases,¹ or either of the judges thereof, shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said courts, and also power to punish for contempts under such provisions as are, or may be, provided by the general laws governing county courts throughout the state, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said courts, or of any court or tribunal inferior to said courts.

[Acts 1909, p. 48, § 4.]

¹ See note under art. 1970-32.

Art. 1970-37. Terms, Practice, etc., of County Court of Tarrant County for Civil Cases

The terms of the county court of Tarrant county for civil cases,¹ and the practice therein, and appeals and writs of error therefrom, shall be as prescribed by law relating to the county courts. The terms of the county court of Tarrant county for civil cases shall be held not less than four times each year; and the commissioners' court of Tarrant county shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

[Acts 1909, p. 48, § 5.]

¹ See note under art. 1970-32.

Art. 1970-38. Judge to be Elected When, etc.; Qualifications; Term; Vacancies How Filled

At each general election there shall be elected by the qualified voters of Tarrant county a judge of the county court of Tarrant county for civil cases,¹ who shall be well informed in the laws of this state, who shall hold his office for two years, and until his successor shall have been duly elected and qualified; provided, that no person shall be eligible for judge of the county court of Tarrant county for civil cases, unless he shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state, or a judge of a court in this state, for four years next preceding his election, and who shall have resided in the county of Tarrant for two years next preceding his election. All vacancies in said office shall be filled by appointment by the governor until the next general election thereafter.

[Acts 1909, p. 48, § 6.]

¹ See note under art. 1970-32.

Art. 1970-39. Bond and Oath of Judge

The judge of the county court of Tarrant county for civil cases¹ shall execute a bond and take the oath of office as required by the law relating to county judges.

[Acts 1909, p. 48, § 7.]

¹ See note under art. 1970-32.

Art. 1970-40. Special Judge Elected or Appointed How

A special judge of the county court of Tarrant county for civil cases¹ may be appointed or elected as provided by law relating to county courts and to the judges thereof.

[Acts 1909, p. 48, § 8.]

¹ See note under art. 1970-32.

Art. 1970-41. Clerk of; Seal; Sheriff to Attend When, etc.

The county clerk of Tarrant county shall be the clerk for the county court of Tarrant county for

civil cases.¹ The seal of said court shall be the same as that provided for county courts, except that the seal shall contain the words, "County Court of Tarrant County for Civil Cases." The sheriff of Tarrant county shall, in person or by deputy, attend the court when required by the judge thereof.

[Acts 1909, p. 48, § 9.]

¹ See note under art. 1970-32.

Art. 1970-42. Selection, etc., of Juries by the Two Courts Jointly

The jurisdiction and authority now vested by law in the county court of Tarrant county for the selection and service of jurors shall be exercised by the two courts jointly and not separately.

[Acts 1909, p. 48, § 10.]

Art. 1970-43. Fees; Salary of Judge of County Court of Tarrant County for Civil Cases

The judge of the county court of Tarrant county for civil cases¹ shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county treasury; and he shall receive a salary of three thousand dollars annually,² to be paid monthly out of the county treasury by the commissioners' court.

[Acts 1909, p. 48, § 11.]

¹ See note under art. 1970-32.

² Now \$5,000. See article 1970-61.

Art. 1970-44. Removal of Judge

The judge of the county court of Tarrant county for civil cases¹ may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

[Acts 1909, p. 48, § 12.]

¹ See note under art. 1970-32.

Art. 1970-45. Salary of County Judge of Tarrant County

The county judge of Tarrant county shall hereafter receive from the county treasury in addition to the fees allowed him by law, such a salary, for the ex officio duties of his office, as may be allowed him by the commissioners' court.

[Acts 1909, p. 48, § 13.]

Art. 1970-45a. Compensation of Certain Tarrant County Judges

Effective January 1, 1978, the judges of the county criminal courts of Tarrant County, the probate court of Tarrant County, and the county courts at law of Tarrant County may be paid annually a sum that is at least equal to that sum which is \$8,000 less than the total annual salary as of January 1, 1978, including supplements, of any district judge in Tarrant County. Effective January 1, 1979, they may be paid annually a sum that is at least equal to

that sum which is \$5,500 less than the total annual salary as of January 1, 1979, including supplements, of any district judge in Tarrant County. Effective January 1, 1980, they may be paid annually a sum that is at least equal to that sum which is \$3,000 less than the total annual salary as of January 1, 1980, including supplements, of any district judge in Tarrant County. Effective January 1, 1981, they may be paid annually a sum that is at least equal to that sum which is \$1,000 less than the total annual salary, including supplements, of any district judge in Tarrant County. If the annual salary of any district judge in Tarrant County is increased within any calendar year, the salary of the judge of each county court of Tarrant County included in this Act may be increased in an equal amount so that the variance between the salaries of the judges of the county courts and the judges of the district courts does not exceed the amounts specified in this Act.

[Acts 1977, 65th Leg., p. 1821, ch. 730, § 1, eff. Aug. 29, 1977.]

Art. 1970-46. Court Created

That there shall be created a court to be held in Tarrant County, Texas, to be known and designated as the "County Court at Law" of Tarrant County, Texas.¹

[Acts 1921, 37th Leg., ch. 28, § 1.]

¹ See note under art. 1970-32.

Art. 1970-47. Jurisdiction

The County Court at Law of Tarrant County, Texas, shall have exclusive jurisdiction within said county of all criminal matters and causes, original and appellate, that is now vested in the County Courts having jurisdiction in civil and criminal cases under the Constitution and laws of Texas, except as provided in Section 3 of this Act;¹ and said County Court at Law shall have and exercise, in civil matters and causes, concurrent and equal jurisdiction with the County Court of Tarrant County for civil cases, said concurrent jurisdiction to extend to all causes and matters of which jurisdiction has heretofore vested in the County Court of Tarrant County for civil cases, or the judge thereof.

[Acts 1921, 37th Leg., ch. 28, § 2.]

¹ Article 1970-48.

Art. 1970-48. Same; Juvenile and Probate Matters

The County Court of Tarrant County shall retain exclusively as heretofore its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians; transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, parti-

tion and distribution of the estates of deceased persons; and of apprenticed minors as provided by law. The County Judge of Tarrant County shall be the judge of the County Court of Tarrant County, Texas, and all ex-officio duties of the County Judge shall be exercised by the said judge of the said County Court, except insofar as the same shall, by this Act, be committed to the Judge of the County Court at Law of Tarrant County, Texas,¹ and except such as have heretofore been conferred upon the judge of the County Court of Tarrant County for civil cases.²

[Acts 1921, 37th Leg., ch. 28, § 3.]

¹Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

²Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-49. Issuance of Writs

The County Court at Law of Tarrant County, Texas,¹ or the judge thereof, shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court; and also power to punish for contempt under such provisions as are or may be provided by the General Laws governing County Courts throughout the State, and issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said court or of any court or tribunal inferior to said court.

[Acts 1921, 37th Leg., ch. 28, § 4.]

¹Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-50. Terms of Court; Practice

The terms of the County Court at Law of Tarrant County, Texas,¹ and the practice therein and appeals and writs of error therefrom shall be as prescribed by law relating to the County Courts. The terms of said County Court at Law shall be held not less than four times each year and the Commissioners' Court of Tarrant County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

[Acts 1921, 37th Leg., ch. 28, § 5.]

¹Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-51. Judge

As soon as may be after the passage of this Act, there shall be appointed by the Governor, in accordance with law, and subject to the confirmation of the Senate, a judge of the County Court at Law hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding general election and until his successor shall have duly qualified. The judge of said court elected at any general election shall hold office for two years and until his successor shall have duly qualified: provided, that no person shall be eligible for judge of said court unless he shall be

a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a judge of a court in this State for four years next preceding this appointment or election, and who shall have resided in the county of Tarrant for two years next preceding his appointment or election.

[Acts 1921, 37th Leg., ch. 28, § 6.]

Art. 1970-52. Same; Bond and Oath

The judge of the County Court at Law of Tarrant County, Texas,¹ shall execute a bond and take the oath of office as required by the law relating to County Judges.

[Acts 1921, 37th Leg., ch. 28, § 7.]

¹Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-53. Special Judge

A special judge of the County Court at Law of Tarrant County, Texas,¹ may be appointed or elected as provided by the laws relating to County Courts and to the judges thereof.

[Acts 1921, 37th Leg., ch. 28, § 8.]

¹Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-54. Clerk; Seal; Sheriff

The County Clerk of Tarrant County, Texas, shall be the clerk of the County Court at Law of Tarrant County, Texas.¹ The seal of said Court shall be the same as provided for County Courts except that the seal shall contain the words "County Court at Law, Tarrant County, Texas." The sheriff of Tarrant County shall, in person or by deputy, attend said court when required by the judge thereof.

[Acts 1921, 37th Leg., ch. 28, § 9.]

¹Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-55. Fees; Salary

The judge of the County Court at Law of Tarrant County, Texas, and the judge of the County Court of Tarrant County for civil cases, shall collect the same fees provided by law for County Judges in similar cases, all of which shall be paid by them monthly into the County Treasury and the judge of each said courts, shall receive a salary of \$4,000¹ annually, to be paid monthly out of the County Treasury by the Commissioners' Court.

[Acts 1921, 37th Leg., ch. 28, § 10.]

¹Now \$5,000. See article 1970-61.

Art. 1970-56. Removal of Judge

The judge of the County Court at Law of Tarrant County, Texas,¹ may be removed from office in the same manner and for the same causes as any other

County Judge may be removed under the laws of this State.

[Acts 1921, 37th Leg., ch. 28, § 11.]

¹Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-57. Shorthand Reporter

For the purpose of preserving a record in all cases for the information of the court, jury and parties, the judge of the County Court at Law of Tarrant County, Texas,¹ shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and shall hold his office at the pleasure of the court; and the provisions of Chapter eleven of Title 37 of the Revised Civil Statutes of Texas of 1911 relating to the appointment of stenographers for the District Courts shall, and it is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salaries and shall perform the same duties and shall take the same oath as are in said Chapter eleven of Title 37 provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take the testimony in cases where neither party litigant nor the judge demands it; but where the testimony is taken by said reporter a fee of three dollars shall be taxed by the clerk as costs in the case. Said reporter shall also as far as practicable, act as the official shorthand reporter of the County Court of Tarrant County for civil cases.

[Acts 1921, 37th Leg., ch. 28, § 12.]

¹Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-58. Transfer of Causes

As soon as may be after this Act takes effect, the Clerk of the County Court of Tarrant County, Texas, shall transfer to the docket of the County Court at Law of Tarrant County, Texas,¹ all of the criminal cases then pending in the County Court of Tarrant County. The clerk shall note such transfers when made on the minutes of the County Court of Tarrant County, Texas. Thereafter, all new criminal cases filed in said county and coming within the jurisdiction of the County Court shall be placed on the docket of said County Court at Law. Until such time as the Commissioners' Court shall direct, no civil cases shall be filed in or transferred to said County Court at Law; but when directed to do so by said Commissioners' Court, the clerk of said county shall transfer from the docket of the County Court of Tarrant County for civil cases² to the docket of said County Court at Law a sufficient number of civil cases to equalize the dockets of said two courts, and shall thereafter place new civil cases, as they are filed, on the docket of said

County Court at Law in a ratio to be prescribed by said Commissioners' Court, which ratio may be changed or modified from time to time by order of said Commissioners' Court.

[Acts 1921, 37th Leg., ch. 28, § 13.]

¹Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

²Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-59. Cases Filed in Either County Court at Law or County Court for Civil Cases

Upon the passage and taking effect of this Act civil and criminal cases, within jurisdiction of such courts, may be originally filed in either the County Court at Law of Tarrant County, Texas,¹ or the County Court of Tarrant County for Civil Cases.²

[Acts 1925, 39th Leg., ch. 206, p. 679, § 2.]

¹Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

²Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-60. Transfer of Cases

Whenever the judges of the County Court of Tarrant County for Civil Cases,¹ or the judge of the County Court at Law,² may deem it expedient to the transaction of the public business, he may transfer any cause pending in the court over which he presides to the docket of said other court, and the written order upon the minutes of either of said courts so transferring such case, signed by the judge thereof making the transfer, shall be authority for the clerk of such courts to make transfer. Provided, further, that the commissioners' court of said county may, within its discretion, direct the clerk of said courts to transfer from the docket of either of said courts any case or cases pending thereon to the docket of such other court, and thereupon the court to which the transfer may be made shall have jurisdiction to hear and determine such cause or causes as though the same had been originally filed therein.

[Acts 1925, 39th Leg., ch. 206, p. 679, § 3.]

¹Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

²Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-61. Fees and Salaries of Judges

The judge of the County Court at Law¹ and the judge of the County Court of Tarrant County for Civil Cases,² respectively, shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by them monthly into the county treasury, the judges of said courts shall each receive a salary of \$5,000.00 annually, to be paid

monthly out of the county treasury by the commissioners' court of Tarrant County, Texas.

[Acts 1925, 39th Leg., ch. 206, p. 679, § 4.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

² Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-62. Designations of Courts

From and after the passage and the taking effect of this Act the said County Court at Law of Tarrant County shall be known and designated as the "County Court at Law No. 1" of Tarrant County, Texas, and the said County Court of Tarrant County for Civil Cases shall be known and designated as the "County Court at Law No. 2" of Tarrant County, Texas.

[Acts 1925, 39th Leg., ch. 206, p. 680, § 5.]

Art. 1970-62.1. Transfer of Eminent Domain Jurisdiction from County to District Courts

Neither the County Court of Tarrant County, the County Court at Law of Tarrant County nor the judges of the courts have any jurisdiction over matters of eminent domain.

[Acts 1971, 62nd Leg., p. 50, ch. 27, § 1, eff. March 18, 1971.]

Section 2 of the 1971 act appears as a note under art. 1906. Sections 3 to 6 thereof provided:

"Sec. 3. All proceedings in matters of eminent domain pending to the County Court or County Court at Law of Tarrant County when this Act takes effect are transferred to the district courts, and all writs and process relating to those matters issued by or out of the County Court or County Court at Law of Tarrant County are returnable to the district courts of Tarrant County.

"Sec. 4. After this Act takes effect, should a judgment be entered by the court of civil appeals or the supreme court remanding for a new trial or for further proceedings any cause in matters of eminent domain that was appealed from the County Court or County Court at Law of Tarrant County, the cause shall be remanded to the district courts, and all jurisdiction in respect to that cause vests in the district courts.

"Sec. 5. Within 10 days after this Act takes effect the county clerk of Tarrant County shall file with the district clerk of the Tarrant County all original papers in causes transferred by this Act to the district court, with all judges' dockets and certified copies of any interlocutory judgment or other order entered in the minutes of the county court in those causes, and the district clerk shall immediately docket all such causes on the dockets of the district courts in a manner to equalize case loads, and all such causes shall stand on the docket of the district court in the same order in which they appeared on the docket of the county court, and each such case shall take its place on the docket of the district court in the same manner in the same priority as other civil cases are assigned to such docket, with the position on such docket to be determined in the same manner as though such cases had been committed to the district court in the first instance. It shall not be necessary for the district clerk to refile any papers theretofore filed by the county court, but papers in a cause bearing the file mark of the county clerk prior to the time of the transfer shall be held to have been filed in the cause as of the date filed without being refiled by the district clerk. The county clerk in cases so transferred shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the county clerk shall charge accrued fees due him and the remainder of the deposit he shall pay to the district court as a deposit in the particular cause for which it was deposited. Credit shall be given litigants for all jury fees paid in the county court.

"Sec. 6. This Act shall not be construed to in anywise or manner affect final judgments heretofore rendered by the County Court or County Court at Law of Tarrant County pertaining to matters of eminent domain, and the county court shall retain jurisdiction to enforce those final judgments and the county clerk of Tarrant County shall issue all writs of execution and orders of sale and proceedings thereunder and his act in so doing shall be valid and binding to all intents and purposes the same as if no transfer of jurisdiction had been made by this Act."

Art. 1970-62.2. County Court at Law No. 2 of Tarrant County

Sec. 1. (a) There is created a court to be held in Tarrant County to be known and designated as the "County Court at Law No. 2 of Tarrant County."

(b) The County Court at Law of Tarrant County shall be hereafter known and designated as the "County Court at Law No. 1 of Tarrant County."

Sec. 2. (a) The County Court at Law No. 2 of Tarrant County has jurisdiction of all civil matters and causes, original and appellate, over which by the general laws of the state the county court of the county would have jurisdiction, and its jurisdiction is concurrent with that of the County Court at Law of Tarrant County in civil matters and causes, original and appellate. This provision does not affect the jurisdiction of the commissioners court or of the county judge of Tarrant County as the presiding officer of that court as to roads, bridges, and public highways, and matters which are now within the jurisdiction of the commissioners court or of the judge of the county court of Tarrant County. The county judge of Tarrant County shall be the judge of the county court of Tarrant County, and all ex officio duties of the county judge shall be exercised by the judge of the county court of Tarrant County.

(b) In addition to the other jurisdiction conferred by law on the County Court at Law No. 2 of Tarrant County, the County Court at Law No. 2 has concurrent jurisdiction with the district court in Tarrant County in nonjury suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parent and child and between husband and wife. The provisions of this subsection do not diminish the jurisdiction of the district court in Tarrant County, and the district court shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

(c) The County Court at Law No. 2 of Tarrant County has jurisdiction concurrent with the district court in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive

of mandatory damages and penalties, attorney's fees, interest and costs.

Sec. 3. The County Court at Law No. 2 of Tarrant County, or its judge, has the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of the court, to punish for contempts under such provisions as are, or may be, provided by the general laws governing county courts throughout the state, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any court or tribunal inferior to that court.

Sec. 4. (a) The judges of the County Court at Law No. 1 of Tarrant County and the County Court at Law No. 2 of Tarrant County may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) The judges of the county courts at law with civil jurisdiction may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in a county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of any court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(c) In cases transferred to any of the courts by order of the judge of one of the other courts, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 5. The terms of the County Court at Law No. 2 of Tarrant County are the same as the terms for the County Court at Law No. 1 of Tarrant County. The practice in the court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to county courts, except that practice and procedure, rules of evidence, and all other matters pertaining to the conduct of trials and hear-

ings in the county court at law involving the matters of concurrent jurisdiction with the district court enumerated in Section 2(b) of this Act shall be governed by the laws and rules pertaining to district courts as well as county courts.

Sec. 6. (a) The judge of the County Court at Law No. 2 of Tarrant County must be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state, or a judge of a court in this state, for four years next preceding his election or appointment, and who shall have resided in the county of Tarrant for two years next preceding his election or appointment.

(b) At the primaries and general election in 1978, there shall be elected by the qualified voters of Tarrant County a judge of the County Court at Law No. 2 for a four-year term beginning on January 1, 1979. Every four years thereafter, this judge shall be elected by the qualified voters of Tarrant County for a four-year term as provided in the Texas Constitution. A vacancy in the office shall be filled by appointment by the Commissioners Court of Tarrant County until the next general election.

Sec. 7. The judge of the County Court at Law No. 2 shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 8. A special judge of the County Court at Law No. 2 may be appointed or elected as provided by law relating to county courts and to the judges thereof.

Sec. 9. The county clerk of Tarrant County shall be the clerk for the County Court at Law No. 2, except that the district clerk of Tarrant County shall serve as clerk of the County Court at Law No. 2 in the cases enumerated in Section 2(b) of this Act. The district clerk may establish a separate docket for the County Court at Law No. 2 for family law matters filed originally in the district courts of Tarrant County. All cases of concurrent jurisdiction enumerated in Section 2(b) of this Act shall be instituted in the district courts of Tarrant County but may be transferred between the district courts of Tarrant County and the County Court at Law No. 2 of Tarrant County. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred. The seal of the court shall be the same as that provided for county courts, except that the seal shall contain the words, "County Court at Law No. 2 of Tarrant County." The sheriff of Tarrant County shall, in person or by deputy, attend the court when required by the judge thereof.

Sec. 10. The jurisdiction and authority now vested by law in the County Court at Law of Tarrant County for the selection and service of jurors shall be exercised by the County Court at Law No. 2.

Sec. 11. The judge of the County Court at Law No. 2 of Tarrant County shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county treasury. The commissioners court may fix the amount of compensation to be paid to the judge of the County Court at Law No. 2 of Tarrant County, such compensation to be paid monthly out of the county treasury, provided however, that any such compensation shall be equal to the compensation as provided by law and fixed by the commissioners court for the judge of the County Court at Law No. 1 of Tarrant County. The judge shall not engage in the practice of law while in office.

Sec. 12. The judge of the County Court at Law No. 2 of Tarrant County may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

Sec. 13. The judge of the County Court at Law No. 2 of Tarrant County shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court, and who shall hold his office at the pleasure of the court. The provisions of the general laws of Texas relating to the appointment of reporters for the district courts shall apply in all their provisions, insofar as they are applicable, to the official shorthand reporter herein authorized to be appointed, and the reporter is entitled to the same fees and salary and shall perform the same duties and shall take the same oath as provided for the reporters of district courts of this state, and shall be governed by any other laws covering the reporters of the district courts of this state.

Sec. 14. With the exception of Subsection (b), Section 6, the provisions of this Act take effect on January 1, 1979.

[Acts 1977, 65th Leg., p. 1532, ch. 625, eff. Jan. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2100, ch. 485, §§ 11 to 13, eff. Sept. 1, 1981.]

Art. 1970-62a. County Criminal Court No. 1 of Tarrant County

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

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

Sec. 3. The County Court of Tarrant County, Texas, shall retain as heretofore its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compose men-

tis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compose mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Tarrant County shall be the Judge of the County Court of Tarrant County, Texas, and all ex officio duties of the County Judge shall be exercised by the said Judge of the said County Court, except as in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court of Tarrant County, Texas; and except such as have heretofore been conferred upon the Judge of the County Court at Law of Tarrant County, Texas.

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

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

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

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

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

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

Sec. 10. The Judge of the County Criminal Court of Tarrant County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said Court shall receive a salary as fixed by the Commissioners Court not to exceed Eight Thousand, Nine Hundred Dollars (\$8,900) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of law while in office.

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

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

Sec. 13. As soon as may be after the passage of this Act there shall be appointed by the Criminal District Attorney of Tarrant County in accordance

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

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

Sec. 15. As soon as may be after this Act takes effect the Clerk of the County Court at Law of Tarrant County, Texas, and the Clerk of the Criminal District Court of Tarrant County, Texas, and the Clerk of the Criminal District Court No. 2 of Tarrant County, Texas, may transfer to the docket of the County Criminal Court of Tarrant County, Texas, hereby created, any of the criminal cases then pending in any of the said Courts and which may properly come within the jurisdiction of the County Criminal Court of Tarrant County, Texas, hereby created, and thereafter the Judge of any of the four (4) said Courts may, in his discretion, transfer any cause or causes that may at any time be pending in his Court to any of the other Courts by an order or orders entered in the minutes of his Court, provided however, that the Court to which any such cause is transferred would have had proper jurisdiction of such cause or causes if such cause or causes had been originally instituted in said Court; and the Judge of the Court to which such transfer or trans-

fers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

[Acts 1953, 53rd Leg., p. 909, ch. 375.]

Art. 1970-62b. County Criminal Court No. 2 of Tarrant County

Sec. 1. There shall be created a court to be held in Tarrant County, Texas, to be known and designated as "The County Criminal Court No. 1 of Tarrant County, Texas."

Sec. 2. The County Criminal Court No. 1 of Tarrant County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Tarrant County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Tarrant County shall be the Judge of the County Court of Tarrant County, Texas, and all ex officio duties of the County Judge shall be exercised by the said Judge of the said County Court, except in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court No. 1 of Tarrant County, Texas; and except such as have heretofore been conferred upon the Judges of the County Courts at Law, and the County Criminal Court of Tarrant County.

Sec. 4. The County Criminal Court No. 1 of Tarrant County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the state.

Sec. 5. The terms of the County Criminal Court No. 1 of Tarrant County, Texas, and the practice therein and appeals therefrom shall be prescribed by law relating to the county courts. The terms of said County Criminal Court No. 1, shall be held not less than four (4) times each year and the Commissioners Court of Tarrant County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as possible after the passage of this Act, there shall be appointed by the Commissioners Court of Tarrant County in accordance with the law, a Judge of the County Criminal Court No. 1, hereby created, who shall be well-informed in the laws of the state and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said court elected at any General Election shall hold office for four (4) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state or a Judge of a court in said state for four (4) years next preceding his appointment or election, and who shall have resided in the County of Tarrant for two (2) years next preceding his appointment or election.

Sec. 7. The Judge of the County Criminal Court No. 1 of Tarrant County, Texas, shall execute a bond and take the oath of office as required by the law relating to County Judges.

Sec. 8. A special Judge of the County Criminal Court No. 1 of Tarrant County, Texas, may be appointed or elected as provided by the laws relating to County Courts and the Judges thereof.

Sec. 9. The county clerk of Tarrant County, Texas, shall be the clerk of the County Criminal Court No. 1 of Tarrant County, Texas, the seal of said court shall be the same as provided for County Courts, except that the seal shall contain the words "The County Criminal Court No. 1 of Tarrant County, Texas." The sheriff of Tarrant County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 10. The Judge of the County Criminal Court No. 1 of Tarrant County, Texas, shall collect the same fee provided by law for County Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

Sec. 11. The Judge of the County Criminal Court No. 1 of Tarrant County, Texas, may be removed from office in the same manner, and for the same causes as any other County Judge may be removed under the laws of this state.

Sec. 12. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the Judge of the County Criminal Court No. 1 of Tarrant County, Texas, shall appoint an official shorthand reporter, who shall be well-skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to

apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this state, and also be governed by any other laws covering the stenographers of the District Courts of this state.

Sec. 13. After this Act shall become effective, the Judge of the County Criminal Court of Tarrant County and the Judge of the County Criminal Court No. 1 of Tarrant County shall together with the clerk of said courts, make a just and fair division of the cases pending on the docket of the County Criminal Court of Tarrant County, and after such division is made the clerk of the County Criminal Court of Tarrant County shall transfer to the docket of the County Criminal Court No. 1 of Tarrant County all cases allotted to said County Criminal Court No. 1 of Tarrant County in the division so made by said Judges and the County Clerk shall retain the remaining cases on the docket of the County Criminal Court of Tarrant County. For the balance of the month in which the County Criminal Court No. 1 of Tarrant County is created and becomes operative, all cases shall be filed in said court, and during the next succeeding month all cases shall be filed in the County Criminal Court of Tarrant County, and thereafter the filings shall alternate each month as between said courts.

Provided that the Judge of each court shall, by agreement with the other Judge, have authority to transfer any case pending for trial from the docket of such court to the docket of such other court, and during the absence, illness, or inability of either Judge to preside in his own court the Judge of the other court shall be and is hereby authorized to act for such Judge absent for any of the above reasons in the trial or other disposition of cases on the docket of such other court.

[Acts 1961, 57th Leg., p. 86, ch. 50. Amended by Acts 1961, 57th Leg., p. 1017, ch. 444, § 1.]

Art. 1970-62c. County Criminal Court No. 3 of Tarrant County

Sec. 1. There is hereby created a county court to be held in and for Tarrant County, Texas, to be called the County Criminal Court No. 3 of Tarrant County, Texas.

Sec. 2. The County Criminal Court No. 3 of Tarrant County shall have, and same is hereby vested with, concurrent jurisdiction within said County of all criminal matters and causes, original and appellate, that are now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and laws of Texas. Each of the County Criminal Courts Nos. 3 and 4 of Tarrant County have concurrent jurisdiction within the County of all appeals from criminal convictions under the laws of the State of Texas and the municipal ordinances of

the municipalities located in Tarrant County that are appealed from the justice courts and municipal courts in the County. The county clerk of Tarrant County shall alternatively file the appeals from the justice and municipal courts from convictions under the laws of the State and the ordinances of the municipalities in the County Criminal Court No. 3 and the County Criminal Court No. 4, regardless of the court or the judge to which the cases are addressed.

Sec. 3. Repealed by Acts 1979, 66th Leg., p. 802, ch. 360, § 4, eff. Aug. 27, 1979.

Sec. 4. The County Court of Tarrant County, Texas, shall retain, as heretofore, its jurisdiction as a juvenile court and its general jurisdiction as a probate court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and habitual drunkards, grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, and transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of the estates of deceased persons and the apprenticing of minors as provided by law. The county judge of Tarrant County, Texas, shall be judge of the County Court of Tarrant County, Texas, and all ex officio duties of the county judge shall be exercised by the said judge of said County Court except insofar as the same shall, by this Act, be committed to the judge of the County Criminal Court No. 3 of Tarrant County, Texas, and except such as have heretofore been conferred upon the judge of the County Court at Law of Tarrant County, Texas.

Sec. 5. The County Criminal Court No. 3 of Tarrant County, Texas, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of said Court or any court or tribunal inferior to said Court, and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the State.

Sec. 6. The terms of the County Criminal Court No. 3 of Tarrant County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the County Courts. The terms of said County Criminal Court No. 3 shall be held not less than four (4) times each year, and the Commissioners Court of Tarrant County, Texas, shall fix the time at which said Court shall hold its terms until the same may be changed according to law.

Sec. 7. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Tarrant County, in accordance with the law, a judge of the County Criminal Court No. 3 hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his

successor shall have duly qualified. At the next General Election there shall be elected a judge of the County Criminal Court No. 3 who shall hold office for the unexpired term. The judges of said Court elected at the General Election in 1966 and thereafter shall hold office for four (4) years and until their successors shall have duly qualified; provided that no person shall be eligible for judge of said Court unless he shall be a citizen of the United States and of this State who shall have been a practicing lawyer of this State or a judge of a Court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Tarrant for two (2) years next preceding his appointment or election.

Sec. 8. The judge of the County Criminal Court No. 3 of Tarrant County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 9. A special judge of the County Criminal Court No. 3 of Tarrant County, Texas, may be appointed or elected as provided by the laws relating to County Courts and the judges thereof.

Sec. 10. The County Clerk of Tarrant County, Texas, shall be the clerk of the County Criminal Court No. 3 of Tarrant County, Texas. The seal of said Court shall be the same as provided for County Courts except that the seal shall contain the words "The County Criminal Court No. 3 of Tarrant County, Texas." The sheriff of Tarrant County, Texas, shall in person or by deputy, attend said Court when required by the judge thereof.

Sec. 11. The judge of the County Criminal Court No. 3 of Tarrant County, Texas, shall collect the same fee provided by law for county judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the judge of said Court shall receive a salary of Twelve Thousand Dollars (\$12,000) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such judge shall not engage in the practice of law while in office.

Sec. 12. The judge of the County Criminal Court No. 3 of Tarrant County, Texas, may be removed from office in the same manner, and for the same causes as any other county judge may be removed under the laws of this State.

Sec. 13. For the purpose of preserving a record in all cases for the information of the Court, jury and parties, the judge of the County Criminal Court No. 3 of Tarrant County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the Court and who shall hold his office at the pleasure of the Court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to, apply in all its provisions insofar as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall per-

form the same duties and take the same oath as are in said laws provided for the stenographers of District Courts of this State, and he shall also be governed by any other laws covering the stenographers of the District Courts of this State; provided that the official shorthand reporter of said Court shall not be required to take testimony in cases where neither party litigant nor the judge demands it, but where the testimony is taken by said reporter, a fee of Three Dollars (\$3) shall be taken by the clerk as costs in the case, the said Three Dollars (\$3), when collected, shall be paid into the County Treasury of Tarrant County, Texas.

Sec. 14. As soon as may be after this Act takes effect, the clerk of the County Criminal Court of Tarrant County, Texas, and the clerk of the County Criminal Court No. 1 of Tarrant County, Texas, may transfer to the docket of the County Criminal Court No. 3 of Tarrant County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Tarrant County, Texas, and the County Criminal Court No. 1 of Tarrant County, Texas, and thereafter the judge of either of said Courts may, in his discretion, transfer any cause or causes that may at any time be pending in his Court to the other Courts by an order or orders entered in the minutes of his Court, and the judge of the Court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

Sec. 15. The judge of the County Criminal Court of Tarrant County, Texas, and the judge of the County Criminal Court No. 1 of Tarrant County, Texas, and the judge of the County Criminal Court No. 3 of Tarrant County, Texas, may, in their discretion, exchange benches and sit and hear cases in the Court in which the case or proceeding is then pending, and try or otherwise dispose of same.

Sec. 16. The County Criminal Court of Tarrant County, Texas, and the County Criminal Court No. 1 of Tarrant County, Texas, shall hereafter be referred to and known as the County Criminal Court No. 1 of Tarrant County, and the County Criminal Court No. 2 of Tarrant County, respectively and all references in this Act or existing laws to the County Criminal Court of Tarrant County or the County Criminal Court No. 1 of Tarrant County shall, hereafter, refer to the County Criminal Court No. 1 of Tarrant County and County Criminal Court No. 2 of Tarrant County respectively.

Sec. 17. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative.

Sec. 18. If any Section, paragraph, sentence, clause, phrase or word contained in this Act shall be held unconstitutional by the Courts of this State,

the invalidity of such portion of the Act shall not be construed to affect any other part of the Act.

[Acts 1963, 58th Leg., p. 682, ch. 251. Amended by Acts 1979, 66th Leg., p. 800, ch. 360, §§ 1, 4, eff. Aug. 27, 1979.]

Section 3 of the 1979 amendatory act provided:

"When this Act becomes effective, the judges of the County Criminal Court No. 3 of Tarrant County and the County Criminal Court No. 4 of Tarrant County, together with the clerk of the courts, shall make a just and fair division of all the cases pending on the dockets of those courts, including those cases appealed from criminal convictions under the laws of the State of Texas and the municipal ordinances of the municipalities located in Tarrant County that were appealed from the justice courts and the municipal courts in the county. After the division is made, the clerk of the courts shall transfer to the docket of each court all cases allotted to the court in the division made by the judges. In cases transferred as provided by this Act, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made."

Art. 1970-62d. County Criminal Court No. 4 of Tarrant County

Sec. 1. There is created a county court to be held in and for Tarrant County to be called the County Criminal Court No. 4 of Tarrant County.

Sec. 2. The County Criminal Court No. 4 of Tarrant County shall have and same is vested with concurrent jurisdiction within the county of all criminal matters and causes, original and appellate, that is vested in the county courts having jurisdiction in criminal cases under the constitution and laws of Texas. Each of the County Criminal Courts Nos. 3 and 4 of Tarrant County have concurrent jurisdiction within the county of all appeals from criminal convictions under the laws of the State of Texas and the municipal ordinances of the municipalities located in Tarrant County that are appealed from the justice courts and municipal courts in the county. The county clerk of Tarrant County shall alternately file the appeals from the justice and municipal courts from convictions under the laws of the state and the ordinances of the municipalities in the County Criminal Court No. 3 and the County Criminal Court No. 4 regardless of the court or the judge to which the cases are addressed.

Sec. 3. The County Criminal Court No. 4 of Tarrant County, or its judge, has the power to issue writs of injunction and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the County Criminal Court No. 4 has all other powers, duties, immunities, and privileges provided by law for county court judges.

Sec. 4. The terms of the County Criminal Court No. 4 of Tarrant County and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of the County Criminal Court No. 4 shall be held not less than four times each year, and the Commissioners Court of Tarrant County shall fix the time at which the court shall hold its terms until the same may be changed according to law.

Sec. 5. As soon as possible after the passage of this Act, there shall be appointed by the Commissioners Court of Tarrant County a judge of the County Criminal Court No. 4, who shall be well informed in the laws of the state and who shall hold his office until the next succeeding general election and until his successor has qualified. At the next general election, there shall be elected a judge of the County Criminal Court No. 4 who shall hold office for the unexpired term. The judge of the court elected at the general election in 1978 and thereafter shall hold office for four years and until his successor has qualified. No person is eligible to be judge of the court unless he is a citizen of the United States and of this state who has been a practicing lawyer of this state or a judge of a court in this state for four years next preceding his appointment or election, and who shall have resided in the County of Tarrant for two years next preceding his appointment or election.

Sec. 6. The judge of the County Criminal Court No. 4 of Tarrant County shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 7. A special judge of the County Criminal Court No. 4 of Tarrant County may be appointed or elected as provided by the laws relating to County Courts and the judges thereof.

Sec. 8. The County Clerk of Tarrant County, Texas, shall be the clerk of the County Criminal Court No. 4 of Tarrant County. The seal of the court shall be the same as provided for county courts except that the seal shall contain the words "The County Criminal Court No. 4, Tarrant County, Texas." The sheriff of Tarrant County shall in person or by deputy attend the court when required by the judge thereof.

Sec. 9. The judge of the County Criminal Court No. 4 of Tarrant County shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county treasury. The judge of the County Criminal Court No. 4 shall receive the same compensation as provided by law and fixed by the commissioners court for the judges of the County Criminal Courts Nos. 1, 2, and 3 of Tarrant County, to be paid monthly out of the county treasury by the commissioners court. The judge shall not engage in the practice of law while in office.

Sec. 10. The judge of the County Criminal Court No. 4 of Tarrant County may be removed from office in the same manner and for the same causes

as any other county judge may be removed under the laws of this state.

Sec. 11. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court No. 4 of Tarrant County shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court, and who shall hold his office at the pleasure of the court. The provisions of the general laws of Texas relating to the appointment of stenographers for the district courts shall apply in all their provisions, insofar as they are applicable, to the official shorthand reporter herein authorized to be appointed, and the reporter is entitled to the same fees and salary and shall perform the same duties and shall take the same oath as provided for the stenographers of district courts of this state, and shall be governed by any other laws covering the stenographers of the district courts of this state.

Sec. 12. After this Act becomes effective, the judges of the County Criminal Courts Nos. 1, 2, 3, and 4 of Tarrant County shall make a just and fair division of the cases pending on the dockets of the County Criminal Courts Nos. 1, 2, and 3, and after such division is made the clerk shall transfer to the docket of the County Criminal Court No. 4 of Tarrant County all cases allotted to the County Criminal Court No. 4 of Tarrant County in the division so made by the judges. Thereafter, the judge of a county criminal court in Tarrant County may, in his discretion, transfer any cause that may at any time be pending in his court to the other courts by an order or orders entered in the minutes of his court. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred. The judge of the court to which such transfer or transfers are made shall dispose of the cause or causes in the same manner as if such cause or causes were originally instituted in that court. In cases transferred to any one of the county criminal courts in Tarrant County, as provided in this Act, all process extant at the time of the transfer shall be returned to and filed in the court to which the transfer is made, and shall be as valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 13. The judges of the County Criminal Courts Nos. 1, 2, 3, and 4 of Tarrant County may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

[Acts 1975, 64th Leg., p. 1844, ch. 574, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 801, ch. 360, § 2, eff. Aug. 27, 1979.]

Section 3 of the 1979 amendatory act provided for the division of cases pending on the dockets of County Criminal Courts Nos. 3 and 4 upon the effective date of the amendment; see note under art. 1970-62c.

Art. 1970-62e. County Criminal Courts Nos. 5 and 6 of Tarrant County

Creation

Sec. 1. The County Criminal Court No. 5 of Tarrant County and the County Criminal Court No. 6 of Tarrant County are created on the dates determined as provided by Section 18 of this Act.

Jurisdiction

Sec. 2. A court created by this Act has concurrent jurisdiction within the county of all criminal matters and causes, original and appellate, that is vested in the county courts having jurisdiction in criminal cases under the constitution and laws of Texas. A court created by this Act has concurrent jurisdiction within the county of all appeals from criminal convictions under the laws of this state and the municipal ordinances of the municipalities located in Tarrant County that are appealed from the justice courts and municipal courts in the county. The county clerk of Tarrant County shall alternately file the appeals from the justice and municipal courts from convictions under the laws of this state and the ordinances of the municipalities in the County Criminal Court No. 3, County Criminal Court No. 4, and the courts created by this Act, regardless of the court or the judge to which a case is addressed.

Writ Power

Sec. 3. A court created by this Act or its judge, has the power to issue writs of injunction and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of a court created by this Act has all other powers, duties, immunities, and privileges provided by law for county court judges.

Terms

Sec. 4. The terms of the courts created by this Act and the practice in those courts and appeals from them are as prescribed by law relating to the county courts. The courts created by this Act shall hold at least four terms each year, and the Commissioners Court of Tarrant County shall fix the time at which the courts shall hold terms until the terms are changed according to law.

Judge

Sec. 5. (a) Beginning at the first general election following creation of a court under this Act at which county court at law judges are regularly elected, and every four years thereafter, the qualified voters of the county shall elect a judge for the court. The judge serves until his successor is elected and has qualified.

(b) The commissioners court shall appoint a person to fill a vacancy in the office of the judge of a court created by this Act. The appointee holds office until the next succeeding general election and until his successor is elected and has qualified.

(c) A judge must be a citizen of the United States and of this state who has been a practicing lawyer of this state or a judge of a court in this state for four years next preceding his appointment or election, and must have resided in Tarrant County for two years next preceding his appointment or election.

Bond

Sec. 6. The judge of a court created by this Act shall execute a bond and take the oath of office as required by law relating to county judges.

Special Judge

Sec. 7. A special judge of a court created by this Act may be appointed or elected as provided by the laws relating to appointment of a special county judge.

Clerk

Sec. 8. The county clerk serves as the clerk of the courts created by this Act.

Seal

Sec. 9. The seal of the courts created by this Act shall be the same as provided for county courts except that the seals shall contain the words "The County Criminal Court No. 5, Tarrant County, Texas," and "The County Criminal Court No. 6, Tarrant County, Texas."

Sheriff

Sec. 10. The sheriff of Tarrant County shall in person or by deputy attend the courts if required by the judge of a court.

Fees

Sec. 11. The judges of the courts created by this Act shall collect the same fees provided by law for county judges in similar cases. The judges shall pay the fees monthly into the county treasury.

Compensation

Sec. 12. The judges of the courts created by this Act are entitled to receive the same compensation as provided by law and fixed by the commissioners court for the other judges of the county criminal courts of Tarrant County. The commissioners court shall pay the salary monthly out of the county treasury.

Private Practice

Sec. 13. The judges may not engage in the practice of law while in office.

Removal of Judge

Sec. 14. The judge of a court created by this Act may be removed from office in the same manner and for the same causes that a county judge may be removed under the laws of this state.

Shorthand Reporter

Sec. 15. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judges of the county criminal courts created by this Act shall each appoint an official shorthand reporter, who must be well skilled in his profession. The reporter is a sworn officer of the court who holds his office at the pleasure of the court. The general law relating to stenographers for district courts applies to the official shorthand reporter. A reporter is entitled to the same fees and salary and shall perform the same duties and shall take the same oath as provided for the stenographers of district courts.

Transfer of Cases

Sec. 16. The judge of a county criminal court in Tarrant County may transfer any case that is pending in his court to another county criminal court by an order entered in the minutes of his court. However, a case may not be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred. The judge of the court to which a transfer is made shall dispose of the case in the same manner as if the case were originally instituted in that court. In cases transferred to a county criminal court in Tarrant County, as provided in this Act, all process extant at the time of the transfer shall be returned to and filed in the court to which the transfer is made, and shall be as valid and binding as though originally issued out of the court to which the transfer is made.

Exchange of Benches

Sec. 17. The judges of the county criminal courts of Tarrant County may exchange benches and sit and hear cases in the court in which the case or proceeding is pending and may try or otherwise dispose of the case or proceeding.

Date of Creation

Sec. 18. (a) The County Criminal Court No. 5 of Tarrant County is created on January 1, 1984, or on an earlier date determined by the commissioners court by an order entered on its minutes.

(b) The County Criminal Court No. 6 of Tarrant County is created on January 1, 1986, or on an earlier date determined by the commissioners court by an order entered on its minutes.

Initial Appointment of Judge

Sec. 19. The commissioners court shall appoint a person to fill the vacancy existing on the creation of

the office of judge as provided by Section 5(b) of this Act.

Initial Transfer of Cases

Sec. 20. After a court is created under this Act, the judges of the county criminal courts of Tarrant County shall make a fair division of the cases pending on the dockets of those courts. At the judges' direction the clerk shall transfer cases to the court created by this Act.

Effective Date

Sec. 21. This Act takes effect September 1, 1983.

[Acts 1983, 68th Leg., p. 5523, ch. 1043, eff. Sept. 1, 1983.]

BEXAR COUNTY

Art. 1970-63. Creation

That there is hereby created a court to be held in Bexar county, Texas, to be called the "County Court of Bexar County for Civil Cases."¹

[Acts 1911, p. 15, § 1.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-64. Jurisdiction of Said Court

The county court of Bexar county for civil cases¹ shall have exclusive jurisdiction of all civil matters and causes, original and appellate, over which, by the general laws of the State of Texas, the county court of said county would have jurisdiction, except as provided in section 3 of this Act,² and all civil cases other than probate matters, and such as are provided in section 3 of this Act, be, and the same are hereby transferred to the county court of Bexar county for civil cases; and all civil writs and processes, heretofore issued by or out of said county court, other than pertaining to matters over which, by section 3 of this Act, jurisdiction remains in the county court of Bexar county, be, and the same are hereby made returnable to the county court of Bexar county for civil cases.

[Acts 1911, p. 15, § 2.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

² Article 1970-65.

Art. 1970-65. Jurisdiction Retained by County Court of Bexar County

The county court of Bexar county shall retain, as heretofore, the jurisdiction of all criminal cases, the forfeiture of bonds in criminal cases and all proceedings in relation thereto; of all cases of eminent domain; the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of administrators, executors and guardians; transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distri-

bution of estates of deceased persons, and to apprentice minors as provided by law. The county judge of Bexar county shall be the judge of the county court of Bexar county, and all ex officio duties of the county judge shall be exercised by the said judge of the county court of Bexar county, except in so far as the same shall, by this Act, be committed to the judge of the county court of Bexar county for civil cases.¹ The county judge of Bexar county shall retain authority to try all applications for liquor licenses, and shall approve all liquor bonds as may be provided by law. He shall also retain jurisdiction of the juvenile court.

[Acts 1911, p. 15, § 3.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-66. Both Courts May Issue Writs

The said county court of Bexar county for civil cases¹ or the judge thereof, shall have the power to issue writs of injunctions, sequestration, attachment, garnishment, certiorari, supersedeas, mandamus, and all other writs necessary to the enforcement of the jurisdiction of said court; and also power to punish for contempt under such provisions as are or may be provided by the general law governing county courts throughout the state, and to issue writs of habeas corpus in cases within the jurisdiction of said court.

[Acts 1911, p. 15, § 4.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-67. Terms, Practice, etc.

The terms of the county court of Bexar county for civil cases,¹ and the practice therein, and appeals and writs of error therefrom, shall be as prescribed by laws relating to county courts. The terms of the county court of Bexar county for civil cases¹ shall be held as follows: Beginning on the first Mondays in January, March, May, July, September and November of each year, and may continue until the business thereof is disposed of.

[Acts 1911, p. 15, § 5.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-68. Judge to be Elected When, etc.; Qualification; Term

There shall be elected in said county by the qualified voters thereof, at each general election, a judge of the county court of Bexar county for civil cases,¹ who shall be learned in the laws of the state, who shall hold his office for two years, and until his successor shall have been duly qualified.

[Acts 1911, p. 15, § 6.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-69. Bond and Oath of Judge

The judge of the county court of Bexar county for civil cases¹ shall execute a bond in the sum of \$5,000.00, and take the oath of office as required by the law relating to county judges.

[Acts 1911, p. 15, § 7.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-70. Special Judge Elected or Appointed How

A special judge of the county court of Bexar county for civil cases¹ may be appointed or elected as provided by laws relating to county courts, and to the judges thereof.

[Acts 1911, p. 15, § 8.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-71. Clerk of; Seal; Sheriff to Attend When, etc.

The county clerk of Bexar county shall be the clerk of the county court of Bexar county for civil cases.¹ The seal of said court shall be the same as that provided for county courts, except that the seal shall contain the words "County Court of Bexar County for Civil Cases." The sheriff of Bexar county shall in person or by deputy attend the court when required by the judge thereof.

[Acts 1911, p. 15, § 9.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-72. Selection, etc. of Juries

The jurisdiction and authority now vested by law in the county court of Bexar county for the selection and service of jurors shall be exercised by each of the two courts within their jurisdiction.

[Acts 1911, p. 15, § 10.]

Art. 1970-73. Vacancies in Office of Judge, How Filled; Appointment of First Judge

Any vacancy in the office of the judge of the court created by this Act may be filled by the commissioners court of Bexar county until the next general election. The commissioners court of Bexar county shall, as soon as may be after this Act shall take effect, appoint a judge of the county court of Bexar county for civil cases,¹ who shall serve until the next general election, and until his successor shall be duly elected and qualified.

[Acts 1911, p. 15, § 11.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-74. Fees; Salary of Judge

The judge of the county court of Bexar county for civil cases¹ shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county trea-

sure, and he shall receive a salary of three thousand dollars (\$3,000.00) annually, to be paid monthly out of the county treasury by the commissioners court. The county judge of Bexar county shall receive in addition to the other fees allowed by law, a salary for the ex officio duties of his office of not less than \$100.00 per month.

[Acts 1911, p. 15, § 12.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-75. Removal of Judge

The judge of the county court of Bexar county for civil cases¹ may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

[Acts 1911, p. 15, § 13.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-75a. Practice and Administration of Courts**Rotational Filing Required**

Sec. 1. (a) On and after the effective date of this Act, the County Clerk of Bexar County shall, with respect to cases addressed to one of the county courts at law of Bexar County and regardless of the court or judge to which they are addressed, file the cases alternately in the county courts at law of Bexar County, starting with the County Court at Law No. 1, of Bexar County, and continuing with the County Court at Law No. 2, of Bexar County, and so forth.

(b) The rotational filing requirement of Subsection (a) of this Section does not apply to appeals in criminal cases.

(c) The county clerk's failure to comply with Subsection (a) of this Section does not affect any action taken with regard to a case filed with one of the county courts at law of Bexar County.

Presiding Judge

Sec. 2. (a) The judges of the county courts at law of Bexar County shall, in January and July of each year, select by majority vote one of their number as presiding judge. The selection may be cancelled, and another judge selected, at any time, by majority vote. Each judge shall enter on the minutes of his court an order reciting each selection of a presiding judge.

(b) The presiding judge of the county courts at law of Bexar County may assign any case pending in one of the county courts at law to another county court at law and such case shall be transferred and tried in accordance with the assignment. The presiding judge may also assign one of the judges of the county courts at law to another court, or to try a particular case pending in another court, and the

judge assigned shall sit or try the case as requested.

Rules of Practice

Sec. 3. The judges may also adopt rules, not inconsistent with the Texas Rules of Civil Procedure, and the code of Criminal Procedure for practice in the county courts at law of Bexar County. A rule may only be adopted by majority vote of the judges and upon adoption shall be entered verbatim on the minutes of each of the county courts at law. The County Clerk of Bexar County shall supply copies of the adopted rules to every interested person.

[Acts 1965, 59th Leg., p. 1017, ch. 502, eff. Aug. 30, 1965.]

HARRIS COUNTY

Art. 1970-76. Creation

That there is hereby created a court to be held in Harris county, to be called the county court of Harris county for civil cases.¹

[Acts 1911, p. 4, § 1.]

¹Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-77. County Civil Court at Law No. 1

The County Court at Law of Harris County, Texas, shall hereafter be known as "County Civil Court at Law No. 1," and the seal of said Court shall hereafter be the same as that provided by law for county courts, except that the seal shall contain the words: "County Civil Court at Law No. 1, Harris County, Texas."

That wherever the name "County Court for Civil Cases" or "County Court at Law of Harris County, Texas," appears in any portion of this Act creating said Court it shall hereafter be understood to mean "County Civil Court at Law No. 1."

[Acts 1913, p. 10, § 1. Amended by Acts 1961, 57th Leg., p. 1073, ch. 481, § 2.]

Art. 1970-78. Change of Name Not to Affect Court, Except, etc.; Judges, Officers, Process and Returns

The change in the name of said court shall in no way or manner, other than is provided in this Act, affect the officers or judge of said court, their compensation or tenure of office, and shall, in no way or manner, affect the process of said court already issued. The judge and officers now serving said county court of Harris county for civil cases, shall continue to serve said court under its changed name to the same effect to all things as if the name had not been changed. All process heretofore issued out of said county court for civil cases and all returns thereon shall in all things be treated and considered as if the name of said court had not been changed.

[Acts 1913, p. 10, § 2.]

Art. 1970-79. Jurisdiction of Said Court

The county court of Harris county for civil cases¹ shall have jurisdiction in all civil matters and causes, original and appellate, over which, by the general laws of the state of Texas, the county court of said county would have jurisdiction, except as provided in section three (3) of this Act,² and all civil cases other than probate matters and such as are provided in section three (3) of this Act, be and the same are hereby transferred to the county court of Harris county for civil cases, and all civil writs and processes heretofore issued by or out of said county court other than pertaining to matters over which, by section three (3) of this Act, jurisdiction remains in the county court of Harris county be and the same are hereby made returnable to the county court of Harris county for civil cases. The jurisdiction of the county court of Harris county for civil cases and of the judge thereof shall extend to all matters of eminent domain of which jurisdiction has been heretofore vested in the county court of Harris county or in the county judge thereof, but this provision shall not affect the jurisdiction of the commissioners court or of the county judge of Harris county as the presiding officer of such commissioners court, as to roads, bridges, and public highways, and matters of eminent domain which are now within the jurisdiction of the commissioners court or the judge thereof.

[Acts 1911, p. 4, § 2.]

¹Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

²Article 1970-81.

Art. 1970-80. Jurisdiction Continued, etc.

The County Court at Law of Harris County, Texas, shall have all the jurisdiction heretofore conferred upon it under the name of the County Court of Harris County for civil cases, and its judge shall have all the powers heretofore conferred upon the judge of the County Court of Harris County for civil cases; provided, however, that said court shall have no jurisdiction over any of those¹ matters the jurisdiction over which is vested exclusively in the County Court of Harris County or the judge thereof.

[Acts 1913, p. 10, § 3. Amended by Acts 1929, 41st Leg., p. 44, ch. 16, § 1.]

¹So in enrolled bill. Session Laws read "these."

Art. 1970-81. Jurisdiction Retained by County Court of Harris County

The county judge¹ of Harris county shall retain as heretofore, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business pertaining to deceased persons, and to hear and determine all matters affecting juvenile offenders, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement,

partition and distribution of estates of deceased persons, and shall have jurisdiction to hear and determine all matters relating to or arising out of the granting or revoking of liquor licenses, and all matters appertaining thereto; and to apprentice minors as provided by law, and the said court, or the judge thereof, shall have the power to issue writs of injunctions, mandamus, and all writs necessary to the enforcement of the jurisdiction of said court, and also to punish contempts under such provisions as are or may be provided by general law governing county courts throughout the state; but said county court of Harris county shall have no other jurisdiction, civil or criminal. The county judge of Harris county shall be the judge of the county court of Harris county, and all ex officio duties of the county judge shall be exercised by the said judge of the county court of Harris county, except in so far as the same shall by this Act be committed to the judge of the county court of Harris county for civil cases.²

[Acts 1911, p. 4, § 3.]

¹ So in enrolled bill. Should probably read "court".

² Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-82. Both Courts May Issue Writs

Both the said county court of Harris county and the county court of Harris county for civil cases¹ or either of the judges thereof, shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said courts; and also power to punish for contempts under such provisions as are or may be provided by the general laws governing county courts throughout the state, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said courts or of any court or tribunal inferior to said courts.

[Acts 1911, p. 4, § 4.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-83. Terms, Practice, etc.

The terms¹ of the county court of Harris county for civil cases,² and the practice therein and appeals and writs of error therefrom shall be as prescribed by laws relating to county courts. The terms of the county court of Harris county for civil cases shall be held as now established for the terms of the county court of Harris county until the same be changed in accordance with the law.

[Acts 1911, p. 4, § 5.]

¹ Terms of court. See article 1970-84.

² Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-84. Terms of Court

Said court shall hold six terms a year, beginning respectively on the first Monday in January, in March, in May, in July, in September, and in Novem-

ber of each year, and each term shall continue until the business is disposed of.

[Acts 1913, p. 10, § 7.]

Art. 1970-85. Judge to be Elected, When; Qualifications; Term

There shall be elected in said County by the qualified voters thereof, at each general election, a judge of the County Court at Law of Harris County, Texas, who shall have been a duly licensed and practicing member of the bar of this State for not less than five years, and who shall hold his office for two years and until his successor shall have duly qualified. Any vacancy occurring in the office of judge of said County Court at Law of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding general election.

[Acts 1911, p. 4, § 6. Amended by Acts 1929, 41st Leg., p. 44, ch. 16, § 3.]

Art. 1970-86. Bond and Oath of Judge

The judge of the county court of Harris county for civil cases,¹ shall execute a bond and take the oath of office as required by the law relating to county judges.

[Acts 1911, p. 4, § 7.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-87. Special Judge

A special judge of the county court of Harris county for civil cases¹ may be appointed or elected as provided by law relating to county courts and to the judges thereof.

[Acts 1911, p. 4, § 8.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-88. Clerk; Seal; Sheriff to Attend When, etc.

The county clerk of Harris county shall be the clerk of the county court of Harris county for civil cases.¹ The seal of the said court shall be the same as that provided by law for county courts except that the seal shall contain the words "County Court of Harris County for Civil Cases." The sheriff of Harris county shall, in person or by deputy, attend the said court when required by the judge thereof.

[Acts 1911, p. 4, § 10.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-89. Vacancy in Office of Judge, How Filled, etc.

Any vacancy in the office of the judge of the court created by this Act may be filled by the commissioners court of Harris county until the next general election. The commissioners court shall, as soon as may be after this Act shall take effect,

appoint a judge of the county court of Harris county for civil cases¹ who shall serve until the next general election and until his successor shall be duly elected and qualified.

[Acts 1911, p. 4, § 11.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-90. Salary of Judge

The judge of the County Court at Law of Harris County, Texas, shall receive a salary of five thousand, five hundred dollars per annum, to be paid out of the county treasury by the Commissioners Court, in equal monthly installments.

[Acts 1911, p. 4, § 12. Amended by Acts 1929, 41st Leg., p. 44, ch. 16, § 4.]

Art. 1970-91. Salary of County Judge of Harris County

The county judge of Harris county shall hereafter receive from the county treasury, in addition to the fees allowed him by law, such a salary for the ex officio duties of his office as may be allowed him by the commissioners court not less than fifteen hundred dollars per year.

[Acts 1911, p. 4, § 13.]

Art. 1970-92. Repealed by Acts 1929, 41st Leg., p. 44, ch. 16, § 7

Art. 1970-93. Transfer of Misdemeanor Criminal Cases

All misdemeanor criminal actions now pending in said County Court at Law of Harris County, Texas, as well as criminal cases on appeal to said County Court at Law of Harris County, Texas, shall immediately upon the taking effect of this Act, be transferred to the County Court at Law No. 2 of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law No. 2 of Harris County, Texas, is hereby conferred jurisdiction of such criminal actions and criminal proceedings. And all civil actions and proceedings now pending originally or upon appeal to said County Court at Law No. 2 of Harris County, Texas, shall immediately upon taking effect of this Act, be transferred to the County Court at Law of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law of Harris County, Texas, is hereby conferred jurisdiction of such civil actions and civil proceedings.

[Acts 1913, p. 10, § 5. Amended by Acts 1929, 41st Leg., p. 44, ch. 16, § 2.]

Art. 1970-94. Repealed by Acts 1929, 41st Leg., p. 44, ch. 16, § 7

Art. 1970-94a. Exchange of Judges; Powers

In case of disqualification, an over-crowded docket, sickness, or absence from the county, of either of the judges of said County Courts at Law of Harris County, they may exchange benches, and

said judge of said County Court at Law of Harris County, Texas, when so exchanging benches with said judge of said County Court at Law No. 2 of Harris County, Texas, shall have all power and jurisdiction of said last named court and of the judge thereof while so exchanging benches; and in like manner said judge of said County Court at Law No. 2 of Harris County, Texas, shall have all the power and jurisdiction of said last named court and of the judge thereof while so exchanging benches.

[Acts 1929, 41st Leg., p. 44, ch. 16, § 5.]

Art. 1970-94b. Court Reporter; Salary

That said Judge of the County Court at Law, of Harris County, may appoint and discharge an Official Court Reporter in the same manner as such a reporter is appointed or discharged by the District Courts, and who shall receive the same salary as the Reporters of the District Courts of Harris County, Texas, the same to be paid by the County Treasurer out of the General Fund of the County, and in addition to said salary the compensation for transcript fees as provided by law.

[Acts 1929, 41st Leg., p. 44, ch. 16, § 6. Amended by Acts 1933, 43rd Leg., 1st C.S., p. 152, ch. 52, § 1.]

Art. 1970-95. Court Created

There is hereby created a Court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 1."

That hereafter wherever the name of "County Court at Law No. 2" appears in this Act creating said Court it shall be read and understood as referring to County Criminal Court at Law No. 1 of Harris County, Texas.

[Acts 1915, 1st C.S., ch. 8, § 1. Amended by Acts 1961, 57th Leg., p. 1073, ch. 481, § 3.]

Art. 1970-96. Jurisdiction Over Criminal Matters; Appellate Jurisdiction

Said County Criminal Court at Law No. 1 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from Justice Courts and Corporation Courts within Harris County, and the Judges of said Court shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the Judges of County Courts having criminal jurisdiction; provided that said Court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the Judge thereof.

[Acts 1915, 1st C.S., ch. 8, § 2. Amended by Acts 1929, 41st Leg., p. 57, ch. 24, § 1; Acts 1934, 43rd Leg., 3rd C.S., p. 4, ch. 3, § 1; Acts 1961, 57th Leg., p. 1073, ch. 481, § 8.]

Art. 1970-97. Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4

Art. 1970-98. Qualifications of Judge; Appointment; Oath; Bond; Fees and Salary

At each general election, there shall be elected a judge of the County Court at Law No. 2 of Harris County, Texas, who shall have been a duly licensed and practicing member of the bar of this state for not less than five years, and who shall hold his office for two years and until his successor shall have been duly qualified; and he shall receive a salary of five thousand, five hundred dollars per annum, to be paid out of the county treasury by the Commissioners' Court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. The civil jurisdiction of the County Court at Law of Harris County shall not in anywise be impaired or affected by this Act. Any vacancy occurring in the office of the judge of said County Court at Law No. 2 of Harris County, Texas, shall be filled by the Commissioners' Court of Harris County, the appointee thereof to hold office until the next succeeding general election.

[Acts 1915, 1st C.S., ch. 8, § 4. Amended by Acts 1929, 41st Leg., p. 57, ch. 24, § 2.]

Art. 1970-98a. Official Court Reporter; Compensation

That the Judge of County Court at Law No. 2 of Harris County, Texas, shall appoint an Official Shorthand Reporter for such Court, who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended and all other provisions of the law relating to "Official Court Reporters" shall and is hereby made to apply in all its provisions, in so far as they are applicable to the Official Shorthand Reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such Official Shorthand Reporter shall be entitled to the same compensation as applicable to Official Shorthand Reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of Official Shorthand Reporters of the District Courts of Harris County is paid.

[Acts 1934, 43rd Leg., 3rd C.S., p. 4, ch. 3, § 2.]

Art. 1970-98b. Clerk in Civil and Criminal Matters

The County Clerk of Harris County, Texas, shall act as and be the Clerk of said County Court at Law

No. 2 of Harris County, Texas, in civil matters and the District Clerk of Harris County, Texas, shall act as and be the Clerk of the County Court at Law and of said County Court at Law No. 2 of Harris County, Texas, in criminal matters.

[Acts 1934, 43rd Leg., 3rd C.S., p. 4, ch. 3, § 3.]

Art. 1970-99. Clerk; Fees

The county clerk of Harris County shall be the clerk of said County Court at Law No. 2 of Harris County in civil matters and causes; and shall receive and collect the same fees which he now receives and collects as clerk of the County Court at Law of Harris County, Texas. The clerk of the Criminal District Court of Harris County, Texas, shall be clerk of said County Court at Law No. 2 in all criminal matters and causes, and shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Court at Law of Harris County.

[Acts 1915, 1st C.S., ch. 8, § 5.]

Art. 1970-100. Seal

The seal of the County Court at Law No. 2 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Court at Law Number Two of Harris County, Texas," and said seal shall be judicially noticed.

[Acts 1915, 1st C.S., ch. 8, § 6.]

Art. 1970-101. Sheriffs and Constables

The sheriff of Harris County, either in person or by deputy, shall attend said court when required by the judge thereof; and the various sheriffs and constables of this State executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

[Acts 1915, 1st C.S., ch. 8, § 7.]

Art. 1970-102. Special Judge

A special judge of said court may be appointed or elected in the manner and instances now or hereafter provided by the law relating to county courts and the judges thereof.

[Acts 1915, 1st C.S., ch. 8, § 8.]

Arts. 1970-103, 1970-104. Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4

Art. 1970-105. Terms

The terms of the court hereby created shall begin on the first Monday of the months of June, August, October, December, February and April of each year. The sessions of said court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

[Acts 1915, 1st C.S., ch. 8, § 11.]

Art. 1970-106. Transfer of Cases

All civil actions or civil proceedings now pending in said County Court at Law No. 2 of Harris County, Texas, as well as all civil actions or civil proceedings on appeal to said court, shall immediately upon the taking effect of this Act, be transferred to the County Court at Law of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law of Harris County, Texas, is hereby conferred jurisdiction of such civil actions and civil proceedings; and all criminal actions and criminal proceedings now pending in said County Court at Law of Harris County, shall, immediately upon the taking effect of this Act, be transferred to the County Court at Law No. 2 of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law No. 2 of Harris County, Texas, is hereby conferred jurisdiction of said criminal actions and criminal proceedings.

[Acts 1915, 1st C.S., ch. 8, § 12. Amended by Acts 1929, 41st Leg., p. 57, ch. 24, § 3.]

Art. 1970-106a. Exchange of Judges

The judges of the said County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, may exchange benches as is or may be provided in the laws relating to the County Court at Law of Harris County, Texas.

[Acts 1929, 41st Leg., p. 57, ch. 24, § 5.]

Art. 1970-107. Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4**Art. 1970-108. Practice**

The practice in said County Court at Law No. 2, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now, or may hereafter be prescribed for county courts.

[Acts 1915, 1st C.S., ch. 8, § 14.2.]

Art. 1970-109. Process in Transferred Cases

All process issued out of the County Court at Law of Harris County, Texas, prior to the time when the clerk thereof shall transfer cases from the docket of said courts, as provided in Section 12 of this Act,¹ in cases transferred as therein provided, shall be returned to and filed in the court hereby created, and shall be equally as valid and binding upon parties to such transferred cases as though such process had been issued out of the County Court at Law No. 2 of Harris County, Texas. Likewise, in cases transferred by the judges of either of said courts, as provided in Section 13 of this Act,² all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though

originally issued out of the court to which such transfer may be made.

[Acts 1915, 1st C.S., ch. 8, § 15.]

¹ Article 1970-106.

² Article 1970-107.

Art. 1970-110. Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4**Art. 1970-110a. Probate Court No. 1 of Harris County**

Sec. 1. The Probate Court of Harris County, Texas, which was created by Chapter 520, Acts of the 51st Legislature, Regular Session, 1949, shall hereafter be called and known as the "Probate Court No. 1 of Harris County, Texas."

Sec. 2. The Probate Court No. 1 of Harris County, Texas, shall have the general jurisdiction of a Probate Court within the limits of Harris County, concurrent with the jurisdiction of the County Court of Harris County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. All such matters hereafter filed with the County Clerk of Harris County, irrespective of the court or judge to which the matter or proceeding is addressed, shall be filed by said clerk alternately in said Probate Court No. 1 of Harris County and the Probate Court No. 2 of Harris County, with every fifth case bearing the last number "5" or "0" being filed by said clerk in the County Court of Harris County, and continuing alternatively thereafter, except every fifth case so deposited shall be filed with the County Court of Harris County, and further, said clerk shall keep separate dockets for each of said courts. Each of the judges of the County Court and the said Probate Courts Nos. 1 and 2 of Harris County may, at any time, with the consent of the judge of the County Court or of the Probate Court to which transfer is to be made, by an order entered upon the minutes of the said County Court or of such Probate Court, transfer to said County Court or Probate Court any such matter or proceeding pending in such county or Probate Court of Harris County, and all processes extant at the time of such transfer shall be returnable to and filed in the County Court or Probate Court to which such transfer is made and shall be as valid and binding as though originally issued out of the County Court or Probate Court to which such transfer may be made.

Sec. 4. The County Court of Harris County shall retain, as heretofore, the powers and jurisdiction of said court existing at the time of the passage of this

Act, and shall exercise its powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature other than those transferred to or filed in the said Probate Court No. 1 of Harris County or Probate Court No. 2 of Harris County. The County Judge of Harris County shall be the judge of the County Court of Harris County, and all ex officio duties of the County Judge of Harris County, as they now exist, shall be exercised by the County Judge of Harris County, except in so far as the same are expressly committed by statute to the judge of the Probate Court No. 1 of Harris County or to the judge of the Probate Court No. 2 of Harris County. Nothing contained in this Act shall be construed as in any wise impairing or affecting the jurisdiction of the County Civil Court at Law No. 1 of Harris County or the County Civil Court at Law No. 2 of Harris County.

Sec. 5. The practice and procedure in the Probate Court No. 1 of Harris County shall be the same as that provided by law generally for the county courts of this state; and all statutes and laws of the state, as well as all rules of court relating to proceedings in the county courts of this state, or to the review thereof or appeals therefrom, shall, as to all matters within the jurisdiction of said court, apply equally thereto.

Sec. 6. The Probate Court No. 1 of Harris County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said court, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing County Courts throughout the state.

Sec. 7. There shall be two (2) terms of said Probate Court No. 1 of Harris County in each year, and the first of such terms shall be known as the January-June Term, shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 8. The Judge of the Probate Court of Harris County shall continue as judge of the Probate Court No. 1 of Harris County until December 31, 1970, and until his successor is duly qualified. There shall be elected in said county by the duly qualified voters thereof at the general election of 1970, and at the general election every four (4) years thereafter, a judge of the Probate Court No. 1 of Harris County who shall hold his office for four (4) years and until his successor shall be duly qualified. The judge of the Probate Court No. 1 of Harris County shall be well informed in the laws of the state and shall have been a duly licensed and practicing member of the bar of this state for not

less than five (5) consecutive years prior to his election.

Sec. 9. The judge of the Probate Court No. 1 of Harris County shall execute a bond in the sum of One Hundred Thousand Dollars (\$100,000), payable as required by law, and take the oath relating to county judges as provided by law.

Sec. 10. Any vacancy in the office of the judge of the Probate Court No. 1 of Harris County may be filled by the Commissioners Court of Harris County by the appointment of a judge of said court, who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 11. In the case of the absence, disqualification or incapacity of the judge of the Probate Court No. 1 of Harris County, the County Judge of Harris County or the judge of the Probate Court No. 2 of Harris County shall sit and act as judge of said court, and may hear and determine, either in his own courtroom or in the courtroom of said court, any matter or proceeding there pending, and enter any order in such matters or proceedings as the judge of said court may enter if personally presiding therein.

Sec. 12. In the case of the absence, disqualification or incapacity of the judge of the said Probate Court No. 1 and the judge of the Probate Court No. 2 of Harris County and the County Judge of Harris County, a Special Judge of the Probate Court No. 1 of Harris County may be appointed or elected as provided by the general laws relating to county courts and the judges thereof.

Sec. 13. Repealed by Acts 1979, 66th Leg., p. 1639, ch. 686, § 3, eff. Aug. 27, 1979.

Sec. 14. The county clerk of Harris County shall be the clerk of the Probate Court No. 1 of Harris County. The seal of the court shall be the same as that provided by law for county courts except that the seal shall contain the words "Probate Court No. 1 of Harris County, Texas," and said seal shall be judicially noticed. The sheriff of Harris County shall, in person or by deputy, attend the court when required by the judge thereof.

Sec. 15. The judge of the Probate Court No. 1 of Harris County shall collect the same fees as are now or hereafter established by law relating to county judges as to matters within the jurisdiction of said court, all of which shall be paid to him into the County Treasury as collected, and he shall receive an annual salary in the amount, and to be fixed, as is now or hereafter established by law for probate judges.

Sec. 16. The primary purpose of this Act is to change the name of the Probate Court of Harris County, Texas, to Probate Court No. 1 of Harris County, Texas, and none of the provisions hereof shall be construed as creating a new court. All processes extant in the Probate Court of Harris County on the effective date of this Act shall be returnable to and filed in the said court, the Probate

Court No. 1 of Harris County, and all of such processes so returned to and filed in the Probate Court No. 1 of Harris County shall be valid and binding.

[Acts 1949, 51st Leg., p. 948, ch. 520. Amended by Acts 1963, 58th Leg., p. 769, ch. 296, § 1, eff. Aug. 23, 1963; Acts 1963, 58th Leg., p. 770, ch. 297, § 1; Acts 1967, 60th Leg., p. 1836, ch. 712, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1974, ch. 669, § 1, eff. Sept. 1, 1969; Acts 1979, 66th Leg., p. 1639, ch. 686, § 3, eff. Aug. 27, 1979.]

Art. 1970-110a.1. Repealed by Acts 1969, 61st Leg., p. 1974, ch. 669, § 2, eff. Sept. 1, 1969

Art. 1970-110a.2. Probate Court No. 2 of Harris County

Sec. 1. [Classified as art. 1970-110a.1, now repealed].

Sec. 2. There is hereby created a County Court to be held in and for Harris County, to be called the "Probate Court No. 2 of Harris County, Texas."

Sec. 3. Said Probate Court No. 2 of Harris County shall have the general jurisdiction of a Probate Court within the limits of Harris County, concurrent with the jurisdiction of the County Court of Harris County, Texas, in such matters and proceedings, and also concurrent with and in all things equal to that heretofore conferred upon the Probate Court No. 1 of Harris County, Texas. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 4. On the first day of the initial term of said Probate Court No. 2 of Harris County, Texas, there shall be transferred to the docket of said Court, under the direction of the County Judge and by order entered on the Minutes of the County Court of Harris County, Texas, such number of such proceedings and matters then pending in the County Court of Harris County, Texas, as shall be, as near as may be, four-fifths in number of the total of all of same then pending, and all writs and processes theretofore issued by or out of said County Court of Harris County in such matters or proceedings shall be returnable to the Probate Court No. 2 of Harris County, Texas, as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed, with the County Clerk of Harris County, irrespective of the Courts or Judge to which the matter or proceeding is addressed, shall be filed by said Clerk alternately in said Probate Court No. 1 of Harris County and said Probate Court No. 2 of Harris County in the order in which the same are deposited with said

Clerk for filing, beginning first with the Probate Court No. 1 of Harris County, filing the next with the Probate Court No. 2 of Harris County, and continuing alternately thereafter, and further, said Clerk shall keep separate dockets for each of said Courts. The County Judge of Harris County, in his discretion, may, by an order entered upon the Minutes of the County Court of Harris County, on or after the first day of the initial term of said Probate Court No. 2 of Harris County, transfer to said Probate Court No. 2 any such matter or proceeding then or thereafter pending in the County Court of Harris County and all processes extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made. Each of the Judges of the County Court and said Probate Courts No. 1 and 2 may, at any time, with the consent of the Judge of the County Court or the Judge of the Probate Court to which transfer is to be made by an order entered upon the Minutes of the County Court or of such Probate Court of Harris County, transfer to said County Court or other Probate Court any such matter or proceeding then or thereafter pending in such County or Probate Court of Harris County, and all processes extant at the time of such transfer shall be returnable to and filed in the County Court or the Probate Court to which such transfer is made and shall be as valid and binding as though originally issued out of the County Court or the Probate Court to which such transfer may be made.

Sec. 5. The County Court of Harris County shall retain, as heretofore, the powers and jurisdiction of said Court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature, except those matters and proceedings provided in Section 4 of this Act to be transferred to and filed in said Probate Court No. 2 of Harris County and those matters and proceedings heretofore transferred to and filed either originally or subsequently, in the Probate Court No. 1 of Harris County in accordance with Section 4, Chapter 520, Acts of 1949, 51st Legislature, Regular Session. The County Judge of Harris County shall be the Judge of the County Court of Harris County, and all ex-officio duties of the County Judge of Harris County as they now exist shall be exercised by the County Judge of Harris County. Nothing contained in this Act shall be construed as in any wise impairing or affecting the jurisdiction of the County Civil Court at Law No. 1 of Harris County, or of the County Civil Court at Law No. 2 of Harris County, or the County Criminal Courts at Law Nos. 1, 2, 3, or 4 of Harris County, Texas.

Sec. 6. The practice and procedure in the Probate Court No. 2 of Harris County shall be the same as that provided by law generally for the county courts of this State; and all statutes and laws of the State as well as all Rules of Court relating to

proceedings therefrom, shall, as to all matters within the jurisdiction of said Court, apply equally thereto.

Sec. 7. The Probate Court No. 2 of Harris County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said Court, and also the power to punish for contempt under such provision as are or may be provided by the General Laws governing county courts throughout the State.

Sec. 8. The initial term of the Probate Court No. 2 shall begin on the first Monday next after the first day of the first calendar month following the effective date of this Act and shall continue until and including Sunday next before the first Monday in January, of the following year. Thereafter there shall be two (2) terms of said Probate Court No. 2 of Harris County in each year, and the first of such terms shall be known as the January-June Term, and shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July, and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 9. The term of office of the Judge of the Probate Court No. 2 of Harris County shall be for a period of four (4) years; said Judge shall be elected as provided by the Constitution and laws of the State for the election of Judges of County Probate Courts. A Judge of said Court shall be appointed by the Commissioners Court of Harris County as soon as practicable after the passage of this Act, who shall hold office from the date of his appointment until the General Election next before the first full term of office of said Judge, as herein provided and until his successor shall be duly elected and qualified. The Judge of said Court shall be well informed in the laws of the State, and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years.

Sec. 10. The Judge of the Probate Court No. 2 of Harris County shall execute a bond in the amount of \$100,000.00; take the oath of office as required by the laws relating to County Judges.

Sec. 11. Any vacancy in the office of the Judge of the Probate Court No. 2 of Harris County may be filled by the Commissioners Court of Harris County by the appointment of a Judge of said Court, who shall serve until the next General Election and until his successor shall be duly elected and qualified.

Sec. 12. In the case of the absence, disqualification or incapacity of the Judge of the Probate Court No. 2 of Harris County, the County Judge of Harris County or the Judge of the Probate Court No. 1 of Harris County, shall sit and act as Judge of said Court, and may hear and determine, either in his

own courtroom or in the courtroom of said Court, any matter or proceeding there pending, and enter any order in such matters or proceedings as the Judge of said Court may enter if personally presiding therein.

Sec. 13. In case of the absence, disqualification or incapacity of the Judge of the Probate Court No. 2 of Harris County or the Judge of the Probate Court No. 1 of Harris County and the County Judge of Harris County, a Special Judge of the Probate Court No. 1 of Harris County or of the Probate Court No. 2 of Harris County as the need may demand, may be appointed or elected, as provided by the General Laws relating to county courts and to the Judge thereof.

Sec. 14. Repealed by Acts 1975, 64th Leg., p. 1119, ch. 421, § 2, eff. June 19, 1975.

Sec. 15. The County Clerk of Harris County shall be the Clerk of the Probate Court No. 2 of Harris County. The seal of the Court shall be the same as that provided by law for county courts except that the seal shall contain the words "Probate Court No. 2 of Harris County, Texas.", and said seal shall be judicially noticed. The Sheriff of Harris County shall, in person or by deputy, attend the Court when required by the Judge thereof.

Sec. 16. The Judge of the Probate Court No. 2 of Harris County shall collect the same fees as are now or hereafter established by law relating to County Judges or to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected. From and after the date he becomes duly qualified thereafter, he shall receive an annual salary equal to the salary of the Judge of the Probate Court No. 1 of Harris County, Texas, and payable in like manner.

[Acts 1967, 60th Leg., p. 1836, ch. 712, eff. Aug. 28, 1967. Amended by Acts 1975, 64th Leg., p. 1118, ch. 421, §§ 1, 2, eff. June 19, 1975; Acts 1977, 65th Leg., p. 1202, ch. 464, § 1, eff. Aug. 29, 1977.]

Acts 1967, 60th Leg., p. 1835, ch. 712, § 1 was codified as article 1970-110a.1; sections 17 and 18 of the act provided:

"Sec. 17. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws or parts of laws, this Act shall be cumulative.

"Sec. 18. The provisions of this Act are severable. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provision to other persons or circumstances shall not thereby be rendered invalid or unconstitutional, nor be affected thereby."

Art. 1970-110a.3. Probate Court No. 3 of Harris County

Sec. 1. There is created a county court to be held in and for Harris County, to be called the "Probate Court No. 3 of Harris County, Texas."

Sec. 2. The Probate Court No. 3 of Harris County shall have the general jurisdiction of a probate court within the limits of Harris County, concurrent with the jurisdiction of the County Court of Harris County, Texas, in probate, administrations, guardi-

anship, and mental illness proceedings, and also concurrent with and in all things equal to that heretofore conferred on the Probate Court No. 1 of Harris County, Texas, and Probate Court No. 2 of Harris County, Texas. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, lunacy proceedings, and the apprenticing of minors as provided by law. It is the intention of this Act that the Probate Court No. 3 of Harris County shall have the primary responsibility at all times for all mental illness proceedings.

Sec. 3. On the first day of the initial term of the Probate Court No. 3 of Harris County, Texas, there shall be transferred to the docket of said court, under the jurisdiction of the county judge and the judges of the Probate Court No. 1 of Harris County, and the Probate Court No. 2 of Harris County, and by order entered on the minutes of the County Court of Harris County, and of the Probate Court No. 1 of Harris County, and of the Probate Court No. 2 of Harris County, such number of such proceedings and matters then pending in the County Court of Harris County, in the Probate Court No. 1 of Harris County, and in the Probate Court No. 2 of Harris County, as will equalize the number of such cases pending on the dockets of each of said four courts with the Probate Court No. 3 of Harris County having responsibility at all times for all mental illness proceedings. All writs and processes theretofore issued by or out of the County Court of Harris County, the Probate Court No. 1 of Harris County, and the Probate Court No. 2 of Harris County, in such matters and proceedings shall be returnable to the Probate Court No. 3 of Harris County as though originally issued therefrom. All new mental illness proceedings filed on said day or thereafter with the County Clerk of Harris County irrespective of the court or judge to which the matter or proceedings is addressed, shall be filed by the clerk in the Probate Court No. 3 of Harris County in the order in which the same are deposited with him for filing. All other new matters and proceedings filed on said day, or thereafter filed, with the County Clerk of Harris County, irrespective of the courts or judge to which matter or proceeding is addressed, shall be filed by said clerk so that the cases ending in 0 and 5 shall be filed in the Probate Court No. 3 of Harris County and all other cases or matters ending in an odd number shall be filed in the Probate Court No. 1 of Harris County, and all other cases or matters ending in an even number shall be filed in the Probate Court No. 2 of Harris County, and in the order in which the same are deposited with said clerk for filing, and further said clerk shall keep separate dockets for each of said courts. Each of the judges of the

County Court and said Probate Courts Nos. 1, 2, and 3 of Harris County may, at any time, with the consent of the judge of the county court or probate court to which transfer is to be made, by an order entered on the minutes of the county court or of such probate court of Harris County, transfer to said county court or other probate court any such matter or proceeding then or thereafter pending in such county or probate court of Harris County, and all processes extant at the time of such transfer shall be returnable to and filed in the county court or the probate court to which such transfer is made and shall be as valid and binding as though originally issued out of the county court or the probate court to which such transfer may be made.

Sec. 4. The County Court of Harris County shall retain, as heretofore, the powers and jurisdiction of said court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a probate court with respect to all matters and proceedings of such nature, except those matters and proceedings transferred to or filed in said Probate Court No. 1 of Harris County or Probate Court No. 2 of Harris County or Probate Court No. 3 of Harris County. The County Judge of Harris County shall be the Judge of the County Court of Harris County, and all ex officio duties of the County Judge of Harris County as they now exist shall be exercised by the County Judge of Harris County. Nothing contained in this Act shall be construed as in anywise impairing or affecting the jurisdiction of the County Civil Courts at Law Nos. 1, 2, or 3 of Harris County, or the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, or 9 of Harris County, Texas, or any other county court at law of Harris County heretofore or hereafter created.

Sec. 5. The practice and procedure in the Probate Court No. 3 of Harris County shall be the same as that provided by law generally for the county courts of this state, and all statutes and laws of the state, as well as all rules of court relating to proceedings therefrom, shall, as to all matters within the jurisdiction of said court, apply equally thereto.

Sec. 6. The Probate Court No. 3 of Harris County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said court, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing county courts throughout the state.

Sec. 7. The initial term of the Probate Court No. 3 of Harris County shall begin on the first Monday next after the first day of the first calendar month following the effective date of this Act and shall continue until and including Sunday next before the first Monday in January of the following year. Thereafter there shall be two terms of said Probate Court No. 3 of Harris County in each year, and the first of such terms shall be known as the January-June Term, and shall begin on the first Monday in

January and shall continue until and including Sunday next before the first Monday in July, and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 8. When this Act becomes effective, the Commissioners Court of Harris County shall appoint a judge to the Probate Court No. 3 of Harris County. The judge appointed serves until the next general election and until his successor has been duly elected and has qualified. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Harris County a judge of the Probate Court No. 3 of Harris County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65 of the Texas Constitution. The judge of said court shall be well informed in the laws of the state and shall have been a duly licensed and practicing member of the bar of this state for not less than five consecutive years prior to his appointment or election.

Sec. 9. The Judge of the Probate Court No. 3 of Harris County shall execute a bond in the amount of \$100,000 and take the oath of office as required by the laws relating to county judges.

Sec. 10. Any vacancy in the office of the Judge of the Probate Court No. 3 of Harris County may be filled by the Commissioners Court of Harris County by the appointment of a judge of said court, who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 11. In the case of the absence, disqualification, or incapacity of the Judge of the Probate Court No. 3 of Harris County, the County Judge of Harris County or the Judge of the Probate Court No. 1 of Harris County or the Judge of the Probate Court No. 2 of Harris County, may sit and act as judge of said court, and may hear and determine, either in his own courtroom or in the courtroom of said court, any matter or proceeding there pending, and enter any order in such matters or proceedings as the judge of said court may enter if personally presiding therein.

Sec. 12. In case of the absence, disqualification, or incapacity of the Judge of the Probate Court No. 1 of Harris County, the Judge of the Probate Court No. 2 of Harris County, the Judge of the Probate Court No. 3 of Harris County, or the County Judge of Harris County, a special judge of the Probate Court No. 1 of Harris County or of the Probate Court No. 2 of Harris County or of the Probate Court No. 3 of Harris County, as the need may demand, may be appointed or elected, as provided by the general laws relating to county courts and to the judges thereof.

Sec. 12a. Within 10 days after the effective date of this section, the judges of the Probate Courts Nos. 1, 2, and 3 of Harris County shall draw lots for

terms as presiding judge of the courts of probate of Harris County. The judge of the court drawing lot number one shall act in that capacity until the first Tuesday after the first Monday of January, 1980. The judge of the court drawing lot number two shall serve for the six-month period ending on the first Tuesday after the first Monday of July, 1980. The judge of the court drawing lot number three shall serve for the six-month period ending on the first Tuesday after the first Monday of January, 1981. Thereafter, the judges shall continue to serve in rotation as presiding judge for periods of six months. No judge may serve two consecutive terms as presiding judge. It is the duty of the presiding judge of the courts of probate of Harris County to equalize as nearly as possible the dockets of the Probate Courts Nos. 1, 2, and 3, so that each of the courts will have an equal number of the probate cases pending in Harris County. It is the duty of the presiding judge of the courts of probate of Harris County to call a conference twice during each six-month term for the purpose of consultation and counsel as to the state of business in probate matters in Harris County and to arrange for the disposition of the business pending on the probate docket of each of the courts with probate jurisdiction in Harris County. In order to carry out the duties of presiding judge, the presiding judge of the courts of probate of Harris County has the power to transfer to or from any of the Probate Courts Nos. 1, 2, or 3 any case the presiding judge deems proper.

Sec. 12b. (1) Should there be created additional probate courts in Harris County, the judge of each new probate court shall serve as presiding judge for a period of six months with the first such six-month period to commence on the day following the expiration date of the term of the presiding judge of the most recently created probate court of Harris County.

(2) If two or more new probate courts are created in Harris County, at the same time, then the judge of each of the new probate courts shall draw lots for the purpose of determining the order of rotation to be used in the selection of the presiding judge.

Sec. 13. The County Clerk of Harris County shall be the Clerk of the Probate Court No. 3 of Harris County. The seal of the court shall be the same as that provided by law for county courts except that the seal shall contain the words "Probate Court No. 3 of Harris County, Texas," and said seal shall be judicially noticed. The Sheriff of Harris County shall, in person or by deputy, attend the court when required by the judge thereof.

Sec. 14. The Judge of the Probate Court No. 3 of Harris County shall collect the same fees as are now or hereafter established by law relating to county judges or to matters within the jurisdiction of said court, all of which shall be paid by him into the county treasury as collected. He may receive an annual salary equal to the salary of the judges of

the Probate Courts Nos. 1 and 2 of Harris County, Texas, and payable in like manner.

Sec. 15. The provisions of this Act shall take effect September 1, 1977.

[Acts 1977, 65th Leg., p. 1145, ch. 434, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1638, ch. 686, § 2, eff. Aug. 27, 1979.]

Art. 1970-110b. County Criminal Court at Law No. 2

Sec. 1. There is hereby created a Court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 2."

Hereafter wherever the name of County Court at Law No. 3 appears in this Act creating said Court it shall be read and understood as meaning and referring to "County Criminal Court No. 2 of Harris County, Texas."

Sec. 2. The County Criminal Court at Law No. 2 of Harris County, Texas, shall have and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, Texas, and the judges of said court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Civil Court at Law No. 1 or in the judge thereof.

Sec. 3. At each General Election, there shall be elected a judge of the County Court at Law No. 3 of Harris County, Texas, who shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years, and who shall hold his office for two (2) years and until his successor shall have been duly qualified; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a judge of the County Court at Law No. 3 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next General Election and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Court at Law No. 3 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office

until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 4. The judge of the County Court at Law No. 3 of Harris County, Texas, shall appoint an official shorthand reporter for such court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the Law relating to "official court reporters" shall and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the District Courts of Harris County is paid.

Sec. 5. The county clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 3 of Harris County, Texas, in civil matters and the district clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 3 of Harris County, Texas, in criminal matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, in civil matters and causes. The district clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Court at Law No. 2 of Harris County, Texas.

Sec. 6. The sheriff of Harris County, either in person or by deputy, shall attend said court when required by the judge thereof; and the various sheriffs and constables of this State executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 7. The seal of the County Court at Law No. 3 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Court at Law No. 3 of Harris County, Texas," and said seal shall be judicially noticed.

Sec. 8. A special judge of said court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 9. The terms of the court hereby created shall begin on the first Monday of the months of June, August, October, December, February and April of each year. The session of said court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

Sec. 10. When this Act becomes effective all civil actions or proceedings having numbers ending with 3, 6 and 9 pending on the docket of the County Court at Law of Harris County, Texas, shall be transferred to and docketed in the County Court at Law No. 3 of Harris County, Texas, by the county clerk and jurisdiction of such civil actions and proceedings so transferred is hereby conferred upon the County Court at Law No. 3 of Harris County, Texas. All criminal cases of even numbers pending on the docket of the County Court at Law No. 2 of Harris County, Texas, on the effective date of this Act shall be transferred to and docketed in the County Court at Law No. 3 of Harris County, Texas, by the district clerk and jurisdiction of such causes so transferred is hereby conferred upon the County Court at Law No. 3 of Harris County, Texas.

Sec. 11. The judge of the County Court at Law No. 3 of Harris County, Texas, may exchange benches with the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, in the same manner that the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, are authorized to exchange benches under the provisions of Section 5 of Senate Bill No. 144, Chapter 16 and Section 5 of the Senate Bill No. 143, Chapter 24, Acts of the Forty-first Legislature, Regular Session, 1929.

Sec. 12. The practice in said County Court at Law No. 3, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now, or may hereafter be prescribed from county courts.

Sec. 13. All process issued out of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, prior to the time when the clerks thereof shall transfer cases from the docket of said courts, as provided in Section 10 of this Act, in cases transferred as therein provided, shall be returned to and filed in the court hereby created, and shall be equally as valid and binding upon the parties to such transferred cases as though such process had been issued out of the County Court at Law No. 3 of Harris County, Texas. Likewise, in cases transferred to any one of the County Courts at Law by order of the judge of one of said courts as provided in Section 2 of this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which such transfer may be made.

Sec. 14. If any part of this Act is held unconstitutional by a court of competent jurisdiction such holding of unconstitutionality shall not affect the validity of the remaining provisions of this Act.

Sec. 15. All laws or parts of laws in conflict with the Act are hereby repealed to the extent of such conflict only.

[Acts 1951, 52nd Leg. p. 170, ch. 108. Amended by Acts 1961, 57th Leg., p. 1073, ch. 481, §§ 4, 7.]

Art. 1970-110c. County Criminal Court at Law No. 3 of Harris County

Sec. 1. There is hereby created a Court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 3."

Wherever the name County Court at Law No. 4 appears in this Act creating said Court it shall from and after the passage of this Act be read and understood as designating and referring to the County Criminal Court at Law No. 3.

Sec. 2. The County Court at Law No. 4 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, and the judges of said court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the judge thereof.

Sec. 2A. Repealed by Acts 1961, 57th Leg., p. 1073, ch. 481, § 6.

Sec. 3. The Judge of the said County Court at Law No. 4 shall be elected at the General Election by the qualified voters of Harris County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a judge of the County Court at Law No. 4 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next General Election and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Court at Law No. 4 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office

until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 4. The judge of the County Court at Law No. 4 of Harris County, Texas, shall appoint an official shorthand reporter for such court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the Law relating to "Official Court Reporters" shall and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the District Courts of Harris County is paid.

Sec. 5. The County Clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 4 of Harris County, Texas, in civil matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, in civil matters and causes.

Sec. 5A. The District Clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 4 of Harris County, Texas, in criminal matters. The District Clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas.

Sec. 6. The sheriff of Harris County, either in person or by deputy, shall attend said court when required by the judge thereof; and the various sheriffs and constables of this State executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 7. The seal of the County Court at Law No. 4 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Court at Law No. 4 of Harris County, Texas," and said seal shall be judicially noticed.

Sec. 8. A special judge of said court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 9. The terms of the court hereby created shall begin on the first Monday of the months of

June, August, October, December, February and April of each year. The session of said court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

Sec. 10. When this Act becomes effective, the District Clerk of Harris County, Texas, being the clerk of this court for Criminal matters, in order to provide a criminal docket for this court, shall file the first one hundred (100) criminal cases to be filed, in the said County Court at Law No. 4, and beginning with the 101st case to be filed, such case shall be filed in County Court at Law No. 2, and the 102nd case to be filed shall be filed in County Court at Law No. 3 and the 103rd case to be filed shall be filed in County Court at Law No. 4, and so on in rotation so that thereafter of every three (3) cases filed, each of the Courts, County Court at Law No. 2, County Court at Law No. 3 and County Court at Law No. 4 shall each receive one (1) case: further, immediately on the effective date of this Act all criminal cases pending on the docket of County Court at Law No. 2 with a digit ending in the number one and all cases pending on the docket of County Court at Law No. 3 with a digit ending in the number two shall be transferred to and docketed in the County Court at Law No. 4 of Harris County, Texas, by the district clerk and jurisdiction of such cases so transferred is hereby conferred upon the County Court at Law No. 4 of Harris County, Texas.

Sec. 11. The judge of the County Court at Law No. 4 of Harris County, Texas, may exchange benches with the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, in the same manner that the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, are authorized to exchange benches under the provisions of Section 5 of Senate Bill No. 144, Chapter 16 and Section 5 of Senate Bill No. 143, Chapter 24, Acts of the Forty-first Legislature, Regular Session, 1929.

Sec. 12. The practice in said County Court at Law No. 4, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now or may hereafter be prescribed for county courts.

Sec. 13. All process issued out of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, prior to the time when the clerks thereof shall transfer cases from the docket of said courts, as provided in Section 10 of this Act, in cases transferred as therein provided, shall be returned to and filed in the court hereby created, and shall be equally as valid and binding upon the parties to such transferred cases as though such process had been issued out of the County Court at Law No. 4

of Harris County, Texas. Likewise, in cases transferred to any one of the County Courts at law by order of the judge of one of said courts as provided in Section 2 of this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which such transfer may be made.

[Acts 1957, 55th Leg., p. 1333, ch. 453. Amended by Acts 1961, 57th Leg., p. 1073, ch. 481, § 5.]

Art. 1970-110c.1. County Criminal Court at Law No. 4

Sec. 1. There is hereby created a court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 4 of Harris County, Texas."

Sec. 2. The County Criminal Court at Law No. 4 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, and the Judges of said Court shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said Court shall have no jurisdiction over any of those matters which are now vested exclusively in the County Court of Harris County, or in the Judge thereof.

Sec. 3. The Judge of the said County Criminal Court at Law No. 4 shall be elected at the General Election by the qualified voters of Harris County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; but such Judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the Judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a Judge of the County Criminal Court at Law No. 4 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next General Election and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said County Criminal Court at Law No. 4 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office

until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 4. The Judge of the County Criminal Court at Law No. 4 of Harris County, Texas, shall appoint an official shorthand reporter for such Court, who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the Law relating to "Official Court Reporters" shall and is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the District Courts of Harris County is paid.

Sec. 5. The District Clerk of Harris County, Texas, shall act as and be the clerk of said County Criminal Court at Law No. 4 of Harris County, Texas. The District Clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas.

Sec. 6. The sheriff of Harris County, either in person or by deputy, shall attend said Court when required by the Judge thereof; and the various sheriffs and constables of this State executing process issued out of said Court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 7. The seal of the County Criminal Court at Law No. 4 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Criminal Court at Law No. 4 of Harris County, Texas," and said seal shall be judicially noticed.

Sec. 8. A special Judge of said Court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 9. The terms of the Court hereby created shall begin on the first Monday of the months of June, August, October, December, February, and April of each year. The sessions of said Court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

Sec. 10. When this Act becomes effective, the District Clerk of Harris County, Texas, in order to provide a docket for this Court, shall file the first one hundred (100) cases to be filed, in the said

County Criminal Court at Law No. 4, and beginning with the 101st case to be filed, such case shall be filed in County Criminal Court at Law No. 1, and the 102nd case to be filed shall be filed in County Criminal Court at Law No. 2, and the 103rd case to be filed shall be filed in County Criminal Court at Law No. 3 and the 104th case to be filed shall be filed in County Criminal Court at Law No. 4, and so on in rotation so thereafter of every four (4) cases filed, each of the Courts, County Criminal Court at Law No. 1, County Criminal Court at Law No. 2, County Criminal Court at Law No. 3, and County Criminal Court at Law No. 4 shall each receive one (1) case: further, immediately on the effective date of this Act every case having numbers ending with 0 and every case having numbers ending with 5 pending on the dockets of the County Criminal Court at Law No. 1 of Harris County and the County Criminal Court at Law No. 2 of Harris County and the County Criminal Court at Law No. 3 of Harris County shall be at once transferred to and docketed in the County Criminal Court at Law No. 4 of Harris County, by the District Clerk and jurisdiction of such cases so transferred is hereby conferred upon the County Criminal Court at Law No. 4 of Harris County, Texas.

Sec. 11. The Judge of the County Criminal Court at Law No. 4 of Harris County, Texas, may exchange benches with the Judges of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas, in the same manner that the Judges of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas, are authorized to exchange benches under the provisions of Section 5 of Senate Bill No. 144, Chapter 16¹ and Section 5 of Senate Bill No. 143, Chapter 24,² Acts of the Forty-first Legislature, Regular Session, 1929. The Judges of the County Criminal Court at Law No. 1 of Harris County, Texas, the County Criminal Court at Law No. 2 of Harris County, Texas, the County Criminal Court at Law No. 3 of Harris County, Texas, and the County Criminal Court at Law No. 4 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the Court from which the cause is transferred, provided that no cause shall be transferred without the consent of the Judge of the Court to which transferred.

Sec. 12. The practice in said County Criminal Court at Law No. 4, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now or may hereafter be prescribed for county courts.

Sec. 13. All process issued out of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal

Court at Law No. 3 of Harris County, Texas, prior to the time when the clerks thereof shall transfer cases from the dockets of said Courts, as provided in Section 10 of this Act, in cases transferred as therein provided, shall be returned to and filed in the Court hereby created, and shall be equally as valid and binding upon the parties to such transferred cases as though such process had been issued out of the County Criminal Court at Law No. 4 of Harris County, Texas. Likewise, in cases transferred to any one of the County Criminal Courts at Law by order of the Judge of one of said Courts as provided in Section 11 of this Act, all process extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made, and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made.

[Acts 1963, 58th Leg., p. 155, ch. 95.]

¹ Article 1970-94a.

² Article 1970-106a.

Art. 1970-110c.2. County Criminal Court at Law Nos. 5, 6 and 7 of Harris County

(a) There are hereby created three courts to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 5 of Harris County, Texas," the "County Criminal Court at Law No. 6 of Harris County, Texas," and the "County Criminal Court at Law No. 7 of Harris County, Texas."

(b) The County Criminal Courts at Law Nos. 5, 6, and 7 of Harris County, Texas, shall have, and they are hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, and the judges of said courts shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said courts shall have no jurisdiction over any of those matters which are now vested exclusively in the County Court of Harris County, or in the judge thereof.

(c) Each of the judges of the County Criminal Courts at Law Nos. 5, 6, and 7 shall be elected at the general election by the qualified voters of Harris County for a term of four years and shall hold office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this state for not less than five years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the commissioners court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said courts or the judges

thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a judge of the County Criminal Court at Law No. 5 of Harris County, Texas, and a judge of the County Criminal Court at Law No. 6 of Harris County, Texas, and a judge of the County Criminal Court at Law No. 7 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next general election and until their successors shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Criminal Court at Law No. 5 of Harris County, Texas, or in the office of the judge of said County Criminal Court at Law No. 6 of Harris County, Texas, or in the office of the judge of said County Criminal Court at Law No. 7 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

(d) The judges of the County Criminal Courts at Law Nos. 5, 6, and 7 of Harris County, Texas, shall each appoint an official shorthand reporter for his court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the law relating to "official court reporters" shall and are hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporters herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act, and such official shorthand reporters shall be entitled to the same compensation as applicable to official shorthand reporters in the district courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the district courts of Harris County is paid.

(e) The district clerk of Harris County, Texas, shall act as and be the clerk of said County Criminal Court at Law No. 5 of Harris County, Texas, of said County Criminal Court at Law No. 6 of Harris County, Texas, and of said County Criminal Court at Law No. 7 of Harris County, Texas. The district clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Criminal Courts at Law Nos. 1, 2, 3, and 4 of Harris County, Texas.

(f) The sheriff of Harris County, either in person or by deputy, shall attend said courts when required by the judges thereof; and the various sheriffs and constables of this state executing process issued out of said courts shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

(g) The seals of the County Criminal Courts at Law Nos. 5, 6, and 7 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seals shall contain the words "County Criminal Court at Law No. 5 of Harris County, Texas," and the words "County Criminal Court at Law No. 6 of Harris County, Texas," and the words "County Criminal Court at Law No. 7 of Harris County, Texas," respectively, and said seals shall be judicially noticed.

(h) A special judge of each of said courts may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

(i) The terms of the courts hereby created shall begin on the first Monday of the months of June, August, October, December, February, and April of each year. The sessions of said courts shall be held in such places as may be provided therefor by the Commissioners Court of Harris County.

(j) When this Act becomes effective, the district clerk of Harris County, Texas, shall alternately file the first 300 cases to be filed in the said County Criminal Court at Law No. 5, and the said County Criminal Court at Law No. 6, and the said County Criminal Court at Law No. 7, with 100 cases being filed in each of the three said courts. Thereafter, cases shall be filed in rotation so thereafter of every seven cases filed, each of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, and 7 shall each receive one case.

(k) The judges of the County Criminal Courts at Law Nos. 5, 6, and 7 of Harris County, Texas, may exchange benches with each other and with the judges of the County Criminal Courts at Law Nos. 1, 2, 3, and 4 of Harris County, Texas, in the same manner that the judges of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas, and the County Criminal Court at Law No. 4 of Harris County, Texas, are authorized to exchange benches. The judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, and 7 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the court from which the cause is transferred, provided that no cause shall be transferred without the consent of the judge of the court to which transferred.

(l) The practice in said County Criminal Courts at Law Nos. 5, 6, and 7, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now or may hereafter be prescribed for county courts.

(m) In cases transferred to any one of the County Criminal Courts at Law of Harris County, Texas, as provided in this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be

as valid and binding as though originally issued out of the court to which such transfer may be made. [Acts 1973, 63rd Leg., p. 582, ch. 251, § 1, eff. Aug. 27, 1973.]

Art. 1970-110c.3. County Criminal Court at Law Nos. 8 and 9 of Harris County

(a) There are hereby created two courts to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 8 of Harris County, Texas," and the "County Criminal Court at Law No. 9 of Harris County, Texas."

(b) The County Criminal Courts at Law Nos. 8 and 9 of Harris County, Texas, shall have, and they are hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, and the judges of said courts shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said courts shall have no jurisdiction over any of those matters which are now vested exclusively in the County Court of Harris County, or in the judge thereof.

(c) When this Act becomes effective, the Commissioners Court of Harris County shall appoint a judge of the County Criminal Court at Law No. 8 of Harris County, Texas, and a judge of the County Criminal Court at Law No. 9 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next general election and until their successors shall be duly elected and qualified. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Harris County a judge of each of the County Criminal Courts at Law Nos. 8 and 9 of Harris County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65 of the Texas Constitution. The judge shall have been a duly licensed and practicing member of the bar of this state for not less than five years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the commissioners court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Any vacancy occurring in the office of the judge of said County Criminal Court at Law No. 8 of Harris County, Texas, or in the office of the judge of said County Criminal Court at Law No. 9 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified. Said courts or the judges thereof shall have the power to

issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction.

(d) The judges of the County Criminal Courts at Law Nos. 8 and 9 of Harris County, Texas, shall each appoint an official shorthand reporter for his court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the law relating to official court reporters shall and are hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporters herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act, and such official shorthand reporters shall be entitled to the same compensation as applicable to official shorthand reporters in the district courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the district courts of Harris County is paid.

(e) The district clerk of Harris County, Texas, shall act as and be the clerk of said County Criminal Court at Law No. 8 of Harris County, Texas, and of said County Criminal Court at Law No. 9 of Harris County, Texas. The district clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, and 7 of Harris County, Texas.

(f) The sheriff of Harris County, either in person or by deputy, shall attend said courts when required by the judges thereof; and the various sheriffs and constables of this state executing process issued out of said courts shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

(g) The seals of the County Criminal Courts at Law Nos. 8 and 9 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seals shall contain the words "County Criminal Court at Law No. 8 of Harris County, Texas," and the words "County Criminal Court at Law No. 9 of Harris County, Texas," respectively, and said seals shall be judicially noticed.

(h) A special judge of each of said courts may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

(i) The terms of the courts hereby created shall begin on the first Monday of the months of June, August, October, December, February, and April of each year. The sessions of said courts shall be held in such places as may be provided therefor by the Commissioners Court of Harris County.

(j) When this Act becomes effective, the district clerk of Harris County, Texas, shall alternately file the first 200 cases to be filed in the said County Criminal Court at Law No. 8, and the said County Criminal Court at Law No. 9, with 100 cases being filed in each of the two said courts. Thereafter, cases shall be filed in rotation so thereafter of every 9 cases filed, each of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 9 shall each receive one case.

(k) The judges of the County Criminal Courts at Law Nos. 8 and 9 of Harris County, Texas, may exchange benches with each other and with the judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, and 7 of Harris County, Texas, in the same manner that the judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, and 7 of Harris County, Texas, are authorized to exchange benches. The judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 9 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the court from which the cause is transferred, provided that no cause shall be transferred without the consent of the judge of the court to which transferred.

(l) The practice in said County Criminal Courts at Law Nos. 8 and 9 and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now or may hereafter be prescribed for county courts.

(m) In cases transferred to any one of the County Criminal Courts at Law of Harris County, Texas, as provided in this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which such transfer shall be made.

[Acts 1975, 64th Leg., p. 928, ch. 346, § 1, eff. Jan. 1, 1976.]

Art. 1970-110c.4. County Criminal Court at Law No. 10 of Harris County

(a) There is hereby created a court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 10 of Harris County, Texas."

(b) The County Criminal Court at Law No. 10 of Harris County, Texas, shall have and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the constitution and laws of Texas and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, and the judge of said court shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said court shall have no jurisdiction over any of those matters which are now

vested exclusively in the County Court of Harris County or in the judge thereof.

(c) When this Act becomes effective, the Commissioners Court of Harris County shall appoint a judge of the County Criminal Court at Law No. 10 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next general election and until his successor shall be duly elected and qualified. At the general election in 1982 and every fourth year thereafter, there shall be elected by the qualified voters of Harris County a judge of the County Criminal Court at Law No. 10 of Harris County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. The judge shall have been a duly licensed and practicing member of the bar of this state for not less than five years, and he shall be compensated as provided by law and shall be paid out of the county treasury by the commissioners court in equal monthly installments, but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Any vacancy occurring in the office of the judge of said County Criminal Court at Law No. 10 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified. Said court or the judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases and all writs necessary to the enforcement of its jurisdiction.

(d) The judge of the County Criminal Court at Law No. 10 of Harris County, Texas, shall appoint an official shorthand reporter for his court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court; and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same hereafter be amended and all other provisions of the law relating to official court reporters shall and are hereby made to apply in all its provisions insofar as they are applicable to the official shorthand reporters herein authorized to be appointed and insofar as they are not inconsistent with the provisions of this Act; and such official shorthand reporters shall be entitled to the same compensation as applicable to official shorthand reporters in the district courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the district courts of Harris County is paid.

(e) The district clerk of Harris County, Texas, shall act as and be the clerk of said County Criminal Court at Law No. 10 of Harris County, Texas. The district clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 9 of Harris County, Texas.

(f) The sheriff of Harris County, either in person or by deputy, shall attend said court when required by the judge thereof, and the various sheriffs and constables of this state executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

(g) The seal of the County Criminal Court at Law No. 10 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Criminal Court at Law No. 10 of Harris County, Texas," and said seal shall be judicially noticed.

(h) A special judge of said court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

(i) The terms of the court hereby created shall begin on the first Monday of the months of June, August, October, December, February, and April of each year. The sessions of said court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

(j) The judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Harris County, Texas, may make such rules governing the random filing, numbering, and docketing of cases by the clerk, the assignment thereof for trial and the distribution of the work of such courts as in their discretion is deemed necessary or desirable for the orderly equalization of the dockets and dispatch of the business of the courts. The clerk, with the approval of the judges of the courts, may utilize mechanical or electronic means in the random filing, numbering, and docketing of the cases.

(k) The judge of the County Criminal Court at Law No. 10 of Harris County, Texas, may exchange benches with the judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 9 of Harris County, Texas, in the same manner that the judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 9 of Harris County, Texas, are authorized to exchange benches. The judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the court from which the cause is transferred; provided that no cause shall be transferred without the consent of the judge of the court to which transferred.

(l) The practice in said County Criminal Court at Law No. 10 and in cases of appeal and writs of error therefrom and thereto shall be the same as is now or may hereafter be prescribed for county courts.

(m) In cases transferred to any one of the County Criminal Courts at Law of Harris County, Texas, as provided in this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made and shall be as

valid and binding as though originally issued out of the court to which such transfer shall be made.

[Acts 1979, 66th Leg., p. 474, ch. 217, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., p. 172, ch. 79, § 1, eff. Aug. 31, 1981.]

Art. 1970-110c.5. County Criminal Court at Law Nos. 11 and 12 of Harris County

Sec. 1. (a) There are hereby created two courts to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 11 of Harris County, Texas," and the "County Criminal Court at Law No. 12 of Harris County, Texas."

(b) The County Criminal Courts at Law Nos. 11 and 12 of Harris County, Texas, shall have and they are hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the constitution and laws of Texas and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and municipal courts within Harris County, and the judges of said courts shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction, provided that said courts shall have no jurisdiction over any of those matters which are now vested exclusively in the County Court of Harris County or in the judge thereof.

(c) When this Act becomes effective, the Commissioners Court of Harris County shall appoint a judge of the County Criminal Court at Law No. 11 of Harris County, Texas, and a judge of the County Criminal Court at Law No. 12 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next general election at which time these offices appear on the ballot as provided by Article XVI, Section 65, of the Texas Constitution and until their successors shall be duly elected and qualified, and every fourth year thereafter there shall be elected by the qualified voters of Harris County a judge of each of the County Criminal Courts at Law Nos. 11 and 12 of Harris County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. The judge shall have been a duly licensed and practicing member of the bar of this state for not less than five years, and he shall be compensated as provided by law and shall be paid out of the county treasury by the commissioners court in equal monthly installments, but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Any vacancy occurring in the office of the Judge of said County Criminal Court at Law No. 11 of Harris County, Texas, or in the office of the County Criminal Court at Law No. 12 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding general election at which these offices appear on the ballot as provided by Article

XVI, Section 65, of the Texas Constitution and until their successors shall be duly elected and qualified. Said courts or the judges thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases and all writs necessary to the enforcement of its jurisdiction.

(d) The judges of the County Criminal Courts at Law Nos. 11 and 12 of Harris County, Texas, shall each appoint an official court reporter for his court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Statutes, as amended, and as the same may hereafter be amended and all other provisions of the law relating to official court reporters shall and are hereby made to apply in all its provisions insofar as they are applicable to the official court reporters herein authorized to be appointed and insofar as they are not inconsistent with the provisions of this Act, and such official court reporters shall be entitled to the same compensation as applicable to official court reporters in the district courts of Harris County, Texas, paid in the same manner that compensation of official court reporters of the district courts of Harris County, Texas.

(e) The district clerk of Harris County, Texas, shall act as and be the clerk of said County Criminal Court at Law No. 11 of Harris County, Texas, and of said County Criminal Court at Law No. 12 of Harris County, Texas. The district clerk shall receive and collect such fees as provided by law.

(f) The sheriff of Harris County, either in person or by deputy, shall attend said courts when required by the judges thereof, and the various sheriffs and constables of this state executing process issued out of said courts shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

(g) The seals of the County Criminal Courts at Law Nos. 11 and 12 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seals shall contain the words "County Criminal Court at Law No. 11 of Harris County, Texas," and the words "County Criminal Court at Law No. 12 of Harris County, Texas," respectively, and said seals shall be judicially noticed.

(h) A special judge of each of said courts may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

(i) The terms of the courts hereby created shall begin on the first Monday of the months of June, August, October, December, February, and April of each year. The sessions of said courts shall be held in such places as may be provided therefor by the Commissioners Court of Harris County.

(j) When this Act becomes effective the district clerk shall transfer all cases pending in County

Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Harris County, Texas, ending in the numeral 1 of the cause number to County Criminal Court at Law No. 11 of Harris County, Texas, and ending in the numeral 6 of the cause number to County Criminal Court at Law No. 12 of Harris County, Texas. Thereafter, the judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of Harris County, Texas, may make such rules governing the random filing, numbering, and docketing of cases by the clerk, the assignment thereof for trial, and the distribution of the work of such courts as in their discretion is deemed necessary or desirable for the courts. The clerk with the approval of the judges of the courts may utilize mechanical or electronic means in the random filing, numbering, and docketing of the cases.

(k) The judges of the County Criminal Courts at Law Nos. 11 and 12 of Harris County, Texas, may exchange benches with each other and with the judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Harris County in the same manner that the judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Harris County, Texas, are authorized to exchange benches. The judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the court from which the cause is transferred, provided that no cause shall be transferred without the consent of the judge of the court to which transferred.

(l) The practice in said County Criminal Courts at Law Nos. 11 and 12 and in cases of appeal and writs of error therefrom and thereto shall be the same as is now or may hereafter be prescribed for county courts.

(m) In cases transferred to any one of the County Criminal Courts at Law of Harris County, Texas, as provided in this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made and shall be as valid and binding as though originally issued out of the court to which such transfer shall be made.

[Acts 1983, 68th Leg., p. 155, ch. 43, § 1.]

Sections 2 to 4 of the 1983 Act provide:

"Sec. 2. If any provision, section, or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect the provisions or applications hereof which can be given effect without the invalid provision, section, or clause, and to this end the provisions of this Act are declared to be severable.

"Sec. 3. The provisions of this Act pertaining to County Criminal Court at Law No. 11 of Harris County, Texas, shall become effective on June 1, 1983.

"Sec. 4. The provisions of this Act pertaining to County Criminal Court at Law No. 12 of Harris County, Texas, shall become effective on September 1, 1983."

Art. 1970-110d. County Civil Court at Law No. 2 of Harris County

(a) There is hereby created a court to be held in Harris County, Texas, to be called the "County Civil Court at Law No. 2 of Harris County, Texas," and the seal of said Court shall be the same as provided by law for county courts except the seal shall contain the words "County Civil Court at Law No. 2."

(b) The County Civil Court at Law No. 2 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over civil matters, proceedings and cases, that is now or may be vested in the County Civil Court at Law No. 1, and shall have jurisdiction in civil actions, and the judge thereof to exercise equal administrative and ministerial jurisdiction in matters of the filing and disposition of proceedings in eminent domain, concurrently and coextensively with the judge presiding in County Civil Court at Law No. 1, under the Constitution and laws of Texas, and this Court shall have appellate jurisdiction likewise in appeals of civil cases from the justice courts within Harris County, and the Judges of said Court shall have the same powers, rights and privileges as to civil matters as are or may be vested in the judges of county courts having civil jurisdiction, provided that the said Court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the Judge thereof.

(c) The County Civil Court at Law No. 2 of Harris County shall have jurisdiction in all civil matters and causes, original and appellate, except probate matters, over which, by the Constitution and general laws of the State of Texas, the County Court of said County would have formerly had jurisdiction, and shall have equal and like jurisdiction over civil cases, and civil proceedings in the same manner as jurisdiction has been heretofore exercised in civil cases and civil proceedings and in eminent domain by the County Civil Court at Law No. 1.

That County Civil Courts at Law (No. 1 and No. 2) shall have special jurisdiction in matters of eminent domain and the Judges thereof shall have sole administrative and ministerial jurisdiction to file and dispose of proceedings in eminent domain concurrently and coextensively when filed in either of said Civil Courts or with the respective Judges thereof.

(d) The terms of the County Civil Court at Law No. 2 of Harris County, and the practice therein and appeals and writs of error therefrom shall be as prescribed by laws relating to county courts. The terms of the Harris County Civil Court at Law No. 2 for civil cases shall be held as now established for the terms of the County Civil Court at Law No. 1 of Harris County until the same be changed in accordance with the law.

Said Court shall hold six (6) terms a year, beginning respectively on the first Monday in January, in March, in May, in July, in September, and in Novem-

ber of each year, and each term shall continue until the business is disposed of.

(e) The Judge of the said Harris County Civil Court at Law No. 2, shall be elected at the General Election by the qualified voters of Harris County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; and when this Act becomes effective the Commissioners Court of Harris County shall appoint a Judge to the County Civil Court at Law No. 2 of Harris County who shall have the qualifications herein prescribed, and shall serve until the next General Election, and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of Judge of said Harris County Civil Court at Law No. 2, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

(f) The Judge of the Harris County Civil Court at Law No. 2 shall execute a bond and take the oath of office as required by the law relating to county judges.

(g) A special Judge of the Harris County Civil Court at Law No. 2 may be appointed or elected as provided by law relating to county courts and to the judges thereof.

(h) The County Clerk of Harris County shall be the Clerk of the Harris County Civil Court at Law No. 2. The Sheriff of Harris County shall, in person or by deputy, attend the said Court when required by the Judge thereof.

Said County Clerk shall keep separate dockets for each of said Civil Courts, No. 1 and No. 2, and shall tax the official court reporter's fee as costs in civil actions filed in each of said Courts in like manner as said fee is taxed in civil cases in the district courts.

The County Clerk shall after the effective date of this Act, file all civil cases and civil proceedings exclusively in the County Civil Courts at Law No. 1 and No. 2 and shall file said civil cases alternately in each of said Courts as presented for filing.

(i) In case of disqualification, an overcrowded docket, sickness or absence from the county, of any of the Judges of the County Civil Courts at Law No. 1 or No. 2, of County Criminal Courts at Law Numbers 1, 2 or 3, any other Judge of said Courts may exchange benches with any other County Court at Law Judge of Harris County, Texas, and when so exchanging benches with any other of the said County Court at Law Judges of Harris County, the Judge of County Civil Court at Law No. 2 of Harris County, Texas, shall have all power and jurisdiction of the County Civil or County Criminal Courts at

Law, and of the judge thereof, while so exchanging benches; and in like manner the Judges of said County Civil or Criminal Courts at Law of Harris County, Texas, shall have all the power and jurisdiction of any other of said Civil or Criminal County Courts at Law and of the Judges thereof while so exchanging benches, and may sign orders, judgments and decrees, or other process as "Judge Presiding" when acting for such disqualified or absent judge upon request or in an emergency, or for good cause shown.

That the salary of the Judge of said County Civil Court at Law No. 2 and the salaries of all County and Civil and Criminal Court Judges mentioned herein, to wit: County Civil Court at Law No. 1; County Criminal Court at Law No. 1; County Criminal Court at Law No. 2 and County Criminal Court at Law No. 3 shall be not less than Thirteen Thousand, Two Hundred Dollars (\$13,200) or more than Fifteen Thousand, Six Hundred Dollars (\$15,600), per annum, payable in twelve (12) equal monthly installments out of the General Fund of Harris County, Texas.

(j) That the Judge of the County Civil Court at Law No. 2, of Harris County, Texas, may appoint and discharge an Official Court Reporter in the same manner as such a reporter is appointed or discharged by the district courts, and who shall receive the same salary as the reporters of the District Courts of Harris County, Texas, the same to be paid by the County Treasurer out of the General Fund of the County, and in addition to said salary the compensation for transcript fees as provided by law.

[Acts 1961, 57th Leg., p. 1073, ch. 481, § 1.]

Art. 1970-110e. County Civil Court at Law No. 3 of Harris County

(a) There is hereby created a court to be held in Harris County, Texas, to be called the "County Civil Court at Law No. 3 of Harris County, Texas," and the seal of said court shall be the same as provided by law for county courts except the seal shall contain the words "County Civil Court at Law No. 3."

(b) The County Civil Court at Law No. 3 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over civil matters, proceedings and cases, that is now or may be vested in the County Civil Courts at Law Nos. 1 and 2, and shall have jurisdiction in civil actions, and the judge thereof to exercise equal administrative and ministerial jurisdiction in matters of the filing and disposition of proceedings in eminent domain, concurrently and coextensively with the judge presiding in County Civil Court at Law No. 1 and the judge presiding in County Civil Court at Law No. 2, under the constitution and laws of Texas, and this court shall have appellate jurisdiction likewise in appeals of civil cases from the justice courts within Harris County, and the judges of said court shall have the same powers, rights and privileges as to civil mat-

ters as are or may be vested in the judges of county courts having civil jurisdiction, provided that the said court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the judge thereof.

(c) The County Civil Court at Law No. 3 of Harris County shall have jurisdiction in all civil matters and causes, original and appellate, except probate matters, over which, by the constitution and general laws of the State of Texas, the county court of said county would have formerly had jurisdiction, and shall have equal and like jurisdiction over civil cases, and civil proceedings in the same manner as jurisdiction has been heretofore exercised in civil cases and civil proceedings and in eminent domain by the County Civil Court at Law No. 1 and the County Civil Court at Law No. 2. The County Civil Courts at Law Nos. 1, 2, and 3 shall have special jurisdiction in matters of eminent domain and the judges thereof shall have sole administrative and ministerial jurisdiction to file and dispose of proceedings in eminent domain concurrently and coextensively when filed in either of said civil courts or with the respective judges thereof.

(d) The terms of the County Civil Court at Law No. 3 of Harris County, and the practice therein and appeals and writs of error therefrom shall be as prescribed by laws relating to county courts. The terms of the Harris County Civil Court at Law No. 3 for civil cases shall be held as now established for the terms of the County Civil Courts at Law Nos. 1 and 2 of Harris County until the same be changed in accordance with the law.

Said court shall hold six terms a year, beginning respectively on the first Monday in January, in March, in May, in July, in September, and in November of each year, and each term shall continue until the business is disposed of.

(e) The judge of the said Harris County Civil Court at Law No. 3 shall be elected at the general election by the qualified voters of Harris County for a term of four years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the bar of this state for not less than five years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the commissioners court in equal monthly installments; and when this Act becomes effective the Commissioners Court of Harris County shall appoint a judge to the County Civil Court at Law No. 3 of Harris County who shall have the qualifications herein prescribed, and shall serve until the next general election, and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of judge of said Harris County Civil Court at Law No. 3, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next suc-

ceeding general election and until his successor shall be duly elected and qualified.

(f) The judge of the Harris County Civil Court at Law No. 3 shall execute a bond and take the oath of office as required by the law relating to county judges.

(g) A special judge of the Harris County Civil Court at Law No. 3 may be appointed or elected as provided by law relating to county courts and to the judges thereof.

(h) The County Clerk of Harris County shall be the clerk of the Harris County Civil Court at Law No. 3. The Sheriff of Harris County shall, in person or by deputy, attend the said court when required by the judge thereof.

Said county clerk shall keep separate dockets for each of said Civil Courts Nos. 1, 2, and 3, and shall tax the official court reporter's fee as costs in civil actions filed in each of said courts in like manner as said fee is taxed in civil cases in the district courts.

The county clerk shall after the effective date of this Act, file all civil cases and civil proceedings exclusively in the County Civil Courts at Law No. 1 and No. 2 and No. 3 and shall file said civil cases alternately in each of said courts as presented for filing.

(i) In case of disqualification, an overcrowded docket, sickness or absence from the county, of any of the judges of the County Civil Courts at Law No. 1 or No. 2 or No. 3, or county criminal courts at law, and any other judge of said courts may exchange benches with any other county court at law judge of Harris County, Texas, and when so exchanging benches with any other of the said county court at law judges of Harris County, the Judge of County Civil Court at Law No. 3 of Harris County, Texas, shall have all power and jurisdiction of the county civil or county criminal courts at law, and of the judge thereof, while so exchanging benches; and in like manner the judges of said county civil or criminal courts at law of Harris County, Texas, shall have all the power and jurisdiction of any other of said civil or criminal county courts at law and of the judges thereof while so exchanging the benches, and may sign orders, judgments and decrees, or other process as "Judge Presiding" when acting for such disqualified or absent judge upon request or in an emergency, or for good cause shown.

(j) The Judge of the County Civil Court at Law No. 3 of Harris County, Texas, may appoint and discharge an official court reporter in the same manner as such a reporter is appointed or discharged by the district courts, and who shall receive the same salary as the reporters of the district courts of Harris County, Texas, the same to be paid by the county treasurer out of the general fund of the county, and in addition to said salary the compensation for transcript fees as provided by law. [Acts 1973, 63rd Leg., p. 584, ch. 251, § 2, eff. Aug. 27, 1973.]

Art. 1970-110f. County Civil Court at Law No. 4 of Harris County

(a) There is hereby created one court to be held in Harris County, Texas, to be called the "County Civil Court at Law No. 4 of Harris County, Texas." The seal of the court shall be the same as provided by law for county courts, except the seal shall contain the words "County Civil Court at Law No. 4."

(b) The county civil court at law of Harris County created in this Act shall have the same jurisdiction over civil matters, proceedings, and cases that is now or may be vested in the County Civil Courts at Law Nos. 1, 2, and 3 and shall have jurisdiction in civil actions, and the judge thereof exercises equal administrative and ministerial jurisdiction in matters of the filing and disposition of proceedings in eminent domain, concurrently and coextensively with the judge presiding in County Civil Court at Law No. 1 and the judge presiding in County Civil Court at Law No. 2 and the judge presiding in County Civil Court at Law No. 3, under the constitution and laws of Texas. The court created in this Act shall have appellate jurisdiction likewise in appeals of civil cases from the justice courts within Harris County. The judge of this court shall have the same powers, rights, and privileges as to civil matters as are or may be vested in the judges of county courts having civil jurisdiction, except that the court created in this Act shall have no jurisdiction over any of those matters which are now vested exclusively in the County Court of Harris County or in the judge thereof.

(c) The county civil court at law of Harris County created in this Act shall have jurisdiction in all civil matters and causes, original and appellate, except probate matters, over which, by the constitution and general laws of the State of Texas, the county court of the county would have formerly had jurisdiction, and shall have equal and like jurisdiction over civil cases and civil proceedings in the same manner as jurisdiction has been heretofore exercised in civil cases and civil proceedings and in eminent domain by the County Civil Courts at Law Nos. 1, 2, and 3. The County Civil Courts at Law Nos. 1, 2, 3, and 4 shall have special jurisdiction in matters of eminent domain, and the judges thereof shall have sole administrative and ministerial jurisdiction to file and dispose of proceedings in eminent domain concurrently and coextensively when filed in either of these civil courts or with the respective judges thereof.

(d) The terms of the county civil court at law of Harris County created in this Act and the practice therein and appeals and writs of error therefrom shall be as prescribed by laws relating to county courts. The terms of the Harris County civil court at law created in this Act for civil cases shall be held as now established for the terms of the County Civil Courts at Law Nos. 1, 2, and 3 of Harris County until the same be changed in accordance with the law.

The court created in this Act shall hold six terms a year, beginning respectively on the first Monday in January, in March, in May, in July, in September, and in November of each year, and each term shall continue until the business is disposed of.

(e) As soon as practicable after this Act becomes effective, the Commissioners Court of Harris County shall appoint a judge to the county civil court at law of Harris County created in this Act, who shall have the qualifications herein prescribed and shall serve until the next general election and until his successor shall be duly elected and qualified. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Harris County a judge of each of the county civil courts at law of Harris County created in this Act for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. The judge shall have been a duly licensed and practicing member of the bar of this state for not less than five years. The judge shall be compensated as provided by law and shall be paid out of the county treasury by the commissioners court in equal monthly installments. A vacancy occurring in the office of a judge of the Harris County civil court at law created in this Act shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

(f) The judge of the Harris County civil court at law created in this Act shall execute a bond and take the oath of office as required by the law relating to county judges.

(g) A special judge of the Harris County civil court at law created in this Act may be appointed or elected as provided by law relating to county courts and to the judges thereof.

(h) The County Clerk of Harris County shall be the clerk of the Harris County civil court at law created in this Act. The Sheriff of Harris County shall, in person or by deputy, attend the court when required by the judge thereof.

The county clerk shall keep separate dockets for each of the County Civil Courts Nos. 1, 2, 3, and 4 and shall tax the official court reporter's fee as costs in civil actions filed in each of these courts in like manner as the fee is taxed in civil cases in the district courts.

Beginning as soon as practicable after the effective date of this Act, the county clerk shall file all civil cases and civil proceedings exclusively in the County Civil Courts at Law Nos. 1, 2, 3, and 4 and shall file the civil cases alternately in each of these courts as presented for filing.

(i) In case of disqualification, an overcrowded docket, sickness, or absence from the county of any of the judges of the County Civil Courts at Law Nos. 1, 2, 3, and 4 or county criminal courts at law,

any other judge of these courts may exchange benches with any other county court at law judge of Harris County, and when so exchanging benches with any other of the county court at law judges of Harris County, the judge of the county civil court at law of Harris County created in this Act shall have all power and jurisdiction of the county civil or county criminal courts at law, and of the judge thereof, while so exchanging benches. In like manner, the judges of the county civil or criminal courts at law of Harris County shall have all the power and jurisdiction of any other of these civil or criminal county courts at law, and of the judges thereof, while so exchanging benches, and may sign orders, judgments and decrees, or other process as "Judge Presiding" when acting for the disqualified or absent judge upon request or in an emergency or for good cause shown.

(j) The judge of the county civil court at law of Harris County created in this Act may appoint and discharge an official court reporter in the same manner as such a reporter is appointed or discharged by the district courts. An official court reporter shall receive the same salary as the reporters of the district courts of Harris County, to be paid by the county treasurer out of the general fund of the county, and in addition to the salary shall receive the compensation for transcript fees as provided by law.

[Acts 1977, 65th Leg., p. 1152, ch. 437, § 1, eff. Jan. 1, 1978.]

JEFFERSON COUNTY

Art. 1970-111. County Court of Jefferson County at Law No. 1

There is hereby created a court to be held in Beaumont, Jefferson County, Texas, to be called the County Court of Jefferson County at Law No. 1. A reference to the "County Court of Jefferson County at Law" in this Act means the "County Court of Jefferson County at Law No. 1."

[Acts 1915, ch. 29, § 1. Amended by Acts 1983, 68th Leg., p. 4253, ch. 678, § 21, eff. June 19, 1983.]

Art. 1970-112. Jurisdiction

The County Court of Jefferson County at Law No. 1 shall have jurisdiction in all matters and cases, civil and criminal, original and appellate, over which by the general laws of the State the County Court of said County would have jurisdiction, except as hereinafter provided in Section 3 of this Act, and all cases pending in the County Court of said County other than probate matters such as are provided in Section 3 of this Act shall be and the same are hereby transferred to the County Court of Jefferson County at Law No. 1, and all writs and process, civil and criminal, heretofore issued by or out of said County Court, other than those pertaining to matters which are hereby exempt by this Act that are to remain in the County Court of Jefferson County, shall be and the same are thereby made returnable to the County Court of Jefferson County

at Law No. 1. The jurisdiction of the County Court of Jefferson County at Law No. 1, and of the Judge thereof, shall extend to all matters of eminent domain of which jurisdiction as heretofore vested in the County Court or in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners Court or the County Judge of Jefferson County as the presiding officer of said Commissioners Court as to roads, bridges and public highways, or matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge thereof. The County Court of Jefferson County at Law No. 1, in addition to the jurisdiction provided by law, shall have concurrent jurisdiction with the district court in all civil matters and cases when the matter in controversy shall exceed \$500 and not exceed \$50,000, exclusive of interest.

[Acts 1915, c. 29, § 2. Amended by Acts 1919, ch. 27, § 2; Acts 1971, 62nd Leg., p. 1859, ch. 547, § 1, eff. June 1, 1971; Acts 1983, 68th Leg., p. 4253, ch. 678, § 22, eff. June 19, 1983.]

Art. 1970-112A. Transfer of Cases to and from County Court and County Courts at Law

(a) The judge of the county court and the judges of the county courts at law of Jefferson County may transfer cases to and from the dockets of their respective courts in matters within their jurisdiction. A case of concurrent jurisdiction between the district courts and the county courts at law may be instituted in or transferred between the district courts and the county courts at law. A case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred. A case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) If a case is transferred as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued or made in the case shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in the case bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as provided by law. All processes issued or returned before transfer of the case and all bonds and recognizances taken before transfer shall be valid and binding as though originally issued out of the court to which the transfer is made.

[Acts 1983, 68th Leg., p. 4254, ch. 678, § 23, eff. June 19, 1983.]

Art. 1970-113. Jurisdiction of Other Courts

The County Court of Jefferson County shall retain, as heretofore, general jurisdiction of the probate court, and all jurisdiction conferred by law now over probate matters, and the judge of the County Court of Jefferson County at Law may act for the judge of the county court in any juvenile, lunacy or

probate matter, and also may perform for the county judge any and all ministerial acts required by the laws of this state of the county judge, and any and all acts thus performed by the judge of the County Court at Law while acting for the county court shall be valid and binding upon all parties to such proceedings or matters, the same as if performed by the county judge, provided that the powers thus given the judge of the County Court of Jefferson County at Law shall extend to and include all powers of the county judge except his powers and duties in connection with the transaction of the business of the county as presiding officer of the Commissioners Court, and the County Court of Jefferson County as now and heretofore existing shall have all the jurisdiction which it now has, save and except that which is given to the County Court of Jefferson County at Law by this Act, but the county court as now existing shall have no other jurisdiction, civil or criminal. The county judge of Jefferson County shall be judge of the county court for the county, and all ex officio duties of the county judge shall be exercised by said judge of the County Court of Jefferson County, except insofar as the same shall by this Act be committed to the County Court of Jefferson County at Law. Nothing in this Act shall be so construed as to require that the County Judge of Jefferson County shall be an attorney.

[Acts 1915, ch. 29, § 3. Amended by Acts 1919, ch. 27, § 3; Acts 1963, 58th Leg., p. 472, ch. 169, § 1.]

Art. 1970-114. Terms of Court

There shall be four terms of the County Court of Jefferson County at Law, each year, the first of said terms beginning on the first Monday of July; one term beginning on the first Monday of October; one term beginning on the first Monday of January; one term beginning on the first Monday of April; with each of said terms beginning on the first Monday, as aforesaid, and to continue until and including Sunday next before the first Monday of the term immediately following.

[Acts 1915, ch. 29, § 4. Amended by Acts 1919, ch. 27, § 4; Acts 1949, 51st Leg., p. 7, ch. 7, § 1.]

Art. 1970-115. Election of Judge; Tenure; Qualifications

There shall be elected in Jefferson County by the qualified voters thereof at each general election of a Judge of the County Court of Jefferson County at Law, who shall hold his office for two years and until his successor shall have been duly elected and qualified. No person shall be elected Judge of said Court who has not been a resident citizen of Jefferson County, Texas, for at least two years prior to his election, and shall possess all of the qualifications for the office that are now required by the General Laws of the State of Texas for District Judges.

[Acts 1915, ch. 29, § 5. Amended by Acts 1919, ch. 27, § 5; Acts 1949, 51st Leg., p. 7, ch. 7, § 2.]

Art. 1970-116. Appointment of Judge

When this Act shall become effective the present Judge of the County Court of Jefferson County at Law, shall continue to be the Judge of said Court and shall hold his office until the next general election of county officers or until his successor is elected and qualified.

[Acts 1915, ch. 29, § 7. Amended by Acts 1919, ch. 27, § 7.]

Art. 1970-117. Disqualification of Judge

When the Judge of the County Court of Jefferson County at Law, is disqualified to try any case pending in the County Court of Jefferson County at Law, the parties or their attorneys in such a case may agree on the selection of a Special Judge to try such case, but if the parties or their attorneys fail to agree upon the selection of a Special Judge to try such case, it shall be the duty of the Judge of the County Court of Jefferson County at Law, to certify to the Governor that he is disqualified to try such case and the failure of the parties or their attorneys to agree upon the selection of a Special Judge to try such a case. Whereupon, the Governor shall proceed to appoint a Special Judge, learned in the law, to try such case.

[Acts 1915, ch. 29, § 8. Amended by Acts 1919, ch. 27, § 8.]

Art. 1970-118. Issuance of Writs

The County Court of Jefferson County at Law, or the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said county of inferior jurisdiction to said County Court at Law.

[Acts 1915, ch. 29, § 9. Amended by Acts 1919, ch. 27, § 9.]

Art. 1970-119. Clerk, Seal, and Sheriff

The County Clerk of Jefferson County, Texas, shall be the Clerk of the County Court of Jefferson County at Law, and the Seal of said Court shall be the same as provided by law for County Courts, except the Seal shall contain the words "County Court of Jefferson County at Law," and the Sheriff of Jefferson County, Texas, shall, in person, or by deputy, attend such Court when required by the Judge thereof, and the County Clerk of Jefferson County, Texas, is hereby authorized and directed to appoint a deputy, who shall be acceptable to the Judge of said Court to specially attend the sessions of said Court and to attend to all matters pertaining to the County Court of Jefferson County at Law and said deputy shall receive a salary not to exceed the maximum salary paid other deputies in the County Clerk's office with the rating of head of a

department, said salary to be paid out of the County Treasury of Jefferson County upon order of the Commissioners Court of said County. For the purpose of preserving a record in any matter or proceeding heard in said Court for the information of the Court, Jury, or Parties, the Judge of said Court is hereby authorized to appoint an official shorthand reporter for such Court, who shall be well skilled in his profession, who shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court, and the provisions of Chapter 13, of Title 40, of the Revised Civil Statutes of Texas, of 1925, relating to the appointment of a stenographer for the District Courts shall apply, in all its provisions in so far as applicable, to the official shorthand reporter herein authorized to be appointed by the Judge of said Court, and such reporter shall be entitled to the same fees and shall perform the same duties as provided in said Title, except in addition to the lawful fees for transcribing testimony and preparing statement of facts he shall receive a salary of One Hundred, Twenty-five Dollars (\$125) per month, which salary shall be paid monthly out of the County Treasury of said County, upon order of the Commissioners Court.

[Acts 1915, ch. 29, § 10. Amended by Acts 1919, ch. 27, § 10; Acts 1931, 42nd Leg., p. 750, ch. 295; Acts 1933, 43rd Leg., Spec.Laws, p. 49, ch. 42; Acts 1935, 44th Leg., p. 395, ch. 153, § 1.]

Art. 1970-120. Selection of Jurors

The Jurisdiction or authority now vested by law in the District Courts of this State for the drawing, selection and service of jurors shall be exercised by the County Court of Jefferson County at Law, provided a panel of not exceeding twenty-four jurors shall be drawn for any one week of said Court, and juries selected in the trial of any case shall not exceed six.

[Acts 1915, ch. 29, § 11. Amended by Acts 1919, ch. 27, § 11.]

Art. 1970-121. Vacancy in Office of Judge

Any vacancy in the office of the Judge of the County Court of Jefferson County at Law, may be filled by the County Commissioners Court, and when so filled the Judge shall hold office until the next general election and until his successor is elected and qualified.

[Acts 1915, ch. 29, § 12. Amended by Acts 1919, ch. 27, § 12.]

Art. 1970-122. Salary of Judge; Assessment and Collection of Fees

The judge of the County Court of Jefferson County at Law No. 1 shall receive an annual salary fixed by the Commissioners Court at an amount that is at least equal to the sum that is \$1,000 less than the total annual salary, including supplements, received by the judges of the District Courts in Jefferson County, which shall be paid in twelve (12) equal monthly installments out of the County Treasury of

Jefferson County as ordered by the Commissioners Court of said county. The judge of the County Court of Jefferson County at Law No. 1 shall assess the same fees as are now prescribed by law relating to county judges' fees, all of which shall be collected by the clerk of the court and paid into the County Treasury on collection and no part of which shall be paid to said judge, who shall instead draw a salary as herein provided.

[Acts 1915, ch. 29, § 13. Amended by Acts 1919, ch. 27, § 13; Acts 1931, 42nd Leg., p. 750, ch. 295; Acts 1933, 43rd Leg., Spec.Laws, p. 49, ch. 42; Acts 1937, 45th Leg., p. 776, ch. 377, § 1; Acts 1949, 51st Leg., p. 7, ch. 7, § 3; Acts 1951, 52nd Leg., p. 4, ch. 4, § 1; Acts 1955, 54th Leg., p. 1176, ch. 455, § 1; Acts 1963, 58th Leg., p. 472, ch. 169, § 2; Acts 1967, 60th Leg., p. 179, ch. 94, § 1, eff. April 22, 1967; Acts 1971, 62nd Leg., p. 1004, ch. 192, § 1, eff. May 13, 1971; Acts 1983, 68th Leg., p. 4255, ch. 678, § 24, eff. June 19, 1983.]

Art. 1970-123. Appeals from Lower Courts

All cases appealed from the Justices Courts and Recorders Courts in Jefferson County, Texas, shall be made direct to the County Court of Jefferson County at Law, under the provisions heretofore governing such appeals.

[Acts 1915, ch. 29, § 14. Amended by Acts 1919, ch. 27, § 14.]

Art. 1970-124. Fees of County Judge

The County Judge of Jefferson County, at the time this Act goes into effect, shall receive the same compensation in ex-officio salary and fees as he would have received had this Act, creating the County Court of Jefferson County at Law, not been enacted, said Compensation to be computed and allowed and ordered paid by the Commissioners Court of said County out of the general fund of said county.

[Acts 1915, ch. 29, § 15. Amended by Acts 1919, ch. 27, § 15.]

Art. 1970-125. Special Judge; Election; Compensation

Should the Judge of the County Court of Jefferson County at Law on the first or any future day of a term, fail or refuse to hold the Court, a majority of the practicing attorneys present in said Court shall proceed to elect from among their number a Special Judge in the same manner prescribed by law for the election of Special Judges of County Courts; and such Special Judge shall be entitled to receive a fee of Three Dollars (\$3.00) for each case tried by him, the same to be paid by the County Treasurer upon the order of the Commissioners' Court of Jefferson County, Texas.

[Acts 1919, ch. 27, § 16. Amended by Acts 1933, 43rd Leg., 1st C.S., p. 3, ch. 3, § 1.]

Art. 1970-126. Act Not Repealed

Nothing in this Act shall be construed in any manner to affect or repeal the Court at Law, creat-

ed for the city of Port Arthur in Jefferson County, Texas, passed by the Fourth Called Session of the Thirty-fifth Legislature and known as House Bill No. 112.

[Acts 1919, ch. 27, § 16a.]

Art. 1970-126a. County Court of Jefferson County at Law No. 2

Sec. 1. There is hereby created a court to be held in Beaumont, Jefferson County, Texas, to be called the County Court of Jefferson County at Law No. 2.

Sec. 2. The County Court of Jefferson County at Law No. 2, shall have, and it is hereby granted, the same jurisdiction and powers in all actions, matters, and proceedings of every nature that are now conferred by law upon and vested in the County Court of Jefferson County at Law No. 1, and the Judge thereof. Provided, however, that the jurisdiction of the said County Court of Jefferson County at Law No. 1, the County Court of Jefferson County at Law No. 2, and any other County Court at Law in Jefferson County over all such actions, matters and proceedings, civil and criminal, shall be concurrent. The County Court of Jefferson County at Law No. 2, in addition to the jurisdiction provided by law, shall have concurrent jurisdiction with the district court in all civil matters and cases when the matter in controversy shall exceed Five Hundred Dollars (\$500) and not exceed Fifty Thousand Dollars (\$50,000), exclusive of interest.

Sec. 3. The terms of the County Court of Jefferson County at Law No. 2 shall be the same and identical with the terms of the County Court of Jefferson County at Law as the same now exists or may exist in the future.

Sec. 4. From and after the passage and taking effect of this Act, civil and criminal actions, matters and proceedings may be filed in the County Court of Jefferson County at Law No. 2 in the same manner and under the same conditions, circumstances and instances as now obtain for the filing of actions, matters and proceedings, civil and criminal, in the County Court of Jefferson County at Law, and all such actions, matters and proceedings shall be docketed in the order in the Court in which filed or in such manner as may be determined by the Judges of the said County Court of Jefferson County at Law and County Court of Jefferson County at Law No. 2 by an order duly made by such Judges entered upon the minutes of each such Court.

Sec. 4A. (a) The judge of the county court and the judges of the county courts at law of Jefferson County may transfer cases to and from the dockets of their respective courts in matters within their jurisdiction. A case of concurrent jurisdiction between the district courts and the county courts at law may be instituted in or transferred between the district courts and the county courts at law. A case may not be transferred from one court to another without the consent of the judge of the court to

which it is transferred. A case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) If a case is transferred as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued or made in the case shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in the case bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as provided by law. All processes issued or returned before transfer of the case and all bonds and recognizances taken before transfer shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 5. At the next General Election after the effective date of this Act, and at each applicable General Election thereafter, there shall be elected in Jefferson County by the qualified voters thereof, a Judge of the County Court of Jefferson County at Law No. 2, who shall possess all of the qualifications which are now required of the Judge of the County Court of Jefferson County at Law, who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective the Commissioners Court of Jefferson County, Texas, shall appoint a Judge of said County Court of Jefferson County at Law No. 2 who shall have the qualifications herein described and he shall serve until the next General Election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said County Court of Jefferson County at Law No. 2, shall, in like manner as hereinabove provided, be filled by the Commissioners Court of Jefferson County, Texas, the appointee thereof to hold office until the next succeeding General Election and until a successor shall be duly elected and qualified.

Sec. 6. The County Clerk of Jefferson County, Texas, shall be the Clerk of the County Court of Jefferson County at Law No. 2, and the seal of said Court shall be the same as provided by law for County Courts except the seal shall contain the words "County Court of Jefferson County at Law No. 2," and the Sheriff of Jefferson County, Texas, shall, in person, or by deputy, attend such Court when required by the Judge thereof, and the County Clerk of Jefferson County, Texas, is hereby authorized and directed to appoint a deputy, who shall be acceptable to the Judge of said Court to specially attend the sessions of said Court and to attend to all matters pertaining to the County Court of Jefferson County at Law No. 2. For the purpose of preserving a record in any matter or proceeding heard in said County Court of Jefferson County at Law No. 2 for the information of the Court, jury, or parties, the Judge of said Court is hereby authorized to appoint an official shorthand reporter for such Court, who shall be well-skilled in his profession,

who shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court, and all provisions of the General Laws of this state relating to the appointment of a stenographer for the District Courts shall apply, in all its provisions so far as applicable, to the official shorthand reporter herein authorized to be appointed by the Judge of said Court, and such reporter shall be entitled to the same fees and shall perform the same duties as provided in said General Laws, except in addition to the lawful fees for transcribing testimony and preparing statements of facts he shall receive a salary the same and equal to that of the official shorthand reporter of the County Court of Jefferson County at Law which salary shall be paid monthly out of the County Treasury of said County upon order of the Commissioners Court of said County.

Sec. 7. The jurisdiction or authority now vested by law in the District Court for this state for the drawing, selection and service of jurors shall be exercised by the County Court of Jefferson County at Law No. 2, and the drawing, selection and service of jurors for said Court shall be the same in practice and procedure as in the County Court of Jefferson County at Law.

Sec. 8. The judge of the County Court of Jefferson County at Law No. 2 shall receive an annual salary fixed by the Commissioners Court at an amount that is at least equal to the sum that is \$1,000 less than the total annual salary, including supplements, received by the judges of the District Courts in Jefferson County, which shall be paid in twelve (12) equal monthly installments out of the County Treasury of Jefferson County as ordered by the Commissioners Court of said county. The judge of the County Court of Jefferson County at Law No. 2 shall assess the same fees as are now prescribed by law relating to county judges' fees, all of which shall be collected by the clerk of the court and paid into the County Treasury on collection and no part of which shall be paid to said judge who shall instead draw a salary as herein provided.

Sec. 9. All cases appealed from the Justices Courts and Recorders Courts in Jefferson County, Texas, shall be made direct to either the County Court of Jefferson County at Law or the County Court of Jefferson County at Law No. 2 (the jurisdiction of such courts being concurrent) under the provisions heretofore governing such appeals.

Sec. 10. The Judges of the County Court of Jefferson County at Law and of the County Court of Jefferson County at Law No. 2 may at any time exchange benches, and may at any time sit and act for and with each other in any civil or criminal case, matter or proceeding now or hereafter pending in either of said Courts, and any and all of such acts thus performed by the Judges of said Courts shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 11. Each of the Judges of the County Court of Jefferson County at Law and of the County

Court of Jefferson County at Law No. 2 may, with the consent of the Judge of the Court to which transfer is to be made, transfer civil or criminal actions or proceedings from his respective Court to the other Court by the entry of an order to that effect upon the docket. On the effective date of this Act, or thereafter, the County Court of Jefferson County at Law, and the Judge thereof, shall transfer to the County Court of Jefferson County at Law No. 2 any civil or criminal action or proceeding pending on the docket of said Court as may be necessary in order that the now overcrowded docket of said Court may be relieved, and said County Court of Jefferson County at Law No. 2, and the Judge thereof, shall have jurisdiction to hear and determine said civil or criminal matters, and render and enter the necessary and proper orders, decrees and judgments therein. No cause shall be transferred without the consent of the Judge of the Court to which it is transferred.

Sec. 12. Special Judges may be appointed or elected for either or both the County Court of Jefferson County at Law and the County Court of Jefferson County at Law No. 2, and in the same manner as may now or hereafter be provided by the General Laws of this state relating to the appointment and election of the Special Judge or Judges of the several district and county courts of this state; and every such Special Judge thus appointed or elected for either of said two courts shall receive for the services he may actually perform as a Special Judge the same amount of pay which the regular Judge of said court would be entitled to receive for such services. The amount to be paid to such Special Judge shall be paid out of a general fund of Jefferson County, Texas, by warrants drawn upon the County Treasury of said County and upon orders of the Commissioners Court of Jefferson County, Texas, but no part of the amount paid the Special Judge shall be deducted from or paid out of the salary of either of the regular Judges of said respective Courts.

Sec. 13. The County Court of Jefferson County at Law No. 2, or the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said county of inferior jurisdiction to said County Court of Jefferson County at Law No. 2.

[Acts 1965, 59th Leg., p. 325, ch. 152, eff. May 13, 1965. Amended by Acts 1967, 60th Leg., p. 177, c. 91, § 1, eff. April 22, 1967; Acts 1971, 62nd Leg., p. 1860, ch. 547, § 2, eff. June 1, 1971; Acts 1971, 62nd Leg., p. 1003, ch. 191, § 1, eff. May 13, 1971; Acts 1983, 68th Leg., p. 4255, ch. 678, §§ 25 to 27, eff. June 16, 1983.]

WTSC Civil Statutes—6

Art. 1970-126b. County Court of Jefferson County at Law No. 3

Creation

Sec. 1. On the date determined under Section 18 of this Act, the County Court of Jefferson County at Law No. 3 is created. It shall sit in Beaumont, Texas.

Jurisdiction

Sec. 2. (a) The County Court of Jefferson County at Law No. 3 has the same jurisdiction and powers in all actions, matters, and proceedings as the County Court of Jefferson County at Law No. 1 and the judge of that court. The jurisdiction of those courts at law is concurrent.

(b) The County Court of Jefferson County at Law No. 3 has concurrent jurisdiction with the district court in all civil matters and cases in which the matter in controversy exceeds \$500 and does not exceed \$50,000, excluding interest.

Terms

Sec. 3. The terms of the County Court of Jefferson County at Law No. 3 are the same as the terms of the County Court of Jefferson County at Law No. 2.

Filing and Docketing of Cases

Sec. 4. Cases may be filed in the County Court of Jefferson County at Law No. 3 in the same manner that cases are filed in the County Court of Jefferson County at Law No. 1. Cases shall be docketed in the order in the court in which filed or in a manner as may be determined by the judges of the county courts at law in Jefferson County by an order entered on the minutes of each court.

Preference

Sec. 5. The County Court of Jefferson County at Law No. 3 shall give preference to criminal cases.

Judge

Sec. 6. (a) At the next general election at which county court at law judges are regularly elected after the creation of the court, and every fourth year thereafter, the qualified voters of Jefferson County shall elect the judge of the County Court of Jefferson County at Law No. 3 for a regular term of four years.

(b) The judge of the court created by this Act must meet the same qualifications as those prescribed by law for the judge of the County Court of Jefferson County at Law No. 1.

Vacancy

Sec. 7. A vacancy in the office of judge of the County Court of Jefferson County at Law No. 3 shall be filled by appointment of the commissioners court. The appointee must have the qualifications of the regular judge. The appointee holds office

until the next succeeding general election and until a successor is elected and has qualified.

Clerk

Sec. 8. The county clerk serves as the clerk of the County Court of Jefferson County at Law No. 3.

Seal

Sec. 9. The seal of the court created by this Act is the same as provided by law for county courts, except that the seal shall contain the words "County Court of Jefferson County at Law No. 3."

Personnel

Sec. 10. (a) The county sheriff shall attend the court in person or by deputy if required to attend by the judge.

(b) The county clerk shall appoint a deputy acceptable to the judge to attend the sessions of the court and to attend to all matters pertaining to the court.

(c) The judge may appoint an official shorthand reporter for the court. The reporter must be well skilled in his profession. The reporter is a sworn officer of the court who holds his office at the pleasure of the court. The laws relating to the appointment of a stenographer for a district court apply to the official shorthand reporter for the court created by this Act. The reporter is entitled to the same fees and shall perform the same duties as provided by law for district court stenographers, except that in addition to the lawful fees for transcribing testimony and preparing statements of facts, the reporter receives the same salary as the official shorthand reporter of the County Court of Jefferson County at Law No. 1. The salary shall be paid monthly out of the county treasury on order of the commissioners court.

Juries

Sec. 11. The jurisdiction vested in the district court for the drawing, selection, and service of jurors shall be exercised by the County Court of Jefferson County at Law No. 3. The drawing, selection, and service of jurors for the court created by this Act shall be the same in practice and procedure as in the County Court of Jefferson County at Law No. 2.

Salary of Judge

Sec. 12. The commissioners court shall set the annual salary of the judge of the court created by this Act at an amount that is at least equal to the sum that is \$1,000 less than the total annual salary, including supplements received by the judges of the district courts in Jefferson County. The commissioners court shall pay the judge's salary in 12 monthly installments out of the county treasury. The judge of the County Court of Jefferson County at Law No. 3 shall assess the same fees as are now prescribed by law relating to county judges' fees.

The clerk of the court shall collect the fees and pay them into the county treasury. Fees may not be paid to the judge.

Appeals

Sec. 13. An appeal from the justice courts or municipal courts in Jefferson County must be made directly to any of the county courts at law in Jefferson County.

Exchange of Benches

Sec. 14. The judges of the county courts at law in Jefferson County may exchange benches and may sit and act for and with each other in any civil or criminal case, matter, or proceeding pending in any of the courts. An act performed by a judge sitting for another as provided by this section is valid and binding on all parties to the case, matter, or proceeding.

Transfer of Cases

Sec. 15. (a) A judge of a county court at law in Jefferson County may transfer, with the consent of the judge of the court to which transfer is made, civil or criminal actions or proceedings from his court to another court by entering an order to that effect on the docket. A case may not be transferred without the consent of the judge of the court to which it is transferred.

(b) The judge of the county court and the judges of the county courts at law in Jefferson County may transfer cases to and from the dockets of their respective courts in matters within their jurisdiction. A case of concurrent jurisdiction between the district courts and the county courts at law may be instituted in or transferred between the district courts and the county courts at law. A case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred. A case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) If a case is transferred to another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the case shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as provided by law. All processes issued or returned before transfer of the case and all bonds and recognizances taken before transfer shall be valid and binding as though originally issued out of the court to which the transfer is made.

Special Judge

Sec. 16. A special judge may be appointed or elected for a county court at law in Jefferson County as provided by law for the appointment and election of a special judge of a district or county

court. A special judge appointed or elected receives for the services he performs as a special judge the same amount of compensation that the regular judge would be entitled to receive for the services. The compensation of the special judge shall be paid out of a general fund of the county by warrants drawn on the county treasury and on orders of the commissioners court. The compensation of the special judge may not be deducted from or paid out of the salary of the regular judge.

Writs

Sec. 17. The County Court of Jefferson County at Law No. 3 or the judge has the authority to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court in the county of inferior jurisdiction.

Date of Creation

Sec. 18. The County Court of Jefferson County at Law No. 3 is created on January 1, 1986, or on an earlier date determined by the commissioners court by an order entered on its minutes.

[Acts 1983, 68th Leg., p. 4248, ch. 678, §§ 1 to 18, eff. June 19, 1983.]

Sections 19 and 20 of the 1983 Act provide:

"Sec. 19. Appointment of initial judge. As provided by Section 7 of this Act, the commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge. The appointee holds office until the next succeeding general election and until his successor is elected and has qualified.

"Sec. 20. Initial transfer of cases. To relieve the overcrowded dockets of the county courts at law in Jefferson County, those courts shall transfer, as provided by Section 15 of this Act, as many pending cases as necessary to the docket of the court created by this Act."

EL PASO COUNTY

Art. 1970-127. Court Created

There is hereby created a court to be held in El Paso county, Texas, to be known and designated as the "El Paso County Court at Law."

[Acts 1917, ch. 93, § 1. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-127a. Change of Name

The name of the El Paso County Court at Law is changed to the "County Court at Law No. 1 of El Paso County, Texas."

[Acts 1965, 59th Leg., p. 1629, ch. 698.]

Art. 1970-127b. Jurisdiction and Administration of County Courts at Law

Application

Sec. 1. This Act applies only to county courts at law in El Paso County.

Jurisdiction

Sec. 2. (a) Except as limited by Subsection (b) of this section, in addition to jurisdiction conferred by other law, a county court at law has the jurisdiction provided by the constitution and law for district courts.

(b) A county court at law does not have jurisdiction of:

- (1) felony cases;
- (2) suits in behalf of the state to recover penalties, forfeitures, or escheat;
- (3) misdemeanors involving official misconduct;
- (4) contested elections; or
- (5) appeals.

(c) A county court at law does not have general supervisory control over the county commissioners court.

(d) A county court at law may not issue writs of habeas corpus in felony cases.

(e) This section does not diminish the jurisdiction of the district courts but only gives concurrent jurisdiction to the county courts at law as provided by this section. The district courts retain and shall continue to exercise the jurisdiction conferred by law on those courts.

Clerk

Sec. 3. The county clerk serves as clerk of the county courts at law except that, in matters within the concurrent jurisdiction of the county courts at law and the district court, the district clerk serves as clerk of the court. All matters within the concurrent jurisdiction of the county courts at law and the district courts shall be filed with the district clerk. The district clerk shall establish a separate docket for each county court at law.

Juries; Procedure

Sec. 4. (a) If a jury trial is requested in a case that is within a county court at law's jurisdiction as provided by Subsection (a) of Section 2 of this Act, the jury shall be composed of six persons unless the constitution requires a 12-person jury. Failure to object before a six-person jury is seated and sworn constitutes waiver of a 12-person jury.

(b) On request of the judge of a county court at law, jurors regularly impanelled for a week by the district courts may be made available and shall serve for the week in the county court at law.

(c) The judges of the county courts at law may adopt rules governing the filing and numbering of cases, the assignment of cases for trial, and the distribution of the work of the circuit courts that they consider necessary or desirable for the orderly dispatch of the business of those courts.

(d) In matters within their concurrent jurisdiction, the judges of the county courts at law and district

courts may adopt the rules governing the filing and numbering of cases, the assignment of cases for trial, and the distribution of the work of those courts that they consider necessary or desirable for the orderly dispatch of the business of those courts. The rules must receive an affirmative vote of a majority of the judges of the district courts and a majority of the judges of the county courts at law. If it is numerically impossible to obtain a majority of either the district court judges or the county court at law judges, the vote of the presiding judge of the district courts in El Paso County is considered to be the vote of a majority of the district court judges or the vote of a majority of the county court at law judges.

Transfer of Cases

Sec. 5. (a) On motion of a party, on agreement of the parties, or on their own motion, the judges of the county courts at law and district courts in El Paso County may transfer civil cases and proceedings to and from the dockets of their respective courts, except that a case or proceeding may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. If a judge is disqualified in a case or proceeding, he shall transfer the case or proceeding from his court to one of the other courts.

(b) When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred and all witnesses summoned to appear in a court from which a case is transferred are required to appear before the court to which the case is transferred as if originally issued out of the court to which the transfer is made.

Exchange of Benches

Sec. 6. The judges of the county courts at law and the district court judges in El Paso County may freely exchange benches or hold court for each other when they deem it expedient. The judges may make rules under Section 4 of this Act relating to the exchange of benches and holding court for each other.

Judges

Sec. 7. A judge of a county court at law must:

- (1) be a citizen of the United States;
- (2) have resided in the county for at least four years prior to his election or appointment; and
- (3) be licensed to practice law in this state and have actively practiced law for at least five consecutive years prior to his appointment or election.

Judge's Salary

Sec. 8. The commissioners court of El Paso County shall fix the annual salary of each judge of a county court at law at a sum that is at least equal to the amount that is \$3,000 less than the total annual salary, including supplements, received by the judges of the district courts in that county. The annual salary shall be paid in equal monthly installments.

Renamed or Successor Courts

Sec. 9. If the 68th Legislature, Regular Session, 1983, renames the county courts at law of El Paso County or creates successor courts, this Act applies to the renamed or successor courts.

[Acts 1983, 68th Leg., p. 4239, ch. 675, eff. Sept. 1, 1983.]

Art. 1970-128. Jurisdiction

The El Paso County Court at Law shall have jurisdiction of all civil matters and causes, original and appellate over which by the General Laws of the State of Texas the County Court of said county would have jurisdiction, except as provided in Section 3, of this Act;¹ and the El Paso County Court at Law of said county shall have jurisdiction in all criminal matters and causes, original and appellate over which by the General Laws of this State the County Court has jurisdiction, except as provided in Section 3, of this Act (Art. 1811-135); and all civil and criminal writs and processes heretofore issued by and out of said County Court be, and the same are hereby made returnable to the El Paso County Court at Law of El Paso County, Texas. The jurisdiction of El Paso County Court at Law and the judge thereof shall extend to all matters of eminent domain of which jurisdiction has heretofore rested in the County Court of El Paso County, Texas, or the judge thereof, but this provision shall not effect² the jurisdiction of the Commissioners' Court or the County Judge of El Paso County as presiding judge of said court as to roads, bridges and public highways and matters of eminent domain which are now within the jurisdiction of the Commissioners' Court or of the judge of the County Court of El Paso County, Texas.

[Acts 1917, ch. 93, § 2. Amended by Acts 1918, 4th C.S., ch. 14, § 1; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

¹ Article 1970-129.

² So in enrolled bill. Should probably read "affect."

Art. 1970-129. Jurisdiction

The County Court of El Paso County, Texas, shall retain, as heretofore, its jurisdiction as a juvenile court, its jurisdiction in matters pertaining to liquor licenses, forfeitures and bonds and the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots and lunatics, persons non compos mentis and drunkards, grant letters testamentary and of administration, settle accounts with administrators, executors and guardians, transact all business pertaining to deceased

persons, and to apprentice minors as provided by law. The County Judge of El Paso County, Texas, shall be the Judge of the County Court of El Paso County, Texas, and all ex-officio duties of the County Judge shall be exercised by said Judge of the said County Court of El Paso County, except in so far as the same shall by this Act¹ be committed to the Judge of the El Paso County Court at Law.

[Acts 1917, ch. 93, § 3. Amended by Acts 1918, 4th C.S., ch. 14, § 2; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

¹ This article, articles 1970-127, 1970-128, ante, and 1970-130 to 1970-135, 1970-137 to 1970-140.

Art. 1970-130. Power to Issue Writs

Both the said County Court of El Paso County, and the El Paso County Court at Law or either of the judges thereof shall have the power to issue writs of injunction, sequestration, attachments, garnishment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said courts; and also power to punish for contempt under such provisions as are, or may be provided by the general laws governing county courts throughout the State, and to issue writs of habeas corpus, in cases where the offense charged is within the jurisdiction of said courts or of any court or tribunal inferior to said courts.

[Acts 1917, ch. 93, § 4. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-131. Terms of Court

The terms of the El Paso County Court at Law and the practice therein and appeals and writs of error therefrom shall be, as prescribed by law relating to county courts. The terms of the El Paso County Court at Law shall be held not less than four times each year, and the commissioners court of El Paso county shall fix the time at which said court shall hold its terms, until the same shall be changed according to law.

[Acts 1917, ch. 93, § 5. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-132. Appointment of Judge; Election; Qualifications of Judge

The Governor shall appoint some suitable person who is a resident citizen of El Paso county as judge of the El Paso County Court at Law, as herein constituted, who shall hold such office until the next general election after his appointment, and until his successor shall have been elected and qualified, and all vacancies in said office shall also be filled by appointment by the Governor until the next general election thereafter. At the first general election in said county and at each general election thereafter there shall be elected by the qualified voters a judge of the El Paso County Court at Law, who shall be well informed in the laws of this State, who shall hold his office for two years and until his successor shall have been duly elected and qualified; provided that no person shall be eligible for judge of the El Paso County Court at Law by election, unless he

shall be a citizen of the United States and of this State; who shall have been a practicing lawyer of this State or a judge of a court in this State for at least four years next preceding his election, and who shall have resided in the county of El Paso for two years next preceding his election.

[Acts 1917, ch. 93, § 6. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-133. Bond and Oath of Judge

The judge of the El Paso County Court at Law shall execute a bond and take the oath of office as required by law relating to county judges.

[Acts 1917, ch. 93, § 7. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-134. Special Judge

A special judge of the El Paso County Court at Law may be appointed or elected as provided by laws relating to county courts and the judges thereof.

[Acts 1917, ch. 93, § 8. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-135. Clerk, Seal; Sheriff

The county clerk of El Paso county shall be the clerk of the El Paso County Court at Law; the seal of said court shall be the same as that provided for county courts, except that the seal shall contain the words "El Paso County Court at Law." The sheriff of El Paso county shall, in person or by deputy attend the court when required by the judge thereof.

[Acts 1917, ch. 93, § 9. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-136. Official Shorthand Reporter; Appointment; Term of Office, Oath; Duties

For the purpose of preserving a record in all cases for the information of the court, jury and parties, the Judge of the County Court at Law of El Paso County, Texas shall appoint an official shorthand reporter for such court, who shall be well skilled in his profession, shall be a sworn officer of the court and shall hold his office at the pleasure of the court and the provisions of Chapter Eleven of Title 37 of the Revised Civil Statutes of Texas of 1911 relating to the appointment of stenographers for the district courts, shall and it is hereby made to apply in all its provisions, insofar as they are applicable, to the official shorthand reporter herein authorized to be appointed by the Judge of the County Court at Law of El Paso County, Texas and he shall be entitled to the same fees and shall perform the same duties and shall take the same oath as are in said Chapter Eleven of Title 37 provided for the stenographers of district courts of this State, and also be governed by any other laws covering the stenographers of district courts of this State, and in addition thereto receive a salary of Eighteen Hun-

dred (\$1,800.00) dollars annually, to be paid monthly out of the County Treasury upon order of the Commissioners' Court.

[Acts 1918, 4th C.S., ch. 14, § 3. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-136a. Reporter for County Court

For the purpose of preserving a record of all hearings had before the County Judge of El Paso County, Texas; for the information of the court and parties that may be interested therein, the Judge of the County Court of El Paso County, Texas, shall appoint an official shorthand reporter for such court who shall be well skilled in his profession, shall be a sworn officer of the court, and shall hold office at the pleasure of the County Judge, and all provisions of the Civil Statutes of the State of Texas, relating to the appointment of stenographers for district courts, shall, and it is hereby made and applied in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed by the County Judge of El Paso County, Texas, and such shorthand reporter shall receive a salary of Twelve Hundred (\$1,200.00) dollars annually, to be paid monthly out of the County Treasury of El Paso County upon orders of the Commissioners' Court.

[Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-137. Juries

The jurisdiction and authority now vested by law in the County Court of El Paso County, for the selection and service of jurors shall be exercised by each of said courts, but juries summoned for either of said courts may by order of the judge of the court in which they are summoned be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred.

[Acts 1917, ch. 93, § 10.]

Art. 1970-138. Compensation of Judge

There shall be taxed and collected by the El Paso County Court at Law the same fees provided by law for County Judges in similar cases, all of which shall be paid by the clerk monthly into the County Treasury. The Judge of the El Paso County Court at Law shall receive an annual salary of not less than Fifty-five Hundred (\$5500.00) Dollars and not more than Eight Thousand (\$8000.00) Dollars; the amount of the salary to be fixed by the Commissioners Court of El Paso County and to be paid monthly out of the County Treasury upon order of the Commissioners Court.

[Acts 1917, ch. 93, § 11. Amended by Acts 1918, 4th C.S., ch. 14, § 4; Acts 1927, 40th Leg., p. 270, ch. 191, § 1; Acts 1947, 50th Leg., p. 27, ch. 20, § 1; Acts 1955, 54th Leg., p. 43, § 1.]

Art. 1970-139. Removal of Judge

The judge of the El Paso County Court at Law may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this State.

[Acts 1917, ch. 93, § 12. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-140. Salary of County Judge

The county judge of El Paso county shall hereafter receive from the county treasury, in addition to the fees allowed him by law, such a salary, for the ex-officio duties, not exceeding in the aggregate of fees and salary that which the existing laws provide for.

[Acts 1917, ch. 93, § 13. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-141. Repeal; Partial Invalidity of Act

All laws and parts of laws in conflict herewith be, and the same are hereby repealed, and it is further enacted that if any of the provisions of this Act shall be held void or in conflict with any provisions of the Constitution of this State the fact that such provisions may be held void shall in no wise affect any other provisions of this Act.

[Acts 1918, 4th C.S., ch. 14, § 5. Amended by Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-141.1. County Court at Law No. 2 of El Paso County

Sec. 1. There is hereby created an additional County Court at Law in El Paso County, Texas, to be known and designated as the "County Court at Law No. 2 of El Paso County, Texas."

Sec. 2. The County Court at Law No. 2 of El Paso County, Texas, shall have and is hereby granted the same jurisdiction over criminal matters that is now or may be vested in County Courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in appeals in criminal cases from Justice Courts and Corporation Courts within El Paso County, and the judges of said Court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of County Courts having criminal jurisdiction. Said County Court at Law No. 2 shall have and is hereby granted the same jurisdiction and powers in criminal matters and civil actions or proceedings that are now or may be conferred by law upon and vested in the County Court at Law of El Paso County, Texas; and each of the judges of said County Courts at Law may with the consent of the judge of the Court to which transfer is to be made, transfer civil or criminal actions or proceedings from his respective Court to the other Court by the entry of an order to that effect upon the docket, and the said County Court at Law of El Paso County, and the judge thereof, shall transfer to the said County Court at Law No. 2 of El Paso County, any

civil or criminal action or proceeding pending on the docket of said Court on the effective date of this Act as may be necessary in order that the now overcrowded dockets of said Court may be relieved, and said County Court at Law No. 2 of El Paso County, and the judge thereof, shall have jurisdiction to hear and determine said civil or criminal matters, and render and enter the necessary and proper orders, decrees, and judgments therein. No cause shall be transferred without the consent of the judge of the Court to which it is transferred.

Sec. 3. The County Court at Law of El Paso County and County Court at Law No. 2 of El Paso County shall henceforth have general jurisdiction of Probate Courts within the limits of El Paso County concurrent with jurisdiction of the County Court of El Paso County in such matters and proceedings. Such County Court at Law and County Court at Law No. 2 shall probate wills, appoint guardians of minors, idiots and lunatics, persons non compos mentis and drunkards, grant letters testamentary and of administration, settle accounts with administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and drunkards; including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings. Said County Court at Law and County Court at Law No. 2 shall have no jurisdiction over any other of those matters which are now vested exclusively in the County Court of El Paso County, or in the judge therein.

The County Court of El Paso County, the El Paso County Court at Law and the County Court at Law No. 2 of El Paso County, or either of the judges thereof shall have the power to issue writs of injunction, sequestration, attachments, garnishment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said Courts; and also power to punish for contempt under such provisions as are, or may be provided by the General Laws governing County Courts throughout the State, and to issue writs of habeas corpus, in cases where the offense charged is within the jurisdiction of said Courts or of any Court or tribunal inferior to said Courts.

The judges of the County Court of El Paso County, County Court at Law of El Paso County, and County Court at Law No. 2 of El Paso County may with the consent of the judge of the Court to which transfer is to be made, transfer probate matters or proceedings from his respective Court to the other Court by the entry of an order to that effect upon the docket, to enable the efficient and justiciable disposition of the probate matters and proceedings in El Paso County, Texas.

The judges of the County Court, County Court at Law and County Court at Law No. 2 may collectively make and publish rules from time to time governing the docketing and disposition of probate matters

and proceedings in their Courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure and for the purpose of efficient and justiciable disposition of such probate matters and proceedings. A copy of such rules and changes shall be filed with the County Clerk of El Paso County, Texas, and one (1) copy of such rules and changes shall be available in each such Court for the examination of participants in any probate matters filed.

Sec. 4. The terms of the County Court at Law of El Paso County and the County Court at Law No. 2 of El Paso County, Texas, shall commence on the first Monday in January and July and said Courts may continue in session until the Sunday next preceding the Monday for the convening of the next regular term of Court.

The judges of the County Court at Law of El Paso County, and the County Court at Law No. 2 of El Paso County may divide each term of Court into as many sessions as they deem necessary for the disposition of business, and may extend a particular term of Court whenever practicable for the efficient and justiciable disposition of individual proceedings and matters.

Sec. 5. The judge of the County Court at Law of El Paso, Texas, and the judge of the County Court at Law No. 2 of El Paso County shall be a citizen of the United States and of this State, who shall have been a practicing attorney of this State for at least five (5) years next preceding his election or appointment and who shall have resided in the County of El Paso for at least two (2) years next preceding his election or appointment.

Judges of the County Court at Law of El Paso County and the County Court at Law No. 2 of El Paso County shall each receive an annual salary of not less than Five Thousand, Five Hundred Dollars (\$5,500) and not more than Eight Thousand Dollars (\$8,000), the amount of the salary to be fixed by the Commissioners Court of El Paso County and to be paid monthly out of the County Treasury upon order of the Commissioners Court; such judges shall not collect any fee from the County for disposing of any criminal case.

Sec. 6. Within sixty (60) days after the effective date of this Act, the senior district judge in and for El Paso County, Texas, shall call an election of the licensed attorneys practicing in El Paso County, Texas, for the purpose of electing a panel of three (3) qualified nominees for the office of judge of the County Court at Law No. 2 of El Paso County, Texas. Notice of the time of such election shall be prominently posted in the district clerk's office and the county clerk's office at least one (1) week prior to the date of such nominations. A candidate for the office of judge of the County Court at Law No. 2 of El Paso County, Texas, may be nominated for said panel by a written nomination from one (1) of said licensed attorneys or the candidate himself filed prior to the date of said election with the said

senior district judge. At the said called election, the senior district judge shall present said written applications and nominations and shall receive further oral nominations at that time; the senior district judge shall not permit nominations to be closed until it is apparent no further nominations are forthcoming. Said attorneys then present shall then vote by secret ballot from the written and oral nominees and applicants, their respective three (3) preferences marked in order of their preference, which vote shall be counted according to preference.

The panel of the three (3) candidates receiving the highest number of votes and the results of said election shall be certified by the said senior district judge and submitted to the county judge of El Paso County, Texas, as a recommendation only, but such recommendation shall not be binding on the Commissioners Court in their appointment as hereinafter provided. Within one (1) week from the receipt of said panel by the said county judge, the Commissioners Court of El Paso County, Texas, shall appoint a judge of the County Court at Law No. 2 of El Paso County, Texas, who shall serve beginning September 1, 1955, until the next general election and until his successor shall be duly elected and qualified. Thereafter said office shall be filled at general election as provided by law except in case of vacancy. In case of vacancy said office shall be filled by appointment by the Commissioners Court in the same manner.

After the effective date of this Act a vacancy occurring in the office of the judge of the County Court at Law of El Paso County, Texas, shall likewise be filled by appointment by the Commissioners Court from a panel of three (3) nominees elected in the same manner as in the County Court at Law No. 2 of El Paso County, Texas, which appointed judge shall serve until the next general election and until his successor shall be duly elected and qualified, as now provided by law.

Sec. 7. The judge of the County Court at Law No. 2 of El Paso County, shall execute bond and take the oath of office as required by law relating to county judges.

Sec. 8. The judge of the County Court at Law No. 2 of El Paso County, Texas, shall appoint an official court reporter for such Court, who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the law relating to "official court reporters" shall and is hereby made to apply in all its provisions, in so far as they are applicable to the official court reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official court reporter shall be entitled to the same compensation as applicable to official court reporters in the District Courts of El Paso

County, Texas, paid in the same manner that compensation of official court reporters of the District Courts of El Paso County are paid.

Sec. 9. The county clerk of El Paso County, Texas, shall act as and be the clerk of said County Court at Law No. 2 of El Paso County, Texas, in civil and criminal matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Court at Law of El Paso County, Texas. Said clerk shall keep separate dockets for each of said Courts; and shall tax the official court reporter's fee as costs in civil actions in each of said Courts in like manner as said fee is taxed in civil cases in the District Courts.

Sec. 10. The sheriff of El Paso County, either in person or by deputy, shall attend said Court when required by the judge thereof; and the various sheriffs and constables of this State executing process issued out of said Court shall receive the fees now or hereafter fixed by law for executing process issued out of County Courts.

Sec. 11. The seal of the County Court at Law No. 2 of El Paso County, Texas, shall be the same as that provided by law for County Courts, except that such seal shall contain the words "County Court at Law No. 2 of El Paso County, Texas," and said seal shall be judicially noticed.

Sec. 12. A special judge of said Court may be appointed or elected in the manner and instances now or hereafter provided by law relating to County Courts and judges thereof.

Sec. 13. The judges of the County Court at Law and County Court at Law No. 2 of El Paso County shall have the power to make and publish rules as to the docketing and disposition of criminal and civil cases in their Courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure.

The judges of the County Court at Law of El Paso County, Texas, and the County Court at Law No. 2 of El Paso County, Texas, with mutual consent may exchange benches with one another or act as presiding judge of the other Court in individual proceedings or actions in the absence or disqualification of the other judge.

Sec. 14. In cases transferred to any one of the County Courts at Law by order of the judge of one of said Courts as provided in Section 2 of this Act, all process extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made, and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made.

[Acts 1955, 54th Leg., p. 82, ch. 53.]

Art. 1970-141.2. County Court at Law No. 3 of El Paso County

Sec. 1. There is hereby created an additional County Court at Law in El Paso County, Texas, to

be known and designated as the "County Court at Law No. 3 of El Paso County, Texas."

Sec. 2. The County Court at Law No. 3 of El Paso County, Texas, shall have the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in appeals in criminal cases from justice courts and corporation courts within El Paso County, and the judge of the court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction. The County Court at Law No. 3 shall have and is hereby granted the same jurisdiction and powers in criminal matters and civil actions or proceedings that are now or may be conferred by law upon and vested in the County Court at Law No. 1 of El Paso County, Texas, and the County Court at Law No. 2 of El Paso County, Texas; and each judge of the county courts at law may with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions or proceedings from his respective court to the other court by the entry of an order to that effect upon the docket, and the judges of the County Courts at Law No. 1 and No. 2 of El Paso County, shall transfer to the County Court at Law No. 3 of El Paso County, any civil or criminal action or proceeding pending on the docket of said court on the effective date of this Act as may be necessary in order that the now overcrowded dockets of the court may be relieved, and the County Court at Law No. 3 of El Paso County, and the judge thereof, shall have jurisdiction to hear and determine civil or criminal matters, and render and enter the necessary and proper orders, decrees, and judgments therein. No cause may be transferred without the consent of the judge of the court to which it is transferred.

Sec. 3. (a) The County Courts at Law of El Paso County shall henceforth have general jurisdiction of probate courts within the limits of El Paso County concurrent with jurisdiction of the County Court of El Paso County in such matters and proceedings. The County Courts at Law shall probate wills, appoint guardians of minors, idiots, and lunatics, persons non compos mentis, and drunkards, grant letters testamentary and of administration, settle accounts with administrators, executors, and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and drunkards; including the settlement, partition, and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings. The county courts at law shall have no jurisdiction over any other of those matters which are now vested exclusively in the County Court of El Paso County, or in the judge therein.

(b) The County Court of El Paso County, and the County Courts at Law of El Paso County, or each of

the judges thereof shall have the power to issue writs of injunction, sequestration, attachments, garnishment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the courts; and also power to punish for contempt under such provisions as are, or may be provided by the general laws governing county courts throughout the state, and to issue writs of habeas corpus, in cases where the offense charged is within the jurisdiction of the courts or of any court or tribunal inferior to the courts.

(c) The judges of the County Court of El Paso County and the County Courts at Law of El Paso County may with the consent of the judge of the Court to which transfer is to be made, transfer probate matters or proceedings from his respective court to the other court by the entry of an order to that effect upon the docket, to enable the efficient and justiciable disposition of the probate matters and proceedings in El Paso County, Texas.

(d) The judges of the county court and the county courts at law may collectively make and publish rules from time to time governing the docketing and disposition of probate matters and proceedings in their courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure and for the purpose of efficient and justiciable disposition of probate matters and proceedings. A copy of the rules and changes shall be filed with the County Clerk of El Paso County, Texas, and one copy of the rules and changes shall be available in each court for the examination of participants in any probate matters filed.

Sec. 4. (a) The terms of the County Courts at Law of El Paso County shall commence on the first Monday in January and July and the courts may continue in session until the Sunday next preceding the Monday for the convening of the next regular term of court.

(b) The judges of the County Courts at Law of El Paso County may divide each term of court into as many sessions as they deem necessary for the disposition of business, and may extend a particular term of court whenever practicable for the efficient and justiciable disposition of individual proceedings and matters.

Sec. 5. (a) The judge of each County Court at Law of El Paso County, Texas, shall be a citizen of the United States and of this state, who shall have been a practicing attorney of this state for at least five years next preceding his election or appointment and who shall have resided in the County of El Paso for at least two years next preceding his election or appointment.

(b) The judges of the county courts at law now in existence or which shall hereafter be created in El Paso County and the judge of the county court shall receive an annual salary in an amount not to exceed nine-tenths of the total annual salary, including supplements, paid any district judge sitting in El Paso County. The salary shall be paid out of the

general fund of El Paso County in equal monthly installments by warrants drawn on the county treasury on orders of the Commissioners Court of El Paso County. The judge of the county court and the judges of each county court at law in El Paso County shall not collect any fee from the county for disposing of any criminal case.

Sec. 6. The Commissioners Court of El Paso County, Texas, shall appoint a judge of the County Court at Law No. 3 of El Paso County, Texas, who shall serve beginning September 1, 1969, until the next general election and until his successor is elected and has qualified. Thereafter the office shall be filled at general election as provided by law except in case of vacancy. In case of vacancy the office shall be filled by appointment by the Commissioners Court.

Sec. 7. The judge of the County Court at Law No. 3 of El Paso County, shall execute bond and take the oath of office as required by law relating to county judges.

Sec. 8. The judge of the County Court at Law No. 3 of El Paso County, Texas, shall appoint an official court reporter for the court, who shall be well-skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as hereafter amended, and all other provisions of the law relating to "official court reporters" shall apply in all their provisions, in so far as they are applicable to the official court reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and the official court reporter shall be entitled to the same compensation as applicable to official court reporters in the district courts of El Paso County, Texas, paid in the same manner that compensation of official court reporters of the district courts of El Paso County are paid.

Sec. 9. The county clerk of El Paso County, Texas, shall be the clerk of the County Court at Law No. 3 of El Paso County, Texas, in civil and criminal matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Courts at Law No. 1 and No. 2 of El Paso County, Texas. The clerk shall keep separate dockets for each court; and shall tax the official court reporter's fee as costs in civil actions in each court in like manner as the fee is taxed in civil cases in the district courts.

Sec. 10. The sheriff of El Paso County, either in person or by deputy, shall attend the court when required by the judge; and the various sheriffs and constables of this state executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 11. The seal of the County Court at Law No. 3 of El Paso County, Texas, shall be the same as that provided by law for county courts, except

that the seal shall contain the words "County Court at Law No. 3 of El Paso County, Texas," and the seal shall be judicially noticed.

Sec. 12. A special judge of the court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 13. (a) The judges of the County Courts at Law No. 1, No. 2, and No. 3 shall have the power to make and publish rules as to the docketing and disposition of criminal and civil cases in their courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure.

(b) The judges of the County Courts at Law of El Paso County, Texas, with mutual consent may exchange benches with one another or act as presiding judge of the other court in individual proceedings or actions in the absence or disqualification of the other judge.

Sec. 14. In cases transferred to any one of the county courts at law by order of the judge of one of said courts as provided in Section 2 of this Act, all process extant at the time of the transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which the transfer is made.

[Acts 1969, 61st Leg., p. 2289, ch. 771, eff. June 14, 1969. Amended by Acts 1975, 64th Leg., p. 1383, ch. 531, § 1, eff. Sept. 1, 1975.]

Art. 1970-141.3. County Court at Law No. 4 of El Paso County

Sec. 1. There is created a County Court at Law in El Paso County, to be known and designated as the "County Court at Law No. 4 of El Paso County, Texas."

Sec. 2. The County Court at Law No. 4 of El Paso County shall have the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the constitution and laws of Texas, and shall have appellate jurisdiction in appeals in criminal cases from justice courts and municipal courts within El Paso County. The judge of the court shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction. The County Court at Law No. 4 of El Paso County shall have the same jurisdiction and powers in criminal matters and civil actions or proceedings that are now or may be vested in the County Courts at Law Nos. 1, 2, and 3 of El Paso County. The judge of each of the county courts at law may with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions or proceedings from his respective court to the other court by the entry of an order to that effect on the docket. The judges of the County Courts at Law Nos. 1, 2, and 3 of El Paso County shall transfer to the County Court at Law No. 4 of

El Paso County any civil or criminal action or proceeding pending on the docket of the court on the effective date of this Act as may be necessary in order that the now overcrowded dockets of the courts may be relieved, and the County Court at Law No. 4 of El Paso County, and the judge thereof, shall have jurisdiction to hear and determine civil or criminal matters, and render and enter the necessary and proper orders, decrees, and judgments therein. No cause may be transferred without the consent of the judge of the court to which it is transferred.

Sec. 3. (a) The county courts at law of El Paso County shall have the general jurisdiction of probate courts within the limits of El Paso County concurrent with jurisdiction of the County Court of El Paso County in such matters and proceedings. The county courts at law shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and drunkards, grant letters testamentary and of administration, settle accounts with administrators, executors, and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and drunkards, including the settlement, partition, and distribution of estates of deceased persons, and the apprenticing of minors as provided by law, and conduct lunacy proceedings. The county courts at law shall have no jurisdiction over any other of those matters which are now vested exclusively in the County Court of El Paso County, or in the judge therein.

(b) The judges of the County Court of El Paso County and the county courts at law of El Paso County may, with the consent of the judge of the court to which transfer is to be made, transfer probate matters or proceedings from his respective court to the other court by the entry of an order to that effect on the docket.

(c) The judges of the county court and the county courts at law may collectively make and publish rules from time to time governing the docketing and disposition of probate matters and proceedings in their courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure and for the purpose of efficient and justiciable disposition of probate matters and proceedings. A copy of the rules and changes shall be filed with the County Clerk of El Paso County, and one copy of the rules and changes shall be available in each court for the examination of participants in any probate matters filed.

(d) The County Court of El Paso County and the county courts at law of El Paso County, or each of the judges thereof, have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the courts, and also have the power to punish for contempt under such provisions as are or may be provided by the general laws governing county

courts throughout the state, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the courts or of any court or tribunal inferior to the courts.

Sec. 4. (a) The terms of the county courts at law of El Paso County shall commence on the first Monday in January and July and the courts may continue in session until the Sunday next preceding the Monday for the convening of the next regular term of court.

(b) The judges of the county courts at law of El Paso County may divide each term of court into as many sessions as they deem necessary for the disposition of business, and may extend a particular term of court whenever practicable for the efficient and justiciable disposition of individual proceedings and matters.

Sec. 5. (a) The judge of each county court at law of El Paso County shall be a citizen of the United States and of this state, who shall have been a practicing attorney of this state for at least five years next preceding his election or appointment and who shall have resided in the County of El Paso for at least two years next preceding his election or appointment.

(b) The judge of the County Court at Law No. 4 of El Paso County may receive an annual salary to be fixed by the commissioners court. The salary may be paid out of the general fund of El Paso County in equal monthly installments by warrants drawn on the county treasury on orders of the Commissioners Court of El Paso County. The judge of the county court and the judges of each county court at law in El Paso County shall not collect any fee from the county for disposing of any criminal case.

Sec. 6. When this Act becomes effective, the Commissioners Court of El Paso County shall appoint a judge of the County Court at Law No. 4 of El Paso County who shall serve until the next general election and until his successor is elected and has qualified. Beginning at the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of the county a judge of the County Court at Law No. 4 for a regular term of four years as provided by the Texas Constitution. In case of vacancy, the office shall be filled by appointment by the commissioners court, and the appointee shall hold office until the next succeeding general election and until his successor is elected and has qualified.

Sec. 7. The judge of the County Court at Law No. 4 of El Paso County shall execute bond and take the oath of office as required by law relating to county judges.

Sec. 8. The judge of the County Court at Law No. 4 of El Paso County shall appoint an official court reporter for the court, who shall be well-skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure

of the court. All of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended,¹ and as hereafter amended, and all other provisions of the law relating to official court reporters, shall apply in all their provisions, insofar as they are applicable, to the official court reporter herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act. The official court reporter shall be entitled to the same compensation as the official court reporters in the district courts of El Paso County, to be paid in the same manner that compensation of official court reporters of the district courts of El Paso County is paid.

Sec. 9. The county clerk of El Paso County shall be the clerk of the County Court at Law No. 4 of El Paso County in civil and criminal matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Courts at Law Nos. 1, 2, and 3 of El Paso County. The clerk shall keep separate dockets for each court and shall tax the official court reporter's fee as costs in civil actions in each court in like manner as the fee is taxed in civil cases in the district courts.

Sec. 10. The sheriff of El Paso County, either in person or by deputy, shall attend the court when required by the judge. The various sheriffs and constables of this state executing process issued out of this court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 11. The seal of the County Court at Law No. 4 of El Paso County shall be the same as that provided by law for county courts, except that the seal shall contain the words "County Court at Law No. 4 of El Paso County, Texas," and the seal shall be judicially noticed.

Sec. 12. A special judge of the court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 13. (a) The judges of the county courts at law of El Paso County shall have the power to make and publish rules as to the docketing and disposition of criminal and civil cases in their courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure.

(b) The judges of the county courts at law of El Paso County with mutual consent may exchange benches with one another or act as presiding judge of the other courts in individual proceedings or actions in the absence or disqualification of the other judge.

Sec. 14. In cases transferred to any one of the county courts at law by order of the judge of one of the other county courts at law, all process extant at the time of the transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though original-

ly issued out of the court to which the transfer is made.

[Acts 1977, 65th Leg., p. 1493, ch. 607, eff. Aug. 29, 1977.]

¹ Article 2286a et seq.

Art. 1970-141.4. County Court at Law No. 5 of El Paso County

Sec. 1. There is created a County Court at Law in El Paso County, to be known and designated as the "County Court at Law No. 5 of El Paso County, Texas."

Sec. 2. The County Court at Law No. 5 of El Paso County shall have the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the constitution and laws of Texas and shall have appellate jurisdiction in appeals in criminal cases from justice courts and municipal courts within El Paso County. The judge of the court shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction. The County Court at Law No. 5 of El Paso County shall have the same jurisdiction and powers in criminal matters and civil actions or proceedings that are now or may be vested in the County Courts at Law Nos. 1, 2, 3, and 4 of El Paso County. The judge of each of the county courts at law may, with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions or proceedings from his respective court to the other court by the entry of an order to that effect on the docket. The judges of the County Courts at Law Nos. 1, 2, 3, and 4 of El Paso County shall transfer to the County Court at Law No. 5 of El Paso County any civil or criminal action or proceeding pending on the docket of the court on the effective date of this Act as may be necessary in order that the now overcrowded dockets of the courts may be relieved, and the County Court at Law No. 5 of El Paso County and the judge thereof shall have jurisdiction to hear and determine civil or criminal matters and render and enter the necessary and proper orders, decrees, and judgments therein. No cause may be transferred without the consent of the judge of the court to which it is transferred.

Sec. 3. (a) The county courts at law of El Paso County shall have the general jurisdiction of probate courts within the limits of El Paso County concurrent with jurisdiction of the County Court of El Paso County in such matters and proceedings. The county courts at law shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and drunkards, grant letters testamentary, and of administration, settle accounts with administrators, executors, and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and drunkards, including the settlement, partition, and distribution of estates of deceased persons, and the apprenticing of minors as provided by law, and conduct lunacy proceedings. The county courts at

law shall have no jurisdiction over any other of those matters which are now vested exclusively in the County Court of El Paso County or in the judge therein.

(b) The judges of the County Court of El Paso County and the county courts at law of El Paso County may, with the consent of the judge of the court to which transfer is to be made, transfer probate matters or proceedings from their respective courts to the other court by the entry of an order to that effect on the docket.

(c) The judges of the county court and the county courts at law may collectively make and publish rules from time to time governing the docketing and disposition of probate matters and proceedings in their courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure and for the purpose of efficient and justiciable disposition of probate matters and proceedings. A copy of the rules and changes shall be filed with the county clerk of El Paso County, and one copy of the rules and changes shall be available in each court for the examination of participants in any probate matters filed.

(d) The County Court of El Paso County and the county courts at law of El Paso County, or each of the judges thereof, have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the courts, and also have the power to punish for contempt under such provisions as are or may be provided by the general laws governing county courts throughout the state, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the courts or of any court of tribunal inferior to the courts.

Sec. 4. (a) The terms of the county courts at law of El Paso County shall commence on the first Monday in January and July, and the courts may continue in session until the Sunday next preceding the Monday for the convening of the next regular term of court.

(b) The judges of the county courts at law of El Paso County may divide each term of court into as many sessions as they deem necessary for the disposition of business and may extend a particular term of court whenever practicable for the efficient and justiciable disposition of individual proceedings and matters.

Sec. 5. (a) The judge of each county court at law of El Paso County shall be a citizen of the United States and of this state, who shall have been a practicing attorney of this state for at least five years next preceding his election or appointment and who shall have resided in the County of El Paso for at least two years next preceding his election or appointment.

(b) The judge of the County Court at Law No. 5 of El Paso County may receive an annual salary to

be fixed by the commissioners court. The salary may be paid out of the general fund of El Paso County in equal monthly installments by warrants drawn on the county treasury on orders of the Commissioners Court of El Paso County. The judge of the county court and judges of each county court at law in El Paso County shall not collect any fee from the county for disposing of any criminal case.

Sec. 6. When this Act becomes effective, the Commissioners Court of El Paso County shall appoint a judge of the County Court at Law No. 5 of El Paso County who shall serve until the next general election and until his successor is elected and has qualified. Beginning at the general election in 1982 and every fourth year thereafter, there shall be elected by the qualified voters of the county a judge of the County Court at Law No. 5 for a regular term of four years as provided by the Texas Constitution. In case of vacancy, the office shall be filled by appointment by the commissioners court, and the appointee shall hold office until the next succeeding general election and until his successor is elected and has qualified.

Sec. 7. The judge of the County Court at Law No. 5 of El Paso County shall execute bond and take the oath of office as required by law relating to county judges.

Sec. 8. The judge of the County Court at Law No. 5 of El Paso County shall appoint an official court reporter for the court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. All of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended,¹ and as hereafter amended, and all other provisions of the law relating to official court reporters shall apply in all their provisions, insofar as they are applicable, to the official court reporter herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act. The official court reporter shall be entitled to the same compensation as the official court reporters in the district courts of El Paso County, to be paid in the same manner that compensation of official court reporters of the district courts of El Paso County is paid.

Sec. 9. The county clerk of El Paso County shall be the clerk of the County Court at Law No. 5 of El Paso County in civil and criminal matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Courts at Law Nos. 1, 2, 3, and 4 of El Paso County. The clerk shall keep separate dockets for each court and shall tax the official court reporter's fee as costs in civil actions in each court in like manner as the fee is taxed in civil cases in the district courts.

Sec. 10. The sheriff of El Paso County, either in person or by deputy, shall attend the court when required by the judge. The various sheriffs and

constables of this state executing process issued out of this court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 11. The seal of the County Court at Law No. 5 of El Paso County shall be the same as that provided by law for county courts except that the seal shall contain the words "County Court at Law No. 5 of El Paso County, Texas," and the seal shall be judicially noticed.

Sec. 12. A special judge of the court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 13. (a) The judges of the county courts at law of El Paso County shall have the power to make and publish rules as to the docketing and disposition of criminal and civil cases in their courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure.

(b) The judges of the county courts at law of El Paso County with mutual consent may exchange benches with one another or act as presiding judge of the other courts in individual proceedings or actions in the absence or disqualification of the other judge.

Sec. 14. In cases transferred to any one of the county courts at law by order of the judge of one of the other county courts at law, all process extant at the time of the transfer shall be returned to and filed in the court to which such transfer is made and shall be as valid and binding as though originally issued out of the court to which the transfer is made.

[Acts 1981, 67th Leg., p. 2588, ch. 692, eff. Aug. 31, 1981.]

¹ Article 2286a et seq.

EASTLAND COUNTY

Art. 1970-141a. Eminent Domain and Probate Jurisdiction; Civil and Criminal Jurisdiction Transferred

Sec. 1. The County Court of Eastland County shall retain and continue to have and exercise the general jurisdiction in matters of eminent domain, general jurisdiction of probate courts, and all other jurisdiction now or hereafter conferred by the Constitution and laws of this State, except as is hereinafter provided, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but said County Court shall have no civil jurisdiction and no criminal jurisdiction except jurisdiction to receive and enter pleas of guilty in misdemeanor cases, and except as to final judgments referred to in Section 2 hereof.

Sec. 2. The District Court having jurisdiction in Eastland County shall have and exercise jurisdiction in all matters and cases of a civil nature and in all matters of a criminal nature, except as to such jurisdiction that the County Court has to receive

and enter pleas of guilty in misdemeanor cases as is provided in Section 1 hereof, whether the same be of original jurisdiction or of appellate jurisdiction, over which, by the general laws of the State of Texas now existing and hereinafter enacted the County Court of said county would have had jurisdiction and all pending civil and criminal cases be, and the same are, hereby transferred to the District Court having jurisdiction in Eastland County, Texas, and all writs and process heretofore issued by or out of said County Court in all pending civil or criminal cases be, and the same are, hereby made returnable to the District Court sitting in Eastland County, Texas. However, there shall not be transferred to said District Court jurisdiction over any judgments, either in civil or criminal cases, rendered prior to the time this Act takes effect and which have become final, but as to such judgments the said County Court shall retain jurisdiction for the enforcement thereof by all appropriate process.

Sec. 3. The County Attorney of Eastland County shall represent the State in all misdemeanor cases before the District Court of Eastland County, and shall receive therefor the same fees to which he would be entitled under the law as County Attorney had said cases been tried in the County Court.

Sec. 4. The clerk of the County Court of Eastland County is, and he is hereby required within twenty (20) days after this Act takes effect to file with the clerk of the District Court of said county all original papers in cases here transferred to the said District Court, and all Judges' dockets and certified copies of any interlocutory judgment, or other order entered in the minutes of the County Court in said cases so transferred; and the district clerk shall immediately docket all such cases on the docket of the District Court of Eastland County in the same manner and place as each stands on the docket of the County Court. It shall not be necessary that the district clerk refile any papers theretofore filed by the county clerk, nor shall he receive any fees for the filing of the same, but papers in said case bearing the file mark of the county clerk, prior to the time of said transfer, shall be held to have been filed in the case as of the date filed without being refiled by the district clerk. Said county clerk in cases so transferred shall accompany the papers with a certified bill of cost and against all costs deposits, if any, the county clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the district clerk as a deposit in the particular case for which the same was deposited. Credit shall also be given the litigants for all jury fees paid in the County Court.

[Acts 1951, 52nd Leg., p. 671, ch. 388.]

Arts. 1970-142 to 1970-152. Unconstitutional

These articles, Acts 1919, 2nd C.S., ch. 16, §§ 1 to 11, creating County Court at Law for Eastland County, were held unconstitutional and void in *State v. Gillette's Estate*, Com.App., 10 S.W.2d 984.

WICHITA COUNTY

Arts. 1970-153 to 1970-166. Repealed by Acts 1933, 43rd Leg., Spec.Laws, p. 86, ch. 65

Art. 1970-166a. Jurisdiction of Wichita County Court at Law Transferred to Wichita County Court

Immediately upon the taking effect of this Act, as provided for in Section 2,¹ all jurisdiction of all matters and causes, civil and criminal, original and appellate, which is now within the jurisdiction of the County Court of Wichita County at Law will at once be transferred to, conferred upon, and will vest in the County Court of Wichita County and all powers heretofore existing in the County Court of Wichita County at Law are hereby, with the effective date of this Act, conferred on the County Court of Wichita County, and all powers now and heretofore existing in the Judge of the County Court of Wichita County at Law are hereby, upon the effective date of this Act, conferred on the County Judge of Wichita County, and all cases pending at the effective date of this Act in the County Court of Wichita County at Law shall be and the same are hereby, on said effective date, transferred to the County Court of Wichita County, and all writs and processes, civil and criminal, issued by or out of the County Court of Wichita County at Law prior to the effective date of this Act, shall be and the same are hereby made returnable to the County Court of Wichita County as fully and effectively as if they had been originally issued out of said County Court. The County Clerk of Wichita County shall, upon the effective date of this Act, transfer all matters and causes, civil and criminal, original and appellate, then in the County Court of Wichita County at Law to the County Court of Wichita County.

[Acts 1933, 43rd Leg., Spec.Laws, p. 86, ch. 65, § 1-A.]

¹Section 2 of Acts 1933, 43rd Leg., Spec.Laws, p. 86, ch. 65, provides that this Act shall have no force and shall not disturb the operation of the County Court of Wichita County at Law until and after January 1, 1935.

Art. 1970-166b. Jurisdiction in Civil Cases Transferred to District Courts

Sec. 1. That the County Court of Wichita County shall retain and continue to have and exercise the general criminal jurisdiction, both original and appellate, the general jurisdiction in matters of eminent domain, and the general jurisdiction of Probate Courts, and all jurisdiction other than in civil matters, jurisdiction of which is here conferred on the District Courts of Wichita County, Texas, now or hereafter conferred upon such County Court by the Constitution and Laws of the State, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but said County Court shall have no civil jurisdiction, except as to final judgments referred to in Section 2 hereof.

Sec. 2. That the District Courts having jurisdiction in said Wichita County shall have and exercise jurisdiction in all matters and cases of a civil nature, whether the same be of original jurisdiction or of appellate jurisdiction, over which, by the General Laws of the State of Texas now existing and hereinafter enacted, the County Court of said County would have had jurisdiction, and that all pending civil cases be and the same are hereby transferred to the District Court for the Eighty-ninth Judicial District of Texas, sitting in Wichita County, Texas, and all writs and process heretofore issued by or out of said County Court in said civil cases be and the same are hereby made returnable to the next term of the District Court, in and for the Eighty-ninth Judicial District of Texas, sitting in Wichita County, Texas. Provided, however, that there shall not be transferred to said District Courts jurisdiction over any judgments, even in civil cases, rendered prior to the time this Act takes effect and which have become final, but as to such judgments the said County Court shall retain jurisdiction for the enforcement thereof by execution, order of sale, or other appropriate process. Provided further, however, that as to any civil case on appeal from said County Court, should a judgment be entered by the Court of Civil Appeals or the Supreme Court remanding the case for a new trial or for further proceedings, same shall be remanded to one of the District Courts having jurisdiction in Wichita County, Texas, and all jurisdiction in respect to said particular case shall thereafter vest in the District Courts sitting in and having jurisdiction of Wichita County, Texas.

Sec. 3. That the fact that the cases of which the District Courts are given jurisdiction have been transferred by this Act to the District Court in and for the Eighty-ninth Judicial District shall not be construed to limit the jurisdiction of the other District Courts sitting in and having jurisdiction in said County, but the said District Court in and for the Eighty-ninth Judicial District shall have power to transfer any or all of said cases to said other District Courts, under the applicable provisions of the laws governing the transfer of cases among said District Courts, and all applicable provisions of law in regard to the transfer and retransfer governing cases now pending in said District Courts shall govern the cases so transferred, as well as cases subsequently filed under the jurisdiction here conferred upon said District Courts; and that, as to cases subsequently filed, same may be filed in either of said District Courts which are here given jurisdiction thereof.

Sec. 4. That the Clerk of the County Court of said Wichita County be and is hereby required, within twenty (20) days after this Act takes effect, to file with the Clerk of the District Court of said County, all original papers in cases here transferred to the said District Courts, and all Judges' dockets and certified copies of any interlocutory judgment or other order entered in the Minutes of the County

Court in said cases so transferred, and the District Clerk shall immediately docket all such cases on the docket of the said District Court for the Eighty-ninth Judicial District of Texas, and all such cases shall stand on the docket of said Court in the same manner and place as each stands on the docket of the County Court.

Provided, further, that it shall not be necessary that the District Clerk refile any papers theretofore filed by the County Clerk, nor shall he receive any fees for the filing of same, but papers in said case bearing the file mark of the County Clerk, prior to the time of said transfer shall be held to have been filed in the case as of the date filed without being refiled by the District Clerk. Said County Clerk in cases so transferred shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the County Clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the District Court as a deposit in the particular case for which same was deposited. Credit shall also be given the litigants for all jury fees paid in the County Court.

[Acts 1935, 44th Leg., p. 113, ch. 40.]

Art. 1970-166c. Concurrent Jurisdiction with District Courts in Juvenile Delinquency, Child Neglect or Dependency Proceedings

Sec. 1. The County Court of Wichita County, Texas, has jurisdiction concurrent with the district courts in Wichita County of all cases involving juvenile delinquency, child neglect, or dependency proceedings, if the judge of the County Court of Wichita County possesses qualifications equal to those required to serve as a district court judge in the State of Texas and if the judge of the County Court of Wichita County is designated by the Wichita County Juvenile Board to preside as judge of the juvenile court.

Sec. 2. When the county judge is so qualified and is designated by the Wichita County Juvenile Board to preside over such proceedings, the jurisdiction of the county court extends to contempt proceedings growing out of or ancillary to such cases, and a district court in Wichita County may transfer to the county court any such case of juvenile delinquency, child neglect, or dependency on its docket, with the consent of the Wichita County Court.

[Acts 1973, 63rd Leg., p. 1365, ch. 519, eff. June 14, 1973.]

Art. 1970-166d. County Court at Law of Wichita County

Creation

Sec. 1. The County Court at Law of Wichita County is created on the date determined by Section 10 of this Act.

Jurisdiction

Sec. 2. (a) The County Court at Law of Wichita County has jurisdiction concurrent with the County Court of Wichita County over all criminal and juvenile proceedings, original and appellate, prescribed by the constitution and general laws of this state for county courts, and prescribed by Chapter 762, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 1200aa, Vernon's Texas Civil Statutes), and by Chapter 519, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1970-166c, Vernon's Texas Civil Statutes).

(b) The County Court at Law of Wichita County has civil jurisdiction concurrent with the district courts of Wichita County over civil suits, causes, and proceedings when the amount in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest, and, without regard to the value of the estate or matter in question, over suits, causes, and proceedings involving dissolution of marriage by divorce or annulment, including the adjustment of property rights, suits affecting the parent-child relationship, suits concerning adoptions, suits for protection of children in an emergency, suits for removal of disabilities of minority or for change of name, suits involving delinquent children or children in need of supervision, suits brought under the authority of the Uniform Reciprocal Enforcement of Support Act or the Uniform Interstate Compact on Juveniles and all other jurisdiction, powers, and authorities now or hereafter placed in the district or county courts under the juvenile or child welfare laws of this state.

(c) The County Court at Law of Wichita County has no jurisdiction other than that specifically set forth in this section. The concurrent civil jurisdiction granted to the County Court at Law of Wichita County does not include causes or proceedings, original or appellate, concerning eminent domain, roads, bridges and public highways, or the general administration of county business which is now within the jurisdiction of the commissioners court of Wichita County. The County Court at Law of Wichita County has jurisdiction concurrent with the County Court of Wichita County over probate and mental health proceedings during the absence of the county judge or the inability of the county judge to perform any of his duties relating to such proceedings. The absence or inability of the county judge shall be certified by the county judge or the commissioners court to the judge of the county court at law. When certification is for the purpose of conferring power to perform a judicial act, the certificate shall be spread on the minutes of the appropriate court. Notwithstanding the additional powers and duties conferred on the judge of the county court at law during the absence or inability of the county judge, no additional compensation or salary shall be paid to him, but the compensation or salary of the judge of the county court at law shall remain as fixed by law. The provisions of this subsection relating to the powers and duties of the judge of the county

court at law during the absence or inability of the county judge do not repeal the law providing for the election or appointment of a special county judge but are cumulative of and in addition to all law providing for a special county judge.

(d) The County Court at Law of Wichita County and the duly qualified judge of the court have the power to issue writs and orders as may be necessary in aid of its jurisdiction or the enforcement of its lawful orders.

(e) The provisions of this section do not diminish the jurisdiction of the several district courts of Wichita County, and the district courts shall retain and continue to exercise the jurisdiction that they now have or that may be hereafter conferred upon them by law.

Terms

Sec. 3. The County Court at Law of Wichita County shall hold two continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Judge

Sec. 4. (a) The judge of the County Court at Law of Wichita County shall be at least 25 years of age and shall be a citizen of the United States and of this state who is licensed to practice law in this state, has been a practicing lawyer or a judge of a court in this state or both combined for four years, and has been a resident of Wichita County for two years. The judge shall reside in Wichita County during his or her term of office.

(b) During his or her term of office, the judge of the County Court at Law of Wichita County shall not engage in the private practice of law.

(c) When this court is created, the commissioners court of Wichita County shall appoint a judge of the County Court at Law of Wichita County, who shall serve until the next general election after he or she takes office and until his or her successor is duly elected and has qualified. Beginning at the general election in 1982 and every fourth year thereafter, there shall be elected by the qualified voters of Wichita County a judge of the county court at law for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(d) A vacancy occurring in the office of the judge of the County Court at Law of Wichita County shall be filled by the commissioners court of Wichita County, and the appointee shall hold office until the next general election and until his or her successor is elected and has qualified.

(e) The judge of the County Court at Law of Wichita County shall execute a bond and take the oath of office prescribed by law for county judges.

The judge may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the County Court at Law of Wichita County may receive a salary not to exceed 90 percent of the total annual salary paid to the judges of the district courts having jurisdiction in Wichita County to be set by the commissioners court and to be paid out of the county treasury by the commissioners court. The salary may be paid in equal monthly installments. The judge of the County Court at Law of Wichita County may be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge of Wichita County. The judge of the county court at law is a member of the Juvenile Board of Wichita County. The judge of the County Court at Law of Wichita County shall assess the same fees as are now prescribed or may be established by law relating to county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge.

(g) A special judge of the County Court at Law of Wichita County with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If a judge of the County Court at Law of Wichita County is disqualified to try a case pending in his or her court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Personnel

Sec. 5. (a) The county attorney and sheriff of Wichita County shall serve as county attorney and sheriff, respectively, of the County Court at Law of Wichita County. The district clerk of Wichita County shall serve as clerk of the County Court at Law of Wichita County in cases enumerated in Subsection (b) of Section 2 of this Act, and the county clerk of Wichita County shall serve as clerk of the County Court at Law of Wichita County in cases enumerated in Subsection (a) of Section 2 of this Act. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the County Court of Law of Wichita County shall appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. The official court reporter is entitled to the compensation fixed by the commissioners court of Wichita County.

Transfer of Cases and Judges

Sec. 6. (a) As soon as practicable after this court is created, the county clerk may establish a separate docket for the court created by this Act from among pending matters filed originally in the county court of Wichita County and shall transfer those matters to the docket of the court created by this Act. Equalization of case load shall be the primary object in establishing the initial case docket for the County Court at Law of Wichita County. As soon as practicable after this court is created, the district clerk shall establish a separate docket for the County Court at Law of Wichita County. The transfer of any pending matters originally filed in the district courts prior to the date the County Court at Law of Wichita County is created shall be in accordance with the provisions of Subsection (b) of this section.

(b) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. All cases of concurrent jurisdiction enumerated in Subsection (b) of Section 2 of this Act may be instituted in or transferred between the district courts of Wichita County and the County Court at Law of Wichita County. However, no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) In cases transferred to the county court at law as provided by Subsection (a) of this section and in cases transferred to any of the courts in Wichita County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

(d) The county judge and the judge of the County Court at Law of Wichita County may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him or her without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment

on all or any part of the case without the necessity of transferring it to his or her own docket. The district judges and the judge of the County Court at Law of Wichita County may freely exchange benches and courtrooms with each other in matters within their concurrent jurisdiction so that if one is ill, disqualified, or otherwise absent, another may hold court for him or her without the necessity of transferring the case involved. Any of those judges may hear all or any part of a case pending in the district court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his or her own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his or her court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of and in addition to the provisions herein provided for the selection and appointment of a special judge of the County Court at Law of Wichita County.

Practice and Procedure

Sec. 7. (a) Practice in the County Court at Law of Wichita County shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the County Court at Law of Wichita County involving those matters of concurrent jurisdiction enumerated in Subsection (b) of Section 2 of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general and special, as well as county courts. If a case enumerated in Subsection (b) of Section 2 of this Act is tried before a jury, the jury shall be composed of six members and shall be privileged to render verdicts by a five to one margin in civil cases and a unanimous verdict in criminal cases.

(b) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the County Court at Law of Wichita County.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

Courtroom

Sec. 8. The commissioners court of Wichita County shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 9. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Wichita County."

Date of Creation

Sec. 10. The County Court at Law of Wichita County is created on January 1, 1982, or on a date determined by the commissioners court by an order entered on its minutes, after the provisions of Section 8 of this Act shall be fully complied with, whichever date is earlier.

[Acts 1979, 66th Leg., p. 424, ch. 195, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 553, ch. 233, § 1, eff. May 28, 1981.]

Art. 1970-166e. County Court at Law No. 2 of Wichita County**Creation**

Sec. 1. The County Court at Law No. 2 of Wichita County is created on the date determined by Section 10 of this Act.

Jurisdiction

Sec. 2. (a) The County Court at Law No. 2 of Wichita County has concurrent jurisdiction with the county court over all criminal and juvenile proceedings, original and appellate, prescribed by the constitution and general laws of this state for county courts, and prescribed by Chapter 762, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 1200aa, Vernon's Texas Civil Statutes), and by Chapter 519, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1970-166c, Vernon's Texas Civil Statutes). The County Court at Law No. 2 shall have concurrent jurisdiction over probate and mental health matters with the county court.

(b) The County Court at Law No. 2 of the Wichita County has concurrent civil jurisdiction with the district courts of Wichita County over civil suits, causes, and proceedings in which the amount in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest, and, without regard to the value of the estate or matter in question, over suits, causes, and proceedings involving dissolution of marriage by divorce or annulment, including the adjustment of property rights, suits affecting the parent-child relationship, suits concerning adoptions, suits for protection of children in an emergency, suits for removal of disabilities of minority or for change of name, suits involving delinquent children or children in need of supervision, suits brought under the authority of the Uniform Reciprocal Enforcement of Support Act, as amended (Chapter 21, Family Code) or the Uniform Interstate Compact on Juveniles, as amended (Chapter 25, Family Code) and all other jurisdiction, powers, and authorities placed in the district or county courts under the juvenile or child welfare laws of this state.

(c) The County Court at Law No. 2 of Wichita County has no jurisdiction other than that specifically set forth in this section. The concurrent civil jurisdiction granted to the County Court at Law No. 2 of Wichita County does not include a cause or proceeding, original or appellate, concerning eminent domain, roads, bridges and public highways, or

the general administration of county business that is within the jurisdiction of the commissioners court of Wichita County.

(d) The County Court at Law No. 2 of Wichita County and the judge may issue writs and orders as necessary in aid of its jurisdiction or the enforcement of its lawful orders.

(e) The provisions of this section shall not diminish the jurisdiction of the several district courts of Wichita County, and the district courts shall retain and continue to exercise the jurisdiction they now have or may hereafter be conferred upon them by law. The provision in Subsection (a) of this section for concurrent jurisdiction over probate matters shall not diminish or deprive the several district courts of Wichita County of the probate jurisdiction presently vested in them, including probate jurisdiction as presently vested by Subsections (a), (b), and (d) of Section 5 of the Probate Code.

Terms

Sec. 3. The County Court at Law No. 2 of Wichita County shall hold two continuous terms that begin on the first Mondays in January and July of each year. Each term of court continues until the next succeeding term begins.

Judge

Sec. 4. (a) The judge of the County Court at Law No. 2 of Wichita County must be at least 25 years of age, be a citizen of the United States and of this state, be licensed to practice law in this state, have been a practicing lawyer or a judge of a court in this state or both combined for four years, and have been a resident of Wichita County for two years. The judge must reside in Wichita County during his or her term of office.

(b) During his or her term of office, the judge of the County Court at Law No. 2 of Wichita County may not engage in the private practice of law.

(c) When this court is created, the Commissioners Court of Wichita County shall appoint a judge of the County Court at Law No. 2 of Wichita County, who shall serve until the next general election after he or she takes office and until his or her successor is duly elected and has qualified. Beginning at the next general election following creation of the court and every fourth year thereafter, there shall be elected by the qualified voters of Wichita County a judge of the County Court at Law No. 2 for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65 of the Texas Constitution.

(d) A vacancy occurring in the office of the judge of the County Court at Law No. 2 of Wichita County shall be filled by the commissioners court. The appointee holds office until the next general election and until his or her successor is elected and has qualified.

(e) The judge of the County Court at Law No. 2 of Wichita County shall execute a bond and take the oath of office prescribed by law for county judges. The judge may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the County Court at Law No. 2 of Wichita County may receive a salary not to exceed an amount equal to 90 percent of the total annual salary paid to the judges of the district courts having jurisdiction in Wichita County. The commissioners court shall set the salary and pay it out of the county treasury. The salary may be paid in equal monthly installments. The judge of the County Court at Law No. 2 of Wichita County is entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as the county judge. The judge of the county court at law is a member of the juvenile board of Wichita County. The judge of the County Court at Law No. 2 of Wichita County shall assess the same fees as prescribed by law relating to a county judge's fees. The clerk of the court shall collect the fees and shall pay them into the county treasury on collection. None of the fees may be paid to the judge.

(g) A special judge of the County Court at Law No. 2 of Wichita County with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If a judge of the County Court at Law No. 2 of Wichita County is disqualified to try a case pending in his or her court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Personnel

Sec. 5. (a) The county attorney and sheriff of Wichita County serve as county attorney and sheriff, respectively, of the County Court at Law No. 2 of Wichita County. The district clerk of Wichita County serves as clerk of the County Court at Law No. 2 of Wichita County in cases enumerated in Subsection (b) of Section 2 of this Act. The county clerk of Wichita County serves as clerk of the County Court at Law No. 2 of Wichita County in cases enumerated in Subsection (a) of Section 2 of this Act. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the County Court at Law No. 2 of Wichita County shall appoint an official court reporter who must have the same qualifications and whose duties are the same as now provided by law for that office. The official court reporter is enti-

led to the compensation fixed by the commissioners court.

Transfer of Cases; Exchange of Benches

Sec. 6. (a) As soon as practicable after this court is created, the county clerk may establish a separate docket for the court created by this Act from among pending matters filed originally in the County Court of Wichita County and the County Court at Law No. 1 and shall transfer those matters to the docket of the court created by this Act. Equalization of caseloads shall be the primary object in establishing the initial docket for the County Court at Law No. 2 of Wichita County. As soon as practicable after this court is created, the district clerk shall establish a separate docket for the County Court at Law No. 2 of Wichita County. The transfer of any pending matters originally filed in the district courts prior to the date the County Court at Law No. 2 of Wichita County is created shall be in accordance with the provisions of Subsection (b) of this section.

(b) The judge of the county court and the judges of the county courts at law may transfer cases to and from the dockets of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. All cases of concurrent jurisdiction enumerated in Subsection (b) of Section 2 of this Act may be instituted in or transferred between the district courts of Wichita County and the county courts at law of Wichita County. However, a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) In cases transferred to a county court at law as provided by this Act and in cases transferred to any of the courts in Wichita County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases and all bonds and recognizances before taken in the cases are valid and binding as though originally issued out of the court to which the transfer is made.

(d) The county judge and the judges of the county courts at law of Wichita County may freely exchange benches and courtrooms in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, another may hold court for him or her without the necessity of transferring the case involved. Any of those judges may hear all or any part of a case pending in the county court or a

county court at law, but only in matters within the judge's jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his or her own docket. The district judges and the judges of the county courts at law of Wichita County may freely exchange benches and courtrooms in matters within their concurrent jurisdiction so that if one is ill, disqualified, or otherwise absent, another may hold court for him or her without the necessity of transferring the case involved. Any of those judges may hear all or any part of a case pending in the district court or a county court at law, but only in matters within the judge's jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his or her own docket. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of the law relating to the selection and appointment of a special judge of the County Court at Law No. 2 of Wichita County.

Practice and Procedure

Sec. 7. (a) Practice in the County Court at Law No. 2 of Wichita County shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the County Court at Law No. 2 of Wichita County involving those matters of concurrent jurisdiction enumerated in Subsection (b) of Section 2 of this Act are governed by this Act and the laws and rules pertaining to district courts, general and special, as well as county courts. If a case enumerated in Subsection (b) of Section 2 of this Act is tried before a jury, the jury must be composed of six members and may render verdicts by a concurring vote of at least five jurors in civil cases and a unanimous verdict in criminal cases.

(b) The laws governing the drawing, selection, service, and pay of jurors for county courts apply to the County Court at Law No. 2 of Wichita County.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or a judge of a county court at law, be made available and shall serve for the week in either the county court or a county court at law.

Courtroom

Sec. 8. The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 9. The seal of the court created by this Act is the same as that provided by law for county

courts, except that the seal shall contain the words "County Court at Law No. 2 of Wichita County."

Date of Creation

Sec. 10. The County Court at Law No. 2 of Wichita County is created on a date determined by the commissioners court by an order entered on its minutes, after the provisions of Section 8 of this Act shall be fully complied with.

Effective Date

Sec. 11. This Act takes effect September 1, 1983.

[Acts 1983, 68th Leg., p. 4218, ch. 671, eff. Sept. 1, 1983.]

TEXARKANA COURT AT LAW

Arts. 1970-167 to 1970-189. Unconstitutional

These articles, Acts 1923, 38th Leg., ch. 69, creating Texarkana Court at Law, were held unconstitutional in *Turner v. Tucker*, 113 T. 434, 258 S.W. 149.

ARMSTRONG COUNTY

Art. 1970-190. Armstrong County Court; Concurrent Jurisdiction with Justice Court

That the county court of Armstrong county shall have and exercise original concurrent jurisdiction with the justices courts in all civil matters which by the general laws of this state is conferred upon justices courts.

[Acts 1913, p. 60, § 1.]

Art. 1970-191. Jurisdiction as County Court

Said county court shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the general laws of this state is conferred upon county courts.

[Acts 1913, p. 60, § 2.]

Art. 1970-192. Appeal; Amount in Controversy

No appeal or writ of error shall be taken to the court of civil appeals from any final judgment of said county court in civil cases of which said court has appellate or original concurrent jurisdiction with the justices courts where the judgment or amount in controversy does not exceed one hundred dollars exclusive of interests and costs.

[Acts 1913, p. 60, § 3.]

Art. 1970-193. Jurisdiction of Justices' Courts Not Affected; Appeal

This Act shall not be construed to deprive the justices' courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said court over such matters as are specified in section 1 of this Act,¹ nor shall this Act be construed to deny the right of appeal from the justices' courts to the said county

court in any case originally brought in the justices' courts where the right of appeal now exists by law.

[Acts 1911, p. 60, § 4.]

¹ Article 1970-190.

Art. 1970-194. Laws Repealed

All laws and parts of laws in conflict with the provisions of this Act, be, and the same are hereby repealed.

[Acts 1913, p. 60, § 5.]

CASTRO COUNTY

Art. 1970-195. Castro County Court; Jurisdiction of Court

That the county court of Castro county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest.

[Acts 1913, p. 26, § 1.]

Art. 1970-196. Appellate Jurisdiction

Said county court shall have appellate jurisdiction in civil cases over which the justice courts have original jurisdiction when the judgment of the court, appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest and costs, and said county court shall have power to hear and determine cases brought up from the justices courts by certiorari, under the provisions of the title of the Revised Civil Statutes of 1911, relating thereto.

[Acts 1913, p. 26, § 2.]

Art. 1970-197. May Issue Writs

The county judge of said county shall have authority either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the constitution has not exclusively conferred the power on the district court or judge thereof.

[Acts 1913, p. 26, § 3.]

Art. 1970-198. Jurisdiction of Probate Court

The said court shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estate of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards; including the partition, settlement and distribution

of estates of deceased persons and to apprentice minors as provided by general law and to issue all writs necessary for the enforcement of its jurisdiction and decrees.

[Acts 1913, p. 26, § 4.]

Art. 1970-199. Forfeiture, etc., of Bonds and Recognizances in Criminal Cases

Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1913, p. 26, § 5.]

Art. 1970-200. Jurisdiction of Misdemeanors; Appellate Jurisdiction

Said county court shall have original jurisdiction of all misdemeanors, except involving official misconduct and except misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment that does not exceed two hundred dollars, and said court shall have appellate jurisdiction with trials de novo in criminal cases in which the justices of the peace and other inferior tribunals of said county have original jurisdiction.

[Acts 1913, p. 26, § 6.]

Art. 1970-201. District Court Has No Longer Jurisdiction of Certain Cases

The district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases in which the county court of said county by provisions of this Act has original or appellate jurisdiction.

[Acts 1913, p. 26, § 7.]

Art. 1970-202. District Clerk to Deliver Transcripts, etc.

It shall be the duty of the district clerk of said county within thirty days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets then pending before the district court of said county, of which cases by the provisions of this Act original and appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the respective dockets for trial by said court.

[Acts 1913, p. 26, § 8.]

Art. 1970-203. Motions Against Sheriffs and Other Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcation of duty in connection with said process,

and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and shall also have all the other powers and jurisdiction conferred on county courts by the constitution and general laws of this state.

[Acts 1913, p. 26, § 9.]

Art. 1970-204. Terms of Court

The terms of said court shall commence on the fourth Monday in February, and on the fourth Monday in May, and on the fourth Monday in August, and on the fourth Monday in November of each year, and shall continue in session for each term until the business may be disposed of; provided that the county commissioners court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1913, p. 26, § 10.]

COCHRAN AND COLORADO COUNTIES

Art. 1970-205. Jurisdiction of County Court of Cochran and Colorado Counties

The county court of Cochran County and Colorado County shall have and exercise original concurrent jurisdiction with the justice courts in all civil matters which by the General Laws of this State is conferred upon a justice of the peace court.

[Acts 1925, 39th Leg., ch. 40, p. 172, § 1.]

Art. 1970-206. Other Jurisdiction

Such county court shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings, as is by the General Laws of this State conferred upon county courts.

[Acts 1925, 39th Leg., ch. 40, p. 172, § 2.]

Art. 1970-207. Appeals and Writs of Error

No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said county court in civil cases of which said court has appellate jurisdiction or original concurrent jurisdiction with the justice courts where the judgment or amount in controversy does not exceed one hundred dollars exclusive of interest and costs.

[Acts 1925, 39th Leg., ch. 40, p. 172, § 3.]

Art. 1970-208. Jurisdiction of Justices of the Peace; Appeals

Nothing in this Act shall be construed to deprive the justice courts of jurisdiction now conferred upon them by law or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Article 1 of this Act; nor shall this Act be construed to deny the right of appeal from the justice courts to said county court in any case originally brought in any justice court

where the right of appeal now exists by General Law.

[Acts 1925, 39th Leg., ch. 40, p. 172, § 4.]

DEAF SMITH, PARMER, RANDALL, CASTRO AND LUBBOCK COUNTIES

Art. 1970-209. Deaf Smith, Parmer, Randall, Castro and Lubbock County Courts; Jurisdiction of Court

That the county court of Deaf Smith, Parmer, Randall, Castro, and Lubbock counties and the unorganized counties of Bailey and Lamb shall have and exercise original concurrent jurisdiction with the justices courts in all civil matters which by the general laws of this state is conferred upon justices courts.

[Acts 1911, p. 171, § 1.]

Art. 1970-210. Same Subject

Said county court shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the general laws of this state is conferred upon county courts.

[Acts 1911, p. 171, § 2.]

Art. 1970-211. Writs of Error to Court of Civil Appeals

No appeal or writ of error shall be taken to the court of civil appeals from any final judgment of said county court in civil cases of which said court has appellate or original concurrent jurisdiction with the justices court where the judgment or amount in controversy does not exceed one hundred dollars exclusive of interests and costs.

[Acts 1911, p. 171, § 3.]

Art. 1970-212. Jurisdiction of Justices of the Peace, etc.

This Act shall not be construed to deprive the justices court of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said court over such matters as are specified in section 1 of this Act,¹ nor shall this Act be construed to deny the right of appeal from the justices courts to the said county court in any case originally brought in the justices court where the right of appeal now exists by law.

[Acts 1911, p. 171, § 4.]

¹ Article 1970-209.

Art. 1970-213. Laws Repealed

All laws and parts of laws in conflict with the provisions of this Act, be, and the same are hereby, repealed.

[Acts 1911, p. 171, § 5.]

HARRISON COUNTY

Art. 1970-214. Jurisdiction of County Court of Harrison County

The county court of Harrison county shall have and exercise the general jurisdiction of a probate

and criminal court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle the accounts of executors, administrators and guardians, transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, settlement and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its jurisdiction; to punish contempt under such provisions as are now or may be provided by general law governing county courts throughout the state, and said county court of Harrison county shall have jurisdiction over all criminal causes and criminal matters of which county courts have jurisdiction under the existing laws or laws hereafter enacted; but the said county court of Harrison county shall not have any jurisdiction over civil causes or civil actions whatsoever.¹

[Acts 1911, p. 95, § 1.]

¹ Provision as to jurisdiction superseded by Articles 1970-215 and 1970-218 to 1970-223.

Art. 1970-215. Jurisdiction in Civil Cases

That the county court of Harrison county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county, when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest.

[Acts 1913, p. 103, § 1.]

Art. 1970-216. Judgments Heretofore Rendered in County Court; Executions, etc.

That this Act shall not be construed to in any wise or manner affect judgments heretofore rendered by said county court of Harrison county pertaining to matters and causes which by section 2 of this Act¹ are transferred to the district court of said county, but the county clerk of said county shall issue all executions and orders of sale, and proceedings thereunder, and this act in so doing shall be valid and binding to all intents and purposes, the same as if no change had been made as by section 2 therein contemplated.

[Acts 1911, p. 95, § 4.]

¹ Acts 1911, p. 95, superseded by Article 1970-215.

Art. 1970-217. Laws Repealed

That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

[Acts 1911, p. 95, § 5.]

Art. 1970-218. Appellate Jurisdiction in Civil Cases, etc.

Said county court shall have appellate jurisdiction in civil cases over which justices courts have original jurisdiction, when the judgment of the court appealed from, or the amount in controversy, shall exceed twenty dollars, exclusive of interest and costs, and said county court shall have power to hear and determine cases brought up from the justices courts by certiorari, under the provisions of the title of the Revised Civil Statutes of 1895 relating thereto.

[Acts 1913, p. 103, § 2.]

Art. 1970-219. May Grant Writs

The county judge of said county shall have authority, either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have the power to issue writs of habeas corpus in all cases in which the constitution has not exclusively conferred the power on the district court or judge thereof.

[Acts 1913, p. 103, § 3.]

Art. 1970-220. District Court Not to Have Jurisdiction When

The district court of said county shall no longer have jurisdiction of cases in which the county court of said county by provisions of this Act has original or appellate jurisdiction.

[Acts 1913, p. 103, § 4.]

Art. 1970-221. Clerk of District Court to Make Transcripts in Cases in Which Jurisdiction is Given to County Court, etc.

It shall be the duty of the clerk of the district court of said county within thirty days after this Act shall take effect to make full and complete transcripts of orders on the civil docket then pending before the district court of said county, of which cases by the provisions of this Act exclusive original or appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the docket for trial by said court, and a certified bill of costs in each case, and all such cases shall be immediately docketed by the county court, as appearance cases for the next succeeding term, and all civil cases shall be docketed and disposed of in the same manner as if the same had been originally filed in and triable in said county court, and all process in civil cases now issued and returnable to said district court shall be returnable to said county court.

[Acts 1913, p. 103, § 5.]

Art. 1970-222. Motions Against Sheriffs and Other Officers, etc.; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court, for failure to pay over moneys collected under process of said court, or other defalcation of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days any person guilty of contempt of said court, and shall also have all the other powers and jurisdiction conferred on county courts by the constitution and general laws of this state.

[Acts 1913, p. 103, § 6.]

Art. 1970-223. May Fix Terms of Court

The county commissioners' court of said county may hereafter fix the terms of said court whenever it may be deemed necessary.

[Acts 1925, S.B. 84.]

Art. 1970-223a. County Court at Law of Harrison County

Creation and Jurisdiction

Sec. 1. (a) On the effective date of this Act, as provided in Section 8 of the Act, the County Court at Law of Harrison County is created. It sits in Marshall.

(b) The County Court at Law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, as that prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Harrison County. The County Court at Law also has jurisdiction concurrent with the District Court in civil cases when the amount in controversy exceeds \$500 and does not exceed \$50,000, excluding interest, and in eminent domain cases and proceedings as provided by general law, regardless of the amount in controversy.

(c) The County Court at Law, or its Judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The Court and Judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Harrison County is the Judge of the County Court of Harrison County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Harrison County unless by this Act committed to the Judge of the County Court at Law of Harrison County.

(e) The Judge of the County Court at Law of Harrison County is a member of the Harrison County Juvenile Board.

Terms of Court

Sec. 2. The terms of the County Court at Law of Harrison County are the same as those of the County Court of Harrison County.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Harrison County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than three years, be well informed in the laws of this state, and who must have resided in and been actively engaged in the practice of law in Harrison County for a period of not less than two years prior to the general election. The Judge elected holds office for either two years or four years, his first elected term ending in compliance with the provisions of Article 16, Section 65(a), Constitution of the State of Texas, and until his successor has been duly elected and has qualified. During his term of office, the Judge may not appear and plead as an attorney at law in the County Court at Law of Harrison County or in any court with jurisdiction inferior to that of the county court at law.

(b) When this Act becomes effective, the Commissioners Court of Harrison County shall appoint a Judge to the County Court at Law of Harrison County. The Judge appointed must have the qualifications prescribed in Subsection (a) of this Section and serves until January 1st of the year following the next general election and until his successor has been duly elected and qualified. Any vacancy occurring in the office of the Judge of the County Court at Law may be filled in like manner by the Commissioners Court and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The Judge of the County Court at Law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law is entitled to receive the same salary as the Criminal District Attorney of Harrison County and, in addition to this salary, the Commissioners Court of Harrison County may pay him the full supplemental compensation paid to other members of the Harrison County Juvenile Board. Such salary and any additional compensation approved by the commissioners for his services on the Juvenile Board shall be paid in equal monthly installments out of the county treasury on order of the Commissioners Court. The Judge of the County Court at Law shall

assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the Judge.

(e) A special judge of the County Court at Law may be appointed in the manner provided by law for the appointment of a special county judge when the Judge of the County Court at Law of Harrison County is disqualified. A special judge must have the same qualifications as the Judge of the County Court at Law and is entitled to the same rate of compensation as the regular judge.

Court Officials and Personnel

Sec. 4. (a) The County Clerk and Sheriff of Harrison County, Texas, shall serve as clerk and sheriff, respectively, of the County Court at Law of Harrison County. The Commissioners Court of Harrison County may employ as many additional deputy sheriffs and clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Harrison County.

(b) The Judge of the County Court at Law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Harrison County, and shall serve at the pleasure of the Judge of the County Court at Law.

Practice

Sec. 5. (a) Practice in the County Court at Law of Harrison County shall conform to that prescribed by law for the County Court of Harrison County.

(b) The Judges of the County Court and the County Court at Law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law unless it is within the jurisdiction of that Court.

(c) The County Judge and the Judge of the County Court at Law may freely exchange benches with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the County Court or County Court at Law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the Judge of the County Court at Law may not sit or act in a case unless it is within the jurisdiction of his court.

(d) The jurisdiction and authority now vested by law in the County Court of Harrison County and the

judge thereof, for the drawing, selection and service of jurors shall also be exercised by the County Court at Law of Harrison County and the judge thereof; but jurors summoned for either of said courts may by order of the judge of the court in which they are summoned be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law of Harrison County and the Judge of the County Court of Harrison County jurors may be summoned for service in both courts and shall be used interchangeably in both such courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Representation of the State

Sec. 6. The Criminal District Attorney of Harrison County shall represent the State in all prosecutions in the County Court at Law of Harrison County, as provided by law for such prosecutions in County Court, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Court.

Facilities and Equipment

Sec. 7. (a) The Commissioners Court of Harrison County shall furnish and equip a suitable courtroom and office space for the County Court at Law.

(b) The County Court at Law shall have a seal identical with the seal of the County Court at Harrison County, except that it contains the words "County Court at Law of Harrison County."

Effective Date

Sec. 8. This Act becomes effective upon order of the Commissioners Court of Harrison County duly entered in its minutes.

[Acts 1967, 60th Leg., p. 916, ch. 402, eff. Aug. 28, 1967. Amended by Acts 1983, 68th Leg., p. 5657, ch. 1070, § 1, eff. June 19, 1983.]

HOCKLEY AND COCHRAN COUNTIES

Art. 1970-224. County Court of Hockley and Cochran Counties; Jurisdiction

The county court of Hockley County and the unorganized county of Cochran shall have and exercise original concurrent jurisdiction with the justices' courts in all civil matters which by the general laws of this State is conferred upon said justice of the peace courts.

[Acts 1923, 38th Leg., ch. 96, § 1.]

Art. 1970-225. Other Jurisdiction

Said county court shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings as is by the general laws of this state conferred upon county courts.

[Acts 1923, 38th Leg., ch. 96, § 2.]

Art. 1970-226. Appeals and Writs of Error

No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said county court in civil cases of which said court has appellate jurisdiction or original concurrent jurisdiction with the justices' court where the judgment or amount in controversy does not exceed one hundred dollars exclusive of interest and costs.

[Acts 1923, 38th Leg., ch. 96, § 3.]

Art. 1970-227. Jurisdiction of Justices of the Peace; Appeals

Nothing in this Act shall be construed to deprive the justices' courts of the jurisdiction now conferred upon them by law or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Section 1 of this Act; nor shall this Act be construed to deny the right of appeal from the justices' court to said county court in any case originally brought in any justice court where the right of appeal now exists by General Law.

[Acts 1923, 38th Leg., ch. 96, § 4.]

JASPER COUNTY

Art. 1970-228. Jasper County Court; Jurisdiction in Civil Cases

That the county court of Jasper county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county, when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars exclusive of interest.

[Acts 1911, p. 11, § 1.]

Art. 1970-229. Appellate Jurisdiction in Civil Cases

Said county court shall have appellate jurisdiction in civil cases over which justices courts have original jurisdiction, when the judgment of the court appealed from, or the amount in controversy, shall exceed twenty dollars, exclusive of interest and costs, and said county court shall have power to hear and determine cases brought up from the justices courts by certiorari, under the provisions of the title of the Revised Civil Statutes, of 1895, relating thereto.

[Acts 1911, p. 11, § 2.]

Art. 1970-230. May Grant Writs

The county judge of said county shall have authority, either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the constitution has not exclusively conferred the power on the district court or judge thereof.

[Acts 1911, p. 11, § 3.]

Art. 1970-231. Jurisdiction of Probate Court

That said court shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, settlement and distribution of estates of deceased persons; and to apprentice minors as provided by general law and to issue all writs necessary for the enforcement of its jurisdiction and decrees.

[Acts 1911, p. 11, § 4.]

Art. 1970-232. Forfeited Bonds, etc., in Criminal Cases

Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1911, p. 11, § 5.]

Art. 1970-233. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction

Said county court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct and except misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment, that does not exceed two hundred dollars, and said court shall have appellate jurisdiction with trial de novo in criminal cases in which justices of the peace and other inferior tribunals of said county have original jurisdiction.

[Acts 1911, p. 11, § 6.]

Art. 1970-234. Jurisdiction of District Court

The district court of said county shall no longer have jurisdiction of misdemeanors except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases in which the county court of said county by provisions of this Act have¹ original or appellate jurisdiction.

[Acts 1911, p. 11, § 7.]

¹ So in enrolled bill. Should probably read "has".

Art. 1970-235. District Clerk to Deliver Transcripts, etc., to County Clerk

It shall be the duty of the district clerk of said county within thirty days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets, then pending before the district court of said county, of which cases by the provisions of this Act original and appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the respective dockets for trial by said court.

[Acts 1911, p. 11, § 8.]

Art. 1970-236. Motions Against Sheriffs and Other Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs, and other officers of the court, for failure to pay over moneys collected under the process of said court or other defalcation of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and shall also have all other powers and jurisdiction conferred on county courts by the constitution and general laws of this state.

[Acts 1911, p. 11, § 9.]

Art. 1970-237. Terms of Court

The terms of said court shall commence on the third Monday in February, and on the third Monday in May, and on the third Monday in August, and on the third Monday in November of each year, and shall continue in session for each term until the business may be disposed of; provided that the county commissioners court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1911, p. 11, § 10.]

KENDALL COUNTY

Art. 1970-238. Jurisdiction of County Court of Kendall County

That the county court of Kendall county shall have and exercise the general jurisdiction of probate courts, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts as [of] executors, administrators, and guardians and transact all business appertaining to estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including partition, settlement and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction, to punish contempt

under such provisions as are now or may be provided by the general law governing county courts throughout the state, but the said county court of the said Kendall county shall have no other jurisdiction, civil or criminal whatsoever.

[Acts 1911, p. 30, § 1.]

Art. 1970-239. Jurisdiction of District Court

That the district court of Kendall county shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the law of this state, the county court of said county would have jurisdiction, original or appellate, except as provided in section 1 of this Act, all causes, other than probate matters and such as are provided by section 1 of this Act,¹ be and the same are hereby transferred to the district court of Kendall county, and all writs and processes relating to any civil or criminal matters included in the subject matter of jurisdiction prescribed in section 1 of this Act, issued by or out of the said county court of Kendall county, be and the same are hereby made returnable to the next term of the district court of said county after this Act takes effect.

[Acts 1911, p. 30, § 2.]

¹ Article 1970-238.

Art. 1970-240. County Clerk to Make Transcripts in Cases Transferred to District Court, etc.

That the county clerk of Kendall county be, and he is hereby required, within thirty days after this Act takes effect, to make a full and complete transcript of all entries upon his civil and criminal docket heretofore made in cases which, by section 2 of this Act,¹ are required to be transferred to the district court of said county, together with all the papers to such cause pertaining, a certified bill of costs in each case, and all such cases shall immediately be docketed by the district court as appearance for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had been originally triable in said district court, and all process now issued and returnable to said county court shall be returnable to said district court.

[Acts 1911, p. 30, § 3.]

¹ Article 1970-238.

Art. 1970-241. Judgments Heretofore Rendered in County Court; Executions, etc.

That this Act shall not be construed to, in anywise or in any manner, affect judgments heretofore rendered by said county court of Kendall county pertaining to matters and causes which by section 2 of this Act,¹ are (returnable)² to the district court of said county, but the county clerk of said county shall issue all executions and orders of sale, and proceedings thereunder shall be as valid and binding to all intents and purposes as though the change

had not been made as by section 2 therein contemplated.

[Acts 1911, p. 30, § 4.]

¹ Article 1970-239.

² So in enrolled bill.

LEE AND BURLESON COUNTIES

Art. 1970-242. Jurisdiction of County Court of Lee and Burleson Counties

The county court of Lee and Burleson Counties shall have and exercise original concurrent jurisdiction with the justice's courts in all civil matters which by the General Laws of this State is conferred upon said justice of the peace courts.

[Acts 1925, 39th Leg., ch. 151, p. 359, § 1.]

Art. 1970-243. Other Jurisdiction

Said county court shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings as is by the General Laws of this State conferred upon county courts.

[Acts 1925, 39th Leg., ch. 151, p. 360, § 2.]

Art. 1970-244. Appeals and Writs of Error

No appeal or writ of error shall be taken to the court of Civil Appeals from any final judgment of said county court in civil cases of which said court has appellate jurisdiction or original concurrent jurisdiction with the justice's court where the judgment or amount in controversy does not exceed one hundred dollars, exclusive of interest and costs.

[Acts 1925, 39th Leg., ch. 151, p. 360, § 3.]

Art. 1970-245. Jurisdiction of Justices of the Peace; Appeals

Nothing in this Act shall be construed to deprive the justice's courts of the jurisdiction now conferred upon them by law or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Section 1 of this Act; nor shall this Act be construed to deny the right of appeal from the justice's court to said county court in any case originally brought in any justice court where the right of appeal now exists by General Law.

[Acts 1925, 39th Leg., ch. 151, p. 360, § 4.]

OLDHAM COUNTY

Art. 1970-246. Oldham County Court; Jurisdiction in Civil Cases

That the county court of Oldham county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest.

[Acts 1911, p. 122, § 1.]

Art. 1970-247. Appellate Jurisdiction in Civil Cases

Said county court shall have appellate jurisdiction in civil cases over which justices courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest and costs, and said county court shall have power to hear and determine cases brought up from the justices courts by certiorari, under the provisions of the title of the Revised Civil Statutes of 1895 relating thereto.

[Acts 1911, p. 122, § 2.]

Art. 1970-248. May Grant Writs

The county judge of said county shall have authority either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the constitution has not exclusively conferred the power on the district court or judge thereof.

[Acts 1911, p. 122, § 3.]

Art. 1970-249. Jurisdiction of Probate Court

That said court shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estate of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards; including the partition, settlement and distribution of estates of deceased persons, and to apprentice minors as provided by general law and to issue all writs necessary for the enforcement of its jurisdiction and decrees.

[Acts 1911, p. 122, § 4.]

Art. 1970-250. Forfeited Bonds, etc., in Criminal Cases

Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1911, p. 122, § 5.]

Art. 1970-251. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases

Said county court shall have original jurisdiction of all misdemeanors, except involving official misconduct and except misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment that does not exceed two hundred dollars, and said court shall have appellate jurisdiction with trial de novo in criminal cases in

which justices of the peace and other inferior tribunals of said county have original jurisdiction.

[Acts 1911, p. 122, § 6.]

Art. 1970-252. Jurisdiction of District Court

The district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases in which the county court of said county by provisions of this Act has original or appellate jurisdiction.

[Acts 1911, p. 122, § 7.]

Art. 1970-253. District Clerk to Deliver Transcripts, etc., to County Clerk

It shall be the duty of the district clerk of said county within thirty days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets then pending before the district court of said county, of which cases by the provisions of this Act original and appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the respective dockets for trial by said court.

[Acts 1911, p. 122, § 8.]

Art. 1970-254. Motions Against Sheriffs and Other Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court or other defalcation of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and shall also have all other powers and jurisdiction conferred on county courts by the constitution and general laws of this state.

[Acts 1911, p. 122, § 9.]

Art. 1970-255. Terms of Court

The terms of said court shall commence on the fourth Monday in February, and on the fourth Monday in May, and on the fourth Monday in August, and on the fourth Monday in November of each year, and shall continue in session for each term until the business may be disposed of; provided that the county commissioners court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1911, p. 122, § 10.]

REAGAN COUNTY

Art. 1970-256. Reagan County Court; Jurisdiction; Transfer of Cases

Hereafter the county court of Reagan County in this State, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by general law for county courts. Any and all cases pending in the district court of Reagan County, which under the law after the taking effect of this Act should be pending in the county court of Reagan County, be and the same are hereby transferred to the county court of Reagan County, and all writs and processes relating to any such cases are hereby made returnable to the next term of the county court of Reagan County. The district clerk of Reagan County shall make the proper transfer of all cases hereinbefore provided for to be transferred, and shall make proper entry of such transfer upon his docket, and shall deliver over to the county clerk all necessary papers and files.

[Acts 1923, 38th Leg., ch. 21, § 1.]

Art. 1970-257. Judgments Not Affected; Executions Thereon

This Act shall not be construed to in any wise, or in any manner, affect judgments heretofore rendered by the district court pertaining to matters and causes which by this Act are made returnable to the county court, and the clerk of the district court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

[Acts 1923, 38th Leg., ch. 21, § 2.]

Art. 1970-258. Jurisdiction of District Court

The jurisdiction of the district court of Reagan County shall be such as is provided by the Constitution and General Laws of this State consistent with the change in the jurisdiction of the county court herein made.

[Acts 1923, 38th Leg., ch. 21, § 3.]

Art. 1970-259. County Court; Concurrent Jurisdiction With Justices of the Peace

The county court of Reagan County shall, in addition to the civil and criminal jurisdiction conferred upon county courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the justices courts in all civil matters which by the General Laws of this State is conferred upon justices' courts.

[Acts 1923, 38th Leg., ch. 21, § 4.]

Art. 1970-260. Appeals and Writs of Error

No appeal or writ of error shall be taken to the Court of Civil Appeals from any¹ final judgment of said county court in civil cases of which courts have appellate or original concurred² jurisdiction with the justices courts where the amount in controversy

does not exceed one hundred dollars, exclusive of interest and costs.

[Acts 1923, 38th Leg., ch. 21, § 5.]

¹ So in enrolled bill. Acts 1923 reads "an."

² So in enrolled bill. Should be "concurrent."

Art. 1970-261. Jurisdiction of Justices of the Peace; Appeals

This Act shall not be construed to deprive the justices' courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said county court over such matters as are specified in Section 4 of this Act, nor shall this Act be construed to deny the right of appeal from the justice court to said county court in any case originally brought in the justice court where the right of appeal now exists by law.

[Acts 1923, 38th Leg., ch. 21, § 6.]

STONEWALL COUNTY

Art. 1970-262. Stonewall County Court; Jurisdiction in Civil Cases

That the county court of Stonewall county shall have and exercise original concurrent jurisdiction with the justices courts in all civil matters which by the general laws of this state is conferred upon justices' courts.

[Acts 1913, p. 86, § 1.]

Art. 1970-263. Other Jurisdiction

Said county court shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the general laws of this state is conferred upon county courts.

[Acts 1913, p. 86, § 2.]

Art. 1970-264. Appeals and Writs of Error to Court of Civil Appeals

No appeal or writ of error shall be taken to the court of civil appeals from any final judgment of said county court in civil cases of which said court has appellate or original concurrent jurisdiction with the justice's court where the judgment or amount in controversy does not exceed one hundred dollars, exclusive of all interests and costs.

[Acts 1913, p. 86, § 3.]

Art. 1970-265. Jurisdiction of Justices of the Peace; Appeals

This Act shall not be construed to deprive the justices' courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said court over such matters as are specified in section 1 of this Act,¹ nor shall this Act be construed to deny the right of appeal from the justices' courts to the said county court in any case originally brought in the justice's court where the right of appeal now exists by law.

[Acts 1913, p. 86, § 4.]

¹ Article 1970-262.

SUTTON COUNTY

Art. 1970-266. Sutton County Court; Original Civil Jurisdiction

That the county court of Sutton County shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars and shall not exceed five hundred dollars, exclusive of interest, and that it shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

[Acts 1923, 38th Leg., ch. 30, § 1.]

Art. 1970-267. Appellate Jurisdiction in Civil Cases

Said county court shall have appellate jurisdiction in civil cases over which justice's courts of said county have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest, and said county court shall have the power to hear and determine cases brought up from the justice's courts by certiorari under the provisions of law relating thereto.

[Acts 1923, 38th Leg., ch. 30, § 2.]

Art. 1970-268. May Grant Writs

The county judge of said county shall have authority, either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution and laws have not exclusively conferred the power on the district judge or district court thereof.

[Acts 1923, 38th Leg., ch. 30, § 3.]

Art. 1970-269. Probate Jurisdiction

Said court shall have, as now, the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, and common drunkards, grant letters of¹ testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons; apprentice minors as provided by law; and to issue all writs necessary to the enforcement of its jurisdiction, orders, and decrees; and generally to exercise all the powers in probate matters conferred upon such courts by the Constitution and laws of the State.

[Acts 1923, 38th Leg., ch. 30, § 4.]

¹ So in enrolled bill. Word "of" should probably be omitted.

Art. 1970-270. Forfeited Bonds and Recognizances

Such courts shall have jurisdiction in the forfeiture of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1923, 38th Leg., ch. 30, § 5.]

Art. 1970-271. Jurisdiction of Misdemeanors; Appellate Jurisdiction in Criminal Cases

Said court shall have and exercise exclusive jurisdiction of all misdemeanors except misdemeanors involving official misconduct, and except misdemeanors in which the highest penalty that may be imposed by law is a fine, without imprisonment, that does not exceed two hundred dollars; and said court shall have appellate jurisdiction of criminal cases in which justice's courts and other inferior tribunals of said county have original jurisdiction.

[Acts 1923, 38th Leg., ch. 30, § 6.]

Art. 1970-272. Jurisdiction of District Court

The district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of civil cases of which the county court of said county by provisions of this Act has original or appellate jurisdiction.

[Acts 1923, 38th Leg., ch. 30, § 7.]

Art. 1970-273. Transcripts of Pending Cases; Entry of Cases in County Court

It shall be the duty of the district clerk of said county, within thirty days after this Act shall take effect to make full and complete transcript of orders on the criminal and civil dockets then pending before the district court of said county, of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said county court, and to file said transcript, together with the original papers in each case, in the county court of said county, and the county clerk shall enter said cases on the respective dockets of said county court as appearance cases for trial by said court.

[Acts 1923, 38th Leg., ch. 30, § 8.]

Art. 1970-274. Motions Against Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcations of official duty in connection with said process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and all other powers and jurisdictions conferred on county

courts by the Constitution and general laws of the State of Texas.

[Acts 1923, 38th Leg., ch. 30, § 9.]

Art. 1970-275. Terms of Court

The terms of said court shall commence on the third Monday in February, and on the third Monday in May, and on the third Monday in August, and on the third Monday in November of each year and shall continue in session for six weeks at each term, or until the business may be disposed of; provided that the county commissioners' court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1923, 38th Leg., ch. 30, § 10.]

WHEELER COUNTY**Art. 1970-276. Wheeler County Court; Jurisdiction in Civil Cases**

That the county court of Wheeler county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest.

[Acts 1911, p. 130, § 1.]

Art. 1970-277. Appellate Jurisdiction in Civil Cases

Said county court shall have appellate jurisdiction in civil cases over which justices courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest and costs, and said county court shall have power to hear and determine cases brought up from the justice courts by certiorari, under the provisions of the Title of the Revised Civil Statutes of 1895 relating thereto.

[Acts 1911, p. 130, § 2.]

Art. 1970-278. May Grant Writs

The county judge of said county shall have authority, either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or judge thereof.

[Acts 1911, p. 130, § 3.]

Art. 1970-279. Jurisdiction of Probate Court

That said court shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards,

grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards; including the partition, settlement and distribution of estates of deceased persons; and to apprentice minors as provided by general law, and to issue all writs necessary for the enforcement of its jurisdiction and decree.

[Acts 1911, p. 130, § 4.]

Art. 1970-280. Forfeited Bonds, etc., in Criminal Cases

Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1911, p. 130, § 5.]

Art. 1970-281. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases

Said county court shall have exclusive original jurisdiction of all misdemeanors except misdemeanors involving official misconduct and except misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment, that does not exceed two hundred dollars, and said court shall have appellate jurisdiction with trial de novo in criminal cases in which justices of the peace and other inferior tribunals of said county have original jurisdiction.

[Acts 1911, p. 130, § 6.]

Art. 1970-282. Jurisdiction of District Court

The district court of said county shall no longer have jurisdiction of misdemeanors except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases in which the county court of said county by provisions of this Act has original or appellate jurisdiction.

[Acts 1911, p. 130, § 7.]

Art. 1970-283. District Clerk to Deliver Transcripts, etc., to County Clerk

It shall be the duty of the district clerk of said county within thirty days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets, then pending before the district court of said county, of which cases by the provisions of this Act original and appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the respective docket for trial by said court.

[Acts 1911, p. 130, § 8.]

Art. 1970-284. Motions Against Sheriffs and Other Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court, for failure to pay over moneys collected under the process of said court or other defalcations of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and shall also have all other powers and jurisdiction conferred on county courts by the constitution and general laws of this state.

[Acts 1911, p. 130, § 9.]

Art. 1970-285. Terms of Court

The terms of said court shall commence on the fourth Monday in February, and on the fourth Monday in May, and on the fourth Monday in August, and on the fourth Monday in November of each year, and shall continue in session for each term until the business may be disposed of; provided, that the county commissioners court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1911, p. 130, § 10.]

ZAPATA COUNTY

Art. 1970-286. Zapata County Court; Jurisdiction in Civil Cases

That the county court of Zapata county shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars and shall not exceed five hundred dollars, exclusive of interest, and that it shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

[Acts 1913, p. 83, § 1.]

Art. 1970-287. Appellate Jurisdiction in Civil Cases

Said county court shall have appellate jurisdiction in civil cases over which justice's courts of said county have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest, and said county court shall have the power to hear and determine cases brought up from the justice's courts by certiorari under the provisions of law relating thereto.

[Acts 1913, p. 83, § 2.]

Art. 1970-288. Power to Grant Writs, etc.

The county judge of said county shall have authority either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and

all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the constitution and laws have not exclusively conferred the power on the district judge or district court thereof.

[Acts 1913, p. 83, § 3.]

Art. 1970-289. Jurisdiction of Probate Court

Said court shall have, as now, the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, and common drunkards, grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons; apprentice minors as provided by law; and to issue all writs necessary to the enforcement of its jurisdiction, orders and decrees; and generally to exercise all the powers in probate matters conferred upon such courts by the constitution and laws of the state.

[Acts 1913, p. 83, § 4.]

Art. 1970-290. Forfeited Bonds, etc., in Criminal Cases

Such court shall have jurisdiction in the forfeiture of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1913, p. 83, § 5.]

Art. 1970-291. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases

Said court shall have and exercise exclusive jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except misdemeanors in which the highest penalty that may be imposed by law is a fine, without imprisonment, that does not exceed two hundred dollars; and said court shall have appellate jurisdiction of criminal cases in which justice's courts and other inferior tribunals of said county have original jurisdiction.

[Acts 1913, p. 83, § 6.]

Art. 1970-292. Jurisdiction of District Court

The district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of civil cases of which the county court of said county, by the provisions of this Act, has original or appellate jurisdiction.

[Acts 1913, p. 83, § 7.]

Art. 1970-293. District Clerk to Deliver Transcripts, etc., to County Clerk

It shall be the duty of the district clerk of said county, within thirty days after this Act shall take effect, to make full and complete transcript of orders on the criminal and civil dockets then pending before the district court of said county, of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said county court, and to file said transcript together with the original papers in each case, in the county court of said county, and the county clerk shall enter said cases on the respective dockets of said county court as appearance cases for trial by said court.

[Acts 1913, p. 83, § 8.]

Art. 1970-294. Motions Against Sheriffs and Other Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcations of official duty in connection with said process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and all other powers and jurisdictions conferred on county courts by the constitution and general laws of the state of Texas.

[Acts 1913, p. 83, § 9.]

Art. 1970-295. Terms of Court

The terms of said court shall commence on the third Monday in February, and on the third Monday in May, and on the third Monday in September, and on the third Monday in November of each year, and shall continue in session for three weeks at each term, or until the business may be disposed of; provided, that the county commissioner's court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1913, p. 83, § 10.]

EDWARDS COUNTY

Art. 1970-296. Edwards County Court; Act Repealed

That Chapter 30 of the General Laws of the Regular Session of the Thirty-seventh Legislature be and the same is hereby repealed, and any and all laws which now stand repealed by reason of said Chapter 30 are hereby revived.

[Acts 1923, 38th Leg., ch. 61, § 1.]

SHELBY COUNTY

Art. 1970-297. Shelby County Court; Jurisdiction Restored

Chapter 8 of the General Laws of the Fourth Called Session of the Thirty-sixth Legislature is hereby repealed, and hereafter the county court of Shelby County, Texas, shall have the same jurisdiction

tion and shall be subject to the same provisions as county courts generally throughout the State under the General Laws of the State of Texas.

The jurisdiction of the district court in Shelby County is hereby conformed to the change herein made of the jurisdiction of the county court, and hereafter said district court shall have the same jurisdiction as district courts under the Constitution and General Laws. It shall be the duty of the district clerk of said county within thirty days after this Act shall take effect to make full and complete transcripts of all orders on the civil and criminal dockets in cases then pending before the district court of said county of which cases by the provisions of this Act original or appellate jurisdiction is given to said county court, and to deliver said transcripts together with all original papers and a certified bill of costs in each case to the county clerk of said county and said county clerk shall take charge of said transcripts and papers and file the same and enter said cases on the proper docket. All process heretofore issued from the district court of said court¹ in cases transferred under this Act to the county court shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the docket of said county court.

[Acts 1925, 39th Leg., ch. 89, p. 263, § 1.]

¹ So in enrolled bill. Should probably read "county."

McLENNAN COUNTY

Art. 1970-298. Repealed by Acts 1933, 43rd Leg., Spec.Laws, p. 110, ch. 83, § 1

Art. 1970-298a. Jurisdiction of McLennan County Court at Law Transferred to McLennan County Court; Salary of Judge

Sec. 2. All jurisdiction of all matters and causes, civil and criminal, original and appellate, which is now within the jurisdiction of the County Court at Law of McLennan County, is hereby transferred and conferred on the County Court of McLennan County, and all powers heretofore residing in said County Court at Law of McLennan County are hereby conferred on the County Court of McLennan County, and all powers heretofore residing in the Judge of the County Court at Law of McLennan County are hereby conferred on the County Judge of McLennan County, and all cases now pending in the County Court at Law of McLennan County, shall be, and the same are hereby transferred to the County Court of McLennan County, and all writs and processes, civil and criminal heretofore issued by or out of the County Court at Law of McLennan County, or the County Court of said County, shall be and the same are hereby made returnable to the County Court of McLennan County.

Sec. 3. The Judge of the County Court of McLennan County shall assess such fees as are or may be established by law relating to county judges, all of which shall be collected by the clerk of

said court, and be by him paid monthly into the County Treasury, and the judge of said County Court shall receive an annual salary of Three Thousand (\$3,000.00) Dollars, per year to be paid out of the County Treasury by the Commissioners' Court, provided that said Commissioners' Court may, if and when it sees fit, by order duly entered on the minutes of said Court, pay the County Judge of McLennan County a larger amount of salary, but not to exceed Three Thousand Six Hundred (\$3600.00) Dollars, per year, all to be paid monthly out of the County Treasury and from the general fund of said County.

[Acts 1933, 43rd Leg., Spec.Laws, p. 110, ch. 83.]

Art. 1970-298b. County Court at Law of McLennan County

Sec. 1. There is hereby created a Court to be held in McLennan County, to be called the County Court at Law of McLennan County.

Sec. 2. (a) The County Court at Law of McLennan County shall have jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the general laws and Constitution of the State, the County Court of the county would have jurisdiction.

(b) The jurisdiction of the County Court at Law of McLennan County and the Judge thereof shall extend to all matters of eminent domain, but this provision shall not affect the jurisdiction of the Commissioners Court, or of the County Judge of McLennan County as the presiding officer of the Commissioners Court as to roads, bridges, and public highways, and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the Judge thereof.

(c) Except as provided in Subsection (b) of this section, the County Court at Law of McLennan County and the Judge thereof shall have concurrent jurisdiction with the County Court of McLennan County and the Judge thereof in all matters and causes over which by the general laws and Constitution of the State the County Court would have jurisdiction.

Sec. 3. The County Court of McLennan County shall have the jurisdiction given County Courts under the Constitution and general laws of this State. The County Court, and the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of the court, and also to punish contempts under such provisions as are or may be provided by law governing County Courts throughout the State. The County Judge of McLennan County shall be the Judge of the County Court of McLennan County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of McLennan County, except insofar as the same shall by this Act be committed to the Judge of the County Court at Law of McLennan County.

Sec. 3a. (a) The Judge of either the County Court at Law of McLennan County or the County Court of McLennan County may, in his discretion, either in term time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any cause on his docket, to the docket of the other Court.

(b) The Judges of the Courts may, in their discretion, exchange benches from time to time. Whenever a Judge of one of the Courts is disqualified, he shall transfer the case from his Court to the other Court.

(c) Either Judge may, in his own courtroom, try and determine any case or proceeding pending in either Court, without having the case transferred, or may sit in the other Court, without having the case transferred, or may sit in the other Court and there hear and determine any case there pending. Each judgment and order shall be entered in the minutes of the Court in which the case is pending.

(d) In case of absence, sickness, or disqualification of either Judge, the other Judge may hold Court for him. Either of the Judges may hear any part of any case or proceeding pending in either of the Courts and determine the same or may hear and determine any question in any case, and either Judge may complete the hearing and render judgment in the case.

(e) In cases transferred to either of the Courts by order of the Judge of the other Court, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the Court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the Court to which the cases are transferred to as are fixed by law.

(f) All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the Court to which the transfer is made.

Sec. 4. The terms of the County Court at Law of McLennan County, shall be held as follows, to-wit:

On the first Mondays in January, March, May, July, September and November in each year, and each term of said Court shall continue in session until and including the Saturday next preceding the beginning of the next succeeding term thereof. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts.

Sec. 5. There shall be elected in McLennan County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of McLennan County, who shall be a qualified voter in said county, and who shall be a regularly licensed attorney at law in this State, well informed in the laws of this State, and who shall have resided

in and been actively engaged in the practice of law in this State or as the Judge of a Court for a period of not less than five (5) years next preceding such general election, who shall hold his office for two (2) years, and until his successor shall have been duly qualified.

Sec. 6. The Judge of the County Court at Law of McLennan County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 7. A Special Judge of the County Court at Law of McLennan County may be appointed or elected when and under such circumstances as are provided by law relating to County Courts and to the Judges thereof, who shall receive the sum of Ten (\$10.00) Dollars per day for each day he so actually serves, to be paid out of the General Fund of the county by the Commissioners Court.

Sec. 8. The Court created by this Act and the Judges thereof shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, and supersedeas, and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said Court or of any other Court or tribunal inferior to said Court.

Sec. 9. The Clerk of the County Court of McLennan County shall be the Clerk of the County Court at Law of McLennan County. The seal of said Court shall be the same as that provided by law for County Courts except that the seal shall contain the words "Clerk of the County Court at Law of McLennan County". The Sheriff of McLennan County shall in person or by deputy attend the said Court when required by the Judge thereof.

Sec. 10. (a) The judge of the County Court at Law of McLennan County is authorized to appoint an official shorthand reporter for the court. A person is eligible for appointment who is well skilled in his profession. Upon appointment the reporter is to serve as a sworn officer of the court, holding his office at the pleasure of the court.

(b) The reporter is not required to take testimony in a case unless a party to the case or the judge demands that testimony be taken. In cases in which the reporter is required to take testimony, the court clerk shall tax a \$3 fee as costs in the case. The clerk shall deposit fees collected under this Section in the treasury of McLennan County. The reporter shall be available for matters being considered in the County Court if a reporter is requested by the litigants before that court and the request is approved by the Judge of the County Court at Law.

(c) The reporter is entitled to receive the same compensation as the official shorthand reporters of the District Courts in McLennan County, which compensation is to be paid in the same manner as is the compensation of the official shorthand reporters

of the District Courts in McLennan County. The county judge, the county auditor, the Commissioners Court and any other officials of McLennan County charged with preparing and approving the county budget are authorized to amend the budget of McLennan County to provide for paying compensation to the reporter.

(d) Except where inconsistent with this Act, all General Laws relating to court reporters apply to the official court reporter of the County Court at Law of McLennan County.

Sec. 11. Any vacancy in the office of the Judge of the Court created by this Act shall be filled by the Commissioners Court of McLennan County until the next general election. The Commissioners Court of McLennan County shall, as soon as may be, after this Act shall take effect, appoint a Judge of the County Court at Law of McLennan County, who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 12. The Judge of the County Court at Law of McLennan County shall assess the same fees as are or may be established by law relating to County Judges, all of which shall be collected by the clerk of said court and be by him paid monthly into the County Treasury; and the Judge of said County Court at Law shall receive an annual salary of not more than Twenty Thousand Dollars (\$20,000), payable monthly, to be paid out of the County Treasury by the Commissioners Court.

Sec. 14. The County Judge of McLennan County shall receive an annual salary of Six Thousand, Six Hundred (\$6,600.00) Dollars to be paid monthly out of the County Treasury, out of the general fund of the county. Said County Judge shall assess the same fees, in matters within the jurisdiction of the County Court, as are or may be prescribed by law relating to County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be by him paid into the County Treasury monthly, for the use and benefit of the general fund; provided that the Commissioners Court of McLennan County may, if and when it sees fit, pay the County Judge a larger amount of annual salary, to be paid monthly out of the County Treasury in accordance with Chapter 320, page 601, 51st Legislature, Acts 1949.¹

[Acts 1951, 52nd Leg., p. 386, ch. 248. Amended by Acts 1965, 59th Leg., p. 226, ch. 97, § 1, eff. Jan. 1, 1966; Acts 1969, 61st Leg., p. 2120, ch. 724, § 1, eff. June 12, 1969; Acts 1971, 62nd Leg., p. 1785, ch. 524, §§ 1, 2, eff. June 1, 1971].

¹ Article 3912g.

Art. 1970-298c. Compensation of Judge

Sec. 1. The Commissioners Court of McLennan County may fix the total annual compensation of the judge of county court-at-law at an amount not to exceed \$14,000 a year. In all other respects, the

compensation of the judge of county court-at-law is governed by the General Law.

[Acts 1965, 59th Leg., p. 227, ch. 99.]

Art. 1970-298d. County Court at Law No. 2 of McLennan County

Sec. 1. The County Court at Law No. 2 of McLennan County is created on the date determined by the provisions of Section 11 of this Act.

Sec. 2. (a) The County Court at Law No. 2 of McLennan County has jurisdiction in all matters and causes, civil, criminal, and probate, original and appellate, over which by the general laws and constitution of the state the county court of the county would have jurisdiction, and its jurisdiction is concurrent with that of the County Court of McLennan County and the County Court at Law of McLennan County. This provision does not affect the jurisdiction of the commissioners court, or of the county judge of McLennan County as the presiding officer of the commissioners court, as to roads, bridges, and public highways, and matters that are now within the jurisdiction of the commissioners court or the county judge as presiding officer. The county judge of McLennan County shall be the judge of the County Court of McLennan County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of McLennan County, except insofar as the same shall by this Act be committed to the judge of the County Court at Law No. 2 of McLennan County.

(b) The County Court at Law No. 2 of McLennan County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest, as provided by general law.

Sec. 3. The County Court at Law No. 2 of McLennan County or its judge has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, and supersedeas, and all writs necessary to the enforcement of the jurisdiction of the court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court or tribunal inferior to that court. The court and judge have the power to punish for contempt as prescribed by law for county courts.

Sec. 4. (a) The judges of the county court and the county courts at law may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) The county judge and the judges of the county courts at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transfer-

ring the case involved. Either judge may hear all or any part of a case pending in the county court or in a county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(c) In cases transferred to either of the courts by order of the judge of one of the other courts, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances before taken in the cases, shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 5. The terms of the County Court at Law No. 2 of McLennan County shall be held on the first Mondays in January, March, May, July, September, and November in each year, and each term of the court shall continue in session until and including the Saturday next preceding the beginning of the next succeeding term. The practice in the court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to county courts.

Sec. 6. Regardless of whether the court is created prior to January 1, 1979, beginning at the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters in McLennan County, for a term beginning on January 1 following each election, a judge of the County Court at Law No. 2 of McLennan County, who shall be a qualified voter in the county, who shall be a regularly licensed attorney at law in this state, who shall be well informed in the laws of this state, who shall have resided in and been actively engaged in the practice of law in this state or as the judge of a court for a period of not less than five years next preceding such general election, and who shall hold his office until his successor shall have been duly qualified.

Sec. 7. The judge of the County Court at Law No. 2 of McLennan County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 8. A special judge of the County Court at Law No. 2 of McLennan County may be appointed or elected when and under such circumstances as are provided by law relating to county courts and to the judges thereof, who shall receive for each day he actually serves the same compensation as provid-

ed for a special judge of the County Court at Law of McLennan County, to be paid out of the general fund of the county by the commissioners court.

Sec. 9. The clerk of the County Court of McLennan County shall be the clerk of the County Court at Law No. 2 of McLennan County. The seal of the court shall be the same as that provided by law for county courts except that the seal shall contain the words "Clerk of the County Court at Law No. 2 of McLennan County." The sheriff of McLennan County shall in person or by deputy attend the court when required by the judge thereof.

Sec. 10. (a) The judge of the County Court at Law No. 2 of McLennan County is authorized to appoint an official shorthand reporter for the court. A person is eligible for appointment who is well skilled in his profession. On appointment the reporter is to serve as a sworn officer of the court, holding his office at the pleasure of the court.

(b) The reporter is not required to take testimony in a case unless a party to the case or the judge demands that testimony be taken. In cases in which the reporter is required to take testimony, the court clerk shall tax a \$3 fee as costs in the case. The clerk shall deposit fees collected under this section in the treasury of McLennan County. The reporter shall be available for matters being considered in the county court if a reporter is requested by the litigants before that court and the request is approved by the judge of the County Court at Law No. 2 of McLennan County.

(c) The reporter may receive the same compensation as the official shorthand reporters of the district courts in McLennan County, which compensation is to be paid in the same manner as is the compensation of the official shorthand reporters of the district courts in McLennan County. The county judge, the county auditor, the commissioners court, and any other officials of McLennan County charged with preparing and approving the county budget are authorized to amend the budget of McLennan County to provide for paying compensation to the reporter.

(d) Except where inconsistent with this Act, all general laws relating to court reporters apply to the official court reporter of the County Court at Law No. 2 of McLennan County.

Sec. 11. Any vacancy in the office of the judge of the court created by this Act shall be filled by the Commissioners Court of McLennan County until the next general election. The County Court at Law No. 2 of McLennan County is created on January 1, 1979, or on a date determined by the commissioners court by an order entered in its minutes, whichever date is earlier. If the court is created prior to January 1, 1979, the commissioners court shall appoint a judge of the County Court at Law No. 2 of McLennan County, who shall serve for a term ending on December 31, 1978, and until his successor is duly elected and has qualified.

Sec. 12. The judge of the County Court at Law No. 2 of McLennan County shall assess the same fees as are or may be established by law relating to county judges, all of which shall be collected by the clerk of the court and be paid monthly by him into the county treasury, and the judge of the County Court at Law No. 2 of McLennan County may receive an annual salary equal to the annual salary of the judge of the County Court at Law of McLennan County, payable monthly out of the county treasury by the commissioners court.

[Acts 1977, 65th Leg., p. 1007, ch. 373, eff. Aug. 29, 1977.]

HARRISON COUNTY

Art. 1970-299. Jurisdiction of County Court of Harrison County

Sec. 1. Hereafter the County Court of Harrison County, Texas, shall have the same jurisdiction and shall be subject to the same provisions as County Courts generally throughout the State, under the Constitution and General Laws of the State of Texas.

Sec. 2. The Jurisdiction of the District Court of the Seventy-first Judicial District of Texas is hereby conformed to the change herein made of the County Court of Harrison County, and hereafter said District Court shall have the same jurisdiction as District Courts generally throughout the State as provided and conferred by the Constitution and General Laws of the State of Texas.

[Acts 1927, 40th Leg., p. 150, ch. 99.]

EDWARDS COUNTY

Art. 1970-300. Changing Jurisdiction of County Court of Edwards County

Sec. 1. Hereafter the county court of Edwards County shall have no civil or criminal jurisdiction and shall have jurisdiction in probate matters only. The civil and criminal jurisdiction heretofore vesting in said county court is hereby transferred to the district court of said county.

Sec. 2. It shall be the duty of the county clerk of said county within thirty days after this Act shall take effect to make a full and complete transcript of all orders on the civil and criminal docket in said county court in all civil and criminal matters, and shall transfer the same together with all other papers and records in connection with such cases and matters, to the clerk of the district court of said county. Said county clerk shall also prepare certified bills of costs in each such case and deliver the same to said district clerk, and the district clerk shall take charge of such transcripts, papers and cost bills and file and enter the same in said cases on the proper docket. All process heretofore issued from the county court in said county in cases transferred by this Act to the district court shall be returnable to the first term of the district court after this Act takes effect, and all cases transferred by this Act shall be entered as appearance cases upon the docket of the district court.

[Acts 1927, 40th Leg., p. 333, ch. 226.]

Art. 1970-300a. Jurisdiction of Edwards County Court Increased; Terms of Court

Sec. 1. Hereafter the County Court of Edwards County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for County Courts.

Sec. 2. This Act shall not be construed to in anywise or any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. Jurisdiction of the District Court of Edwards County, Texas, shall be such as provided by the Constitution and General Laws of the State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Edwards County, Texas, shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justice Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said County Court in civil cases, of which said court has appellate, original or concurrent jurisdiction with Justice Court, where the amount in controversy does not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justice Court of jurisdiction now conferred upon it by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act; nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court, in any case originally brought in the Justice Court where the right of appeal exists under the Constitution and General Laws of this State.

Sec. 7. The District Clerk of Edwards County is required, within thirty (30) days after this Act takes effect, to make a full and complete transcript of all entries upon the criminal and civil dockets of said court, of any cases then pending before the District Court of said county, of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court, and to file said transcript, together with the original papers in each case, in the County Court of said county; and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said court, and said cases shall be disposed of in the same manner as if same had been

originally filed in the County Court, and all processes now issued and returnable to said District Court shall be returnable to said County Court; all processes heretofore issued by the District Court in said cases, as well as all bonds and recognizances heretofore taken in the District Court, shall be as valid as if no changes had been made as to the jurisdiction of said respective courts; and all bonds executed and recognizances entered in said District Court shall bind the parties to the next term of the County Court after this law becomes effective.

Sec. 8. The terms of said County Court shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August, and on the first Monday in November of each year; and each of said terms shall continue in session until the Saturday before the Monday on which a new term commences; provided that the Commissioners Court of said county may hereafter change the terms of said court whenever it may be deemed necessary by said Commissioners Court.

Sec. 9. All laws and parts of laws in conflict with this Act are hereby expressly repealed insofar as they relate to Edwards County, Texas.

[Acts 1949, 51st Leg., p. 261, ch. 140.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

BEXAR COUNTY

Art. 1970-301. County Courts at Law Nos. 1 and 2 of Bexar County

Sec. 1. From and after the passage and taking effect of this Act the county court of Bexar County for civil cases shall be known and designated as the "County Court at Law No. 1, of Bexar County, Texas." The present judge and all officers of the county court of Bexar County for civil cases shall continue as such respective judge and officers of the County Court at Law No. 1, of Bexar County, Texas, until the expiration of their present terms of office and until their successors shall have been duly elected or appointed and qualified.

Sec. 2. From and after the passage and taking effect of this Act the county court of Bexar County for criminal cases shall be known and designated as the "County Court at Law No. 2, of Bexar County, Texas." The present judge and all officers of the county court of Bexar County for criminal cases shall continue as such respective judge and officers of the County Court at Law No. 2, of Bexar County, Texas, until the expiration of their present terms of office and until their successors shall have been duly elected or appointed and qualified.

Sec. 3. Said County Court at Law No. 1, of Bexar County, Texas, and the judge thereof, shall have and exercise the same jurisdiction, original and appellate, heretofore conferred on said county court of Bexar County for civil cases, and the judge thereof, and in addition thereto, shall have jurisdiction within Bexar County, Texas, of all such subject

matters and causes, original and appellate, over which the county court of Bexar County for criminal cases has heretofore had jurisdiction; and the authorized jurisdiction of said courts, namely, the County Court at Law No. 1, of Bexar County, Texas, and the County Court at Law No. 2, of Bexar County, Texas, over all such matters, within said county, shall be concurrent.

Sec. 4. Said County Court at Law No. 2 of Bexar County, Texas, and the judge thereof, shall have and exercise the same jurisdiction, original and appellate heretofore conferred on said county court of Bexar County for criminal cases, and the judge thereof, and in addition thereto, shall have jurisdiction within Bexar County, Texas, of all such subject matters and causes, original and appellate, over which the county court of Bexar County for civil cases has heretofore had jurisdiction; and the authorized jurisdiction of said courts, namely, the County Court at Law No. 1, of Bexar County, Texas, and the County Court at Law No. 2, of Bexar County, Texas, over all such matters, within said county, shall be concurrent.

Sec. 4-A. The Judge of the County Court at Law No. 2 of Bexar County, Texas, upon proper certification of the County Judge of Bexar County, Texas, because of conflicting duties, or absence or inability to act; or upon the failure or refusal of such County Judge to act for any reason or cause, shall also be authorized and empowered to act for and in the place and stead of said such County Judge in any probate proceeding or matter, and also may perform for the County Judge of Bexar County any and all other ministerial acts required by the laws of this State of said County Judge of Bexar County, Texas, including the granting or denying of applications for beer and wine licenses and other authority given the County Judge as set forth in the Alcoholic Beverage Code, and upon any such certification, the Judge of said County Court at Law No. 2, of Bexar County, Texas, shall give preference and priority to all such actions, matters, and proceedings so certified, and any and all such acts thus performed by the Judge of said County Court at Law No. 2, of Bexar County, Texas, shall be valid and binding upon all parties to such actions, matters, and proceedings the same as if performed by the County Judge of Bexar County, Texas. Provided, that the powers thus conferred on the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall extend to and include all powers of the County Judge of Bexar County, Texas, except his powers and duties in connection with the transaction of the business of the County as presiding officer of the Commissioners Court, and in connection with the budget of Bexar County. And provided further that the provisions of this paragraph shall be in addition to and cumulative of the provisions of Chapter 355, Acts of the 52nd Legislature, Regular Session, 1951 (Article 1969a-2, Vernon's Texas Civil Statutes).

Notwithstanding the additional powers and duties conferred upon the Judge of the County Court at Law No. 2, of Bexar County, Texas, by the provisions of this paragraph, no additional compensation or salary shall be paid to said Judge, but the compensation or salary of such Judge shall remain the same as now, or as may be hereafter, fixed by law.

Sec. 5. From and after the passage and taking effect of this Act, civil and criminal cases, within the jurisdiction of said courts, may be filed in either the County Court at Law No. 1, of Bexar County, Texas, or in the County Court at Law No. 2 of Bexar County, Texas.

Sec. 6. Whenever the judge of said County Court at Law No. 1, or the judge of said County Court at Law No. 2 of Bexar County, Texas, may deem it advisable or expedient he may transfer any case or cases pending in the court over which he presides to the other of said county courts at law, and the written order upon the minutes of said court so transferring such case, signed by the judge thereof making the transfer, shall be authority for the clerk of said court to make such transfer.

Sec. 7. It shall be the duty of the judge of the County Court at Law No. 1 of Bexar County, Texas, as soon as practicable after the passage and taking effect of this Act to transfer as aforesaid from the docket of said court to the docket of said County Court at Law No. 2 of Bexar County, Texas, approximately one-half of the civil cases pending upon said docket, which shall be done by transferring every alternate case without reference to whether any particular case be pending upon the jury or nonjury of said court; provided, this section is directory in nature.

Sec. 8. It shall be the duty of the judge of the County Court at Law No. 2 of Bexar County, Texas, as soon as practicable after the passage and taking effect of this Act, to transfer as aforesaid from the docket of said court to the docket of said County Court at Law No. 1, of Bexar County, Texas, approximately one-half of the criminal cases pending upon said docket, which shall be done by transferring every alternate case without reference to whether any particular case be pending upon the jury or nonjury docket of said court; provided, this section is directory in nature.

Sec. 9. The Judges of the two County Courts at Law of Bexar County, Texas, may at any time exchange benches, and may at any time sit and act for and with each other in any civil or criminal case, matter or proceeding now and hereafter pending in either of the said County Courts at Law of Bexar County, Texas; and any and all such acts thus performed by the Judge of the County Court at Law No. 1, of Bexar County, Texas, or by the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 10. All writs, processes, judgments and decrees, civil and criminal, heretofore issued by or out

of the said county court of Bexar County for civil cases or the said county court of Bexar County for criminal cases, as well as all bonds and recognizances taken in either of said courts, and all other acts and proceedings had therein, shall be as valid and enforceable and binding as if no change had been made in the name, designation, jurisdiction or time of the holding of either of said courts, and each and all of the same are, respectively, hereby made returnable and effective in that one of said county courts at law which shall have jurisdiction of the cause in conformity with the terms and provisions of this Act.

Sec. 11. The Judges of the County Courts at Law, Nos. 1 and 2, of Bexar County, Texas, shall each take the oath of office prescribed by the Constitution of Texas, but no bond shall be required of either of said Judges. The Judge of the County Court at Law No. 1, of Bexar County, Texas, shall receive an annual salary of Six Thousand (\$6,000.00) Dollars, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall receive an annual salary of Six Thousand (\$6,000.00) Dollars. Said salary shall be paid to each of said Judges in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said county upon orders of the Commissioners' Court of Bexar County, Texas.

Sec. 12. The County Court of Bexar County, Texas, and the Judge thereof shall have and retain the same jurisdiction, powers, fees, and perquisites of office as conferred on said County Court of Bexar County, or the Judge thereof, at and before the time of the passage and taking effect of this Act; and this Act shall in no wise affect said County Court. Provided, however, that the maximum fees of the office of the County Judge shall not exceed Six Thousand, Five Hundred Dollars (\$6,500.00), even though more than one person may perform the duties of said County Judge, in which case the total shall be divided in accordance with services performed. Provided, however, that a County Judge shall not draw a salary amounting to more than Five Thousand Dollars (\$5,000.00) per annum and providing that no more than the aggregate sum of Fifteen Hundred Dollars (\$1500.00) shall be paid in any one (1) year to special judges for said county.

Sec. 13. The County Court at Law No. 1, of Bexar County, Texas, shall hold six terms of court each year commencing on the first Monday in January, March, May, July, September and November, and each term shall continue until the business shall have been disposed of; and the County Court at Law No. 2, of Bexar County, Texas, shall hold six terms of court each year, commencing on the first Monday in February, April, June, August, October and December, and each term shall continue until the business shall have been disposed of; provided, no term of either of said courts shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its

minutes during the term extending the term for any particular causes therein specified.

Sec. 14. Special judges may be appointed or elected for either or both of the County Courts at Law of Bexar County, Texas, and in the same manner as may now or hereafter be provided by the general laws of this state relating to the appointment and election of a special judge or judges of the several district and county courts of this state; and every such special judge thus appointed or elected for either of said two courts shall receive for the services he may actually perform as such special judge the same amount of pay which the regular judge of said court would be entitled to receive for such services. The amount to be paid to such special judge shall be paid out of the general fund of Bexar County, Texas, by warrants drawn upon the county treasury of said county upon orders of the Commissioners' Court of Bexar County, Texas; but no part of the amount paid to any special judge shall be deducted from or paid out of the salary of either of the regular judges of said respective County Courts at Law.

Sec. 15. The County Clerk of Bexar County, Texas, shall be the clerk of the County Court at Law No. 1, of Bexar County, Texas, and also the clerk of the County Court at Law No. 2, of Bexar County, Texas. The seal of said courts shall be the same as provided by law for County Courts, except that the seal of the County Court at Law No. 1, of Bexar County, Texas, shall contain the words "County Court at Law No. 1, of Bexar County, Texas", and the seal of the County Court at Law No. 2, of Bexar County, Texas, shall contain the words "County Court at Law No. 2, of Bexar County, Texas." The County Clerk of Bexar County, Texas, shall, upon the taking effect of this Act or as soon thereafter as may be possible, appoint a deputy for each of the said County Courts at Law; provided, however, that the persons thus appointed must be acceptable to the respective judges of said courts, and such appointment for each of said courts must be confirmed in writing by the Judge thereof before it becomes effective. The said two deputies thus appointed shall, before assuming their respective duties, take the oath of office prescribed by the Constitution of Texas, Article 16, Section 1 thereof; and the County Clerk of Bexar County, Texas, shall have the power and authority to require said deputies to furnish bonds in such amount, conditioned and payable as may be prescribed by said clerk or provided by law. The said two deputies shall act in the name of their principal and they, and each of them, may do and perform all such official acts as may be lawfully done and performed by the said County Clerk in person; and it shall be the duty of each of said two deputies to attend all sessions of the County Court at Law of Bexar County, Texas, to which he has been appointed, and perform such services in and for said courts as are usually performed by the County Clerk and their deputies in the several County Courts of this State; and said

two deputies shall also perform any and all other services that may from time to time be assigned them by the Judges of said courts. The County Clerk of Bexar County, Texas, and his several deputies, including the two deputies to be appointed for said courts as hereinabove provided, shall, in all cases, both civil and criminal, pending in said courts when this Act takes effect, and also in all such cases thereafter filed in said courts, tax and assess and collect the same fees and costs, and in the same manner, as now provided by law for the County Courts of this state and the Judges thereof in similar cases; and all such fees and costs, when collected by said County Clerk and his several deputies, as well as any and all other sums of money received by said County Clerk and his deputies in their official capacity, shall by said Clerk and deputies be deposited in such fund, or paid to the proper person or persons entitled to the same, and in the manner, as may be provided by law. The said two deputies to be appointed for said two courts are authorized to act for one another in any matter pertaining to the clerical business of said courts, and it shall be their duty to thus act for one another when requested to do so by the Judges of said Courts or by the said County Clerk; but such deputies acting for one another shall not be entitled to receive, nor shall they receive, any additional compensation. The said two deputies shall, from and after their said appointment, confirmation and qualification, as herein provided, continue as such respective deputies at the pleasure of the Judges of said courts; and should either of said Judges for any reason whatsoever not further desire the services of said deputy clerk, the County Clerk of Bexar County, Texas, shall, upon request of such Judge or Judges, appoint another deputy for such court or courts, such appointment, however, to be made in the manner as hereinabove provided. In the event of a vacancy caused by any reason whatsoever the County Clerk of Bexar County, Texas, shall immediately appoint another deputy for the court in which a vacancy may occur, such appointment, however, shall be with written approval and confirmation of the Judge of the Court in which a vacancy may occur. The salary of the deputy clerk appointed for each of the said County Courts at Law of Bexar County, Texas, shall be determined and fixed by the respective Judges of said courts in any amount not exceeding Two Thousand Five Hundred (\$2,500.00) Dollars annually; said annual salaries to be paid to said deputy clerks in equal monthly installments out of each fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the County Clerk of Bexar County, Texas, and such payment of said salaries shall be made in the manner provided by law. However, before such monthly salaries are paid to said deputies the Judges of said courts shall cause to be filed with the County Clerk of Bexar County, Texas, or with the proper officer of said county, a written statement, signed by said Judges, certifying that said two deputies have performed the services re-

quired of them and that they are entitled to receive their said salaries, and such salaries of said deputies shall be paid to them only upon such certificate being signed and filed by said Judges. Provided that nothing contained in this section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being exercised by the County Clerk of Bexar County, Texas, except as herein specifically and expressly stated.

Sec. 15-A. The Sheriff of Bexar County, Texas, shall, by and through deputies to be appointed as hereinafter provided, attend all sessions of the County Court at Law No. 1, of Bexar County, Texas, and the County Court at Law No. 2, of Bexar County, Texas; and the Sheriff of Bexar County, Texas, shall, upon the taking effect of this Act, or as soon thereafter as may be possible, appoint one deputy for each of the said County Courts at Law of Bexar County, Texas; provided, however, that the persons thus appointed as such deputies must be acceptable to the Judges of said courts, and said appointments for each of said courts must be approved and confirmed in writing by the judge of said court before same becomes effective. The said deputy sheriffs shall, before assuming their respective duties, take the oath of office prescribed by the Constitution of Texas, Article 16, Section 1 thereof; and the Sheriff of Bexar County, Texas, shall have the power and authority to require said deputies to furnish bonds in such amount, conditioned and payable as may be prescribed by said Sheriff or provided by law. The said two deputies shall act in the name of their principal and they may do and perform all such official acts as may be lawfully done and performed by the Sheriff of Bexar County, Texas, in person. The said two deputies shall, from and after their said appointment, confirmation and qualification, as hereinabove provided, continue as such respective deputies at the pleasure of the Judges of said courts; and should either of said Judges, for any reason whatsoever, not further desire the services of said deputy sheriffs, the Sheriff of Bexar County, Texas, shall, upon request of such Judge, appoint another deputy for such court, such appointment, however, to be made in the manner as hereinabove provided. It shall be the duty of the said two deputies, who are to be appointed as herein provided, to attend all sessions of the said two courts and also perform and render such services in and for said courts, and for the Judges thereof, as are usually and generally performed and rendered by Sheriffs and their deputies in and about the several district and county courts throughout this state, and including the serving of any and all process, subpoenas, warrants and writs of any and all kinds and nature, in both civil and criminal cases, matters and proceedings; and it shall be the duty of said deputy sheriffs to also perform and render any and all other services that may from time to time be assigned them, or to either of them, by the Judges of said courts. The said two deputies shall have, possess and enjoy the same rights, powers, authority and privileges that the Sheriffs and their depu-

ties throughout this state now or may hereafter have, possess and enjoy. The said deputy sheriff of the said County Court at Law No. 1, of Bexar County, Texas, and the said deputy sheriff of the said County Court at Law No. 2, of Bexar County, Texas, are authorized and empowered to act for one another, and it shall be their duty to so act for one another when required to do so by either of the Judges of said courts or by said Sheriff; but said deputies thus acting for one another shall not be entitled to receive, nor shall they receive, any additional compensation. The Sheriff of Bexar County, Texas, shall, in the event of a vacancy caused by any reason whatsoever, immediately appoint another deputy for such court in which a vacancy may occur, such appointment, however, to be subject to the approval and written confirmation of the Judge of the court in which such vacancy may exist. The salary of the said deputy appointed for each of said County Courts at Law of Bexar County, Texas, shall be determined and fixed by the Judge of said court in any sum not exceeding Two Thousand Five Hundred (\$2,500.00) Dollars annually. The said annual salaries to be paid to said two deputies, when fixed by said Judges as herein provided, shall be paid to them in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the Sheriff of Bexar County, Texas, and such payment of said salaries shall be made in the manner provided by law. However, before such monthly salaries are paid to said deputy sheriffs the Judges of said courts shall cause to be filed with the Sheriff of Bexar County, Texas, or with the proper officer of said county, a written statement, signed by said Judges, certifying that said two deputies have performed and rendered the services required of them and that they are entitled to receive their said salaries. Provided that nothing contained in this section of this Act is intended to change or alter the duties and powers of the Sheriff of Bexar County, Texas, except as herein specifically and expressly stated.

Sec. 16. The term of the County Court at Law No. 1, of Bexar County, Texas, current at the time of the taking effect of this Act shall continue until the commencement of the next following term of said court, in the month as fixed by this Act, in the year 1927, or until any earlier adjournment thereof. All process issued out of said court before this Act takes effect, and not theretofore returnable, or returnable on some special date, is hereby made returnable to the terms of court as fixed by this Act. All bonds heretofore executed in said court shall bind the parties to fulfill the obligation of such bonds at the terms of court, and to that one of said county courts at law having jurisdiction of the cause, in conformity with this Act. All writs and process heretofore issued and returned, as well as all bonds heretofore taken in said county court of Bexar County for civil cases, and all judgments, writs and decrees thereof, shall be as valid and binding, and enforceable, as if no change had been

made in the jurisdiction or the time of the holdings of said court, or in the name and designation of said court.

Sec. 17. The term of the County Court at Law No. 2, of Bexar County, Texas, current at the time of the taking effect of this Act, shall continue until the commencement of the next following term of said court in the month as fixed by this Act, in the year 1927, or until any earlier adjournment thereof. All process issued out of said court before this Act takes effect, and not theretofore returnable, or returnable on some special date, is hereby made returnable to the terms of court as fixed by this Act. All bonds and recognizances heretofore executed and taken in said court shall bind the parties to fulfill the obligations of such bonds and recognizances at the terms of court, and to the one of said county courts at law having jurisdiction of the cause, in conformity with this Act. All writs and processes heretofore issued and returned, as well as all bonds and recognizances heretofore executed and taken in said county court of Bexar County for criminal cases, and all judgments and writs and decrees thereof shall be as valid and binding and enforceable as if no change had been made in the jurisdiction or the time of the holdings of said court, or in the name and designation of said court.

Sec. 18. There shall be appointed by the county attorney of said county, in addition to the assistants now provided by law, one special assistant, for the purpose of conducting the duties of his office in said courts. Such assistant county attorney shall be paid a salary of three thousand (\$3,000.00) dollars annually, in equal monthly installments, by said county, upon warrants drawn against the general fund by orders of the commissioners court.

Sec. 19. For the purpose of preserving a record in all cases for the information of the court, jury and parties, the judge of the County Court at Law No. 2, of Bexar County, Texas, may appoint an official shorthand reporter for said court who shall be well skilled in his profession, shall be a sworn officer of the court, and shall hold his office at the pleasure of the court; and the provisions of the law relating to the appointment of stenographers for the district courts of this State shall, and they are hereby made to apply in all their provisions, in so far as they are applicable, to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary, and shall perform the same duties, and shall take the same oath as now provided by the General Laws of this State covering the stenographers of the district courts of this State; and in all cases pending in said County Court at Law No. 2, of Bexar County, Texas, at the time of the passage and taking effect of this Act, and in all civil cases that may hereafter be filed in said court in which an answer has been filed or may be filed, and also in all other cases, civil and criminal, where either party litigant, or the court, should require the official shorthand reporter to take down the testimony, a

stenographer's fee of three (\$3.00) dollars shall be taxed by the clerk of said court as costs in this case, the same to be in addition to all other costs, and said fee, when so collected by said clerk, shall be by him paid into the treasury of Bexar County in the same manner as now required of district clerks under similar circumstances.

Sec. 20. The Act of the Legislature of the State of Texas, enacted by the Thirty-second Legislature, Regular Session, known as House Bill No. 111, Chapter 10, approved February 20, 1911, found on pages 15, 16 and 17, of the Session Laws of said Legislature, creating the county court of Bexar County for civil cases, and each provision of said Act, and the amendment to said Act passed by the Thirty-eighth Legislature of the State of Texas, known as House Bill No. 367, found on pages 73 and 74, of the Session Laws of the said Legislature, authorizing the appointment of an official shorthand reporter for said court, shall, except in so far as in conflict herewith, remain in full force and effect, and apply to the County Court at Law No. 1, of Bexar County, Texas.

Sec. 21. The Act of the Legislature of the State of Texas, enacted by the Thirty-fourth Legislature, Regular Session, known as Senate Bill No. 323, Chapter 39, approved March 5, 1915, as found on pages 78, 79, 80 and 81, of the Session Laws of said Legislature, creating the county court of Bexar County for criminal cases, and each provision of said Act, shall, except in so far as in conflict herewith, remain in full force and effect, and apply to the County Court at Law No. 2, of Bexar County, Texas.

Sec. 21-A. The terms of office of the Judge of the County Court at Law No. 1, of Bexar County, Texas, and of the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall be two years. The present Judge of each of said courts shall continue as such Judge thereof until the expiration of his present term of office, and until his successor shall have been duly elected or appointed and qualified, as hereinafter provided. At the next general election to be held within this state and in Bexar County, Texas, after the taking effect of this Act, to-wit, the first Tuesday in the month of November, A.D. 1938, and every two years thereafter, at each general election, there shall be elected by the qualified voters of said county a Judge of each of said courts, both of whom shall be well informed in the laws of this State, and who shall hold their respective offices for a term of two years and until their successors shall have been duly elected or appointed and qualified; provided, however, that no person shall be eligible for Judge of either the said County Court at Law No. 1, of Bexar County, Texas, or the said County Court at Law No. 2, of Bexar County, Texas, unless he shall be a citizen of the United States and of this state, and shall have been a practicing lawyer of Bexar County, Texas, for at least four years next preceding his election, or is or has been a Judge of a court in this State. Should

there be a vacancy in the office of Judge of either of said courts such vacancy shall be filled by appointment by the Commissioners' Court of Bexar County, Texas, and the person or persons thus appointed shall hold such office until their successor, or successors, who shall be elected at the next general election to be held in Bexar County, Texas, after such appointment, shall have qualified according to law; and the person thus appointed shall have the qualifications hereinbefore specified for a Judge of said courts.

Sec. 21-B. The practice in said County Courts at Law of Bexar County, Texas, shall be the same as prescribed by laws relating to County Courts. Appeals and writs of error may be taken from judgments and orders of said two County Courts at Law of Bexar County, Texas, and from judgments and orders of the Judges thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by laws relating to appeals and writs of error from judgments and orders of the County Courts throughout this state, and the respective Judges thereof, in similar cases. And appeals may be taken from interlocutory orders of the said two County Courts at Law appointing a receiver, and also from orders of the said two County Courts at Law overruling a motion to vacate or an order appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the District Courts throughout this state.

[Acts 1927, 40th Leg., p. 26, ch. 22. Amended by Acts 1933, 43rd Leg., Spec.Laws, p. 61, c. 50, §§ 1, 2; Acts 1935, 44th Leg., p. 715, ch. 309, § 1; Acts 1937, 45th Leg., p. 45, ch. 33, §§ 1 to 7; Acts 1939, 46th Leg., Spec.Laws, p. 617, § 1; Acts 1979, 66th Leg., p. 824, ch. 371, § 1, eff. Aug. 27, 1979.]

Art. 1970-301a. Official Shorthand Reporters; Salary

From and after the effective date of this Act the Official Shorthand Reporter for the County Court at Law No. 1, of Bexar County, Texas, and the Official Shorthand Reporter for the County Court at Law No. 2, of Bexar County, Texas, shall each receive an annual salary of Five Thousand, Five Hundred Dollars (\$5,500), said annual salary to be paid to each of said Official Shorthand Reporters in equal monthly installments out of the general fund of Bexar County, Texas, upon orders of the Commissioners Court of said County.

[Acts 1951, 52nd Leg., p. 217, ch. 129, § 1.]

Art. 1970-301b. Salaries of Judges

From and after the effective date of this Act the Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall each receive an annual salary of Eight Thousand, Two Hundred and Fifty Dollars (\$8,250). Said annual salary shall be paid to each of said Judges in equal

monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said County, upon orders of the Commissioners Court of Bexar County, Texas.

[Acts 1951, 52nd Leg., p. 867, ch. 490, § 1.]

Art. 1970-301c. Salaries of Judges

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

[Acts 1953, 53rd Leg., p. 441, ch. 129, § 1.]

Art. 1970-301d. County Court at Law No. 3 of Bexar County

Sec. 1. There is hereby created a Court to be held in Bexar County, Texas, to be known and designated as the "County Court at Law No. 3, of Bexar County, Texas."

Sec. 2. The County Court at Law No. 3, of Bexar County, Texas, shall have, and it is hereby granted, the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions, matters and proceedings under the Constitution and Laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Bexar County, Texas, and the Judge of said Court shall have the same powers, rights, privileges as to criminal matters as are now or may be vested in the Judges of county courts having criminal jurisdiction.

The County Court at Law No. 3, of Bexar County, Texas, shall have, and it is hereby granted, the same jurisdiction and powers in civil actions, matters and proceedings that are now or may be conferred by law upon and vested in the County Court at Law No. 1, of Bexar County, Texas, and in the County Court at Law No. 2, of Bexar County, Texas, and the Judges thereof. Provided, however, that the jurisdiction of said County Court at Law No. 1, of Bexar County, Texas, and the jurisdiction of said County Court at Law No. 2, of Bexar County, Texas, and the jurisdiction of said County Court at Law No. 3, of Bexar County, Texas, over all such actions, matters and proceedings, civil and criminal, within said Bexar County, shall be concurrent.

The Judge of the County Court at Law No. 3 of Bexar County, Texas, upon proper certification of the County Judge of Bexar County, Texas, because of conflicting duties, or absence or inability to act; or, upon the failure or refusal of such County Judge to act for any reason or cause, shall also be authorized and empowered to act for and in the place and

stead of said such County Judge in any lunacy, probate and condemnation proceeding or matter, and also may perform for the County Judge of Bexar County any and all other ministerial acts required by the laws of this State of said County Judge of Bexar County, Texas, and upon any such certification, the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall give preference and priority to all such actions, matters and proceedings so certified, and any and all such acts thus performed by the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall be valid and binding upon all parties to such actions, matters and proceedings the same as if performed by the County Judge of Bexar County, Texas. Provided, that the powers thus conferred on the Judge of the County Court at Law No. 3, of Bexar County, Texas, shall extend to and include all powers of the County Judge of Bexar County, Texas, except his powers and duties in connection with the transaction of the business of the County as presiding officer of the Commissioners Court, and in connection with the budget of Bexar County. And provided further that the provisions of this paragraph shall be in addition to and cumulative of the provisions of House Bill No. 748, Acts 1951, Regular Session, Fifty-second Legislature, Page 601, Chapter 355.

Notwithstanding the additional powers and duties conferred upon the Judge of the County Court at Law No. 3, of Bexar County, Texas, by the provisions of this paragraph, no additional compensation or salary shall be paid to said Judge, but the compensation or salary of such Judge shall remain the same as now, or as may be hereafter, fixed by law.

Sec. 3. From and after the passage and taking effect of this Act, civil and criminal actions, matters and proceedings may be filed in said County Court at Law No. 3, of Bexar County, Texas, in the same manner and under the same conditions, circumstances and instances as now obtain for the filing of actions, matters and proceedings, civil and criminal, in the County Court at Law No. 1, of Bexar County, Texas, and in the County Court at Law No. 2, of Bexar County, Texas, and all such actions, matters and proceedings shall be docketed in the order in the Court in which filed, or in such other manner as may be determined by a majority of the Judges of said County Court at Law by an order duly made by them and entered upon the minutes of each such County Court at Law.

Sec. 4. The Clerk of said County Court at Law No. 3, of Bexar County, Texas, shall keep a separate docket for said County Court at Law No. 3, of Bexar County, Texas, the same as is now or may be provided by law for the keeping of dockets for the County Court at Law No. 1, of Bexar County, Texas, and the County Court at Law No. 2, of Bexar County, Texas; he shall tax the official Court Reporter's fee as costs in civil actions in said County Court at Law No. 3, of Bexar County, Texas, in like manner as said fee is taxed in civil cases in the

District Courts of this State. The Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, and the Judge of the County Court at Law No. 3, of Bexar County, Texas, and each of them may, with the consent of the Judge of the Court to which transfer is to be made, transfer civil or criminal actions, matters and proceedings from his respective court to any one of the other courts by the entry of an order to the effect upon the docket of such court; and the Judge of the County Court at Law to which any such action, matter or proceeding, civil or criminal, shall have been transferred, shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees and judgments therein, and in the same manner and with the same force and effect as if such case, action, matter or proceeding had been originally filed in said County Court at Law, to which transferred. Provided, however, that no cause, action, matter, case or proceeding shall be transferred without the consent of the Judge of the Court to which transferred.

Sec. 5. The Judge of the County Court at Law No. 3, of Bexar County, Texas, together with the Judges of the County Court at Law No. 1, of Bexar County, Texas, and County Court at Law No. 2, of Bexar County, Texas, may, at any time, exchange benches, and may, at any time, sit and act for and with each other in any civil or criminal case, matter or proceeding now, or hereafter, pending in either of said County Courts at Law of Bexar County, Texas; and any and all such acts thus performed by the Judge of the County Court at Law No. 1, of Bexar County, Texas, or by the Judge of the County Court at Law No. 2, of Bexar County, Texas, or by the Judge of the County Court at Law No. 3, of Bexar County, Texas, shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 6. The practice in said County Court at Law No. 3, of Bexar County, Texas, shall be the same as prescribed by law relating to County Courts and County Courts at Law. Appeals and writs of error may be taken from judgments and orders of said County Court at Law No. 3, of Bexar County, Texas, and from judgments and orders of the Judge thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by law relating to appeals and writs of error from judgments and orders of the County Courts and County Courts of Law throughout this State, and the respective judges thereof, in similar cases. And appeals may also be taken from interlocutory orders of said County Court at Law No. 3, of Bexar County, Texas, appointing a receiver, and also from orders of said County Court at Law No. 3, of Bexar County, Texas, overruling a motion to vacate or an order appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be gov-

erned by the laws relating to appeals from similar orders of the District Courts throughout this State.

Sec. 7. The Judge of the County Court at Law No. 3, of Bexar County, Texas, shall appoint an official shorthand reporter for such Court, who shall be well-skilled in his profession and shall be a sworn officer of the Court, and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, of the Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the law relating to "official court reporters" shall, and the same are hereby made to, apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Bexar County, Texas, and paid in the same manner that compensation of official shorthand reporters of said District Court of Bexar County is paid.

Sec. 8. The County Clerk of Bexar County, Texas, shall be the clerk of the County Court at Law No. 3, of Bexar County, Texas, in addition to his duties as they are now, or may hereafter be, prescribed by law. The seal of said Court shall be the same as provided by law for County Courts, except that the seal of the County Court at Law No. 3, of Bexar County, Texas, shall contain the words "County Court at Law No. 3, of Bexar County, Texas." The County Clerk of Bexar County, Texas, shall, upon taking effect of this Act, or as soon thereafter as may be possible, appoint a deputy for said County Court at Law No. 3, of Bexar County, Texas; provided, however, that the person so appointed must be acceptable to the Judge of said Court, and such appointment must be confirmed in writing by the Judge of said Court before the same becomes effective. Said deputy so appointed shall take the oath of office prescribed by the Constitution of Texas, and the County Clerk of Bexar County, Texas, shall have power and authority to require said deputy to furnish bond in such amount, conditioned and payable as may be prescribed by law. Said deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by said County Clerk of Bexar County in person; it shall be the duty of said deputy to attend all sessions of said County Court at Law No. 3, of Bexar County, Texas, and perform such services in and for said Court as are usually performed by the County Clerk and his deputies of the several County Courts of this State; and said deputy shall also perform any and all other services that may, from time to time, be assigned him by the Judge of said Court. Said deputy shall, in all cases, both civil and criminal, that may be filed in said County Court at Law No. 3, of Bexar County, Texas, or that may be transferred to said Court from the County Court at Law No.

1, of Bexar County, Texas, or that may be transferred to said Court from the County Court at Law No. 2, of Bexar County, Texas, tax and assess and collect the same fees and costs, and in the same manner, as now provided by law for the County Courts of this State and the Judges thereof in similar cases; and all such fees and costs, when collected by said County Clerk and his deputies, as well as any and all other sums of money received by said County Clerk and his deputies in their official capacity, shall by said Clerk and his deputies be deposited in such fund, or paid to the proper person or persons entitled to the same, and in the manner as may be provided by law. The deputy appointed hereunder is hereby authorized to act for the deputy appointed by the Judge of the County Court at Law No. 1, of Bexar County, Texas, and he shall also be authorized to act for the deputy appointed by the Judge of the County Court at Law No. 2, of Bexar County, Texas, and each and all of said deputies shall be, and they are hereby, authorized to act for each other, in any matter pertaining to the clerical business of said Court, and it shall be the duty of said deputies to thus act for one another when requested to do so by the Judges of the several County Courts at Law of Bexar County, but they shall receive no additional compensation for so serving. Said deputy so appointed shall, from and after his said appointment, confirmation and qualification, as herein provided, continue as such deputy at the pleasure of the Judge of said County Court at Law No. 3, Bexar County, Texas, and should said Judge, for any reason whatsoever, not further desire the services of such deputy, the County Clerk of Bexar County, Texas, shall, upon request of such Judge, appoint another deputy for such Court; such appointment, however, to be made in the manner as hereinabove provided. In the event of a vacancy caused by any reason whatsoever, the County Clerk of Bexar County, Texas, shall immediately appoint another deputy for said Court, such appointment, however, to be made in the same manner as hereinabove provided. The salary of the deputy appointed for said County Court at Law No. 3, of Bexar County, Texas, shall be determined and fixed by the Judge of said Court but shall not exceed the salary now being paid to, or that in the future may be paid to, the deputy for County Court at Law No. 1, of Bexar County, Texas, or the deputy for the County Court at Law No. 2, of Bexar County, Texas; said annual salary to be paid to said deputy in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the County Clerk of Bexar County, Texas, and such payment of said salary shall be made in the manner provided by law. However, before such monthly salary is paid to said deputy, the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall cause to be filed with the County Clerk of Bexar County, Texas, or with the proper officer of said County, a written statement, signed by the Judge, certifying that said deputy has performed the services re-

quired of him and that he is entitled to receive said salary and such salary of said deputy shall be paid to him only upon certificate being signed and filed by said Judge. Provided, that nothing contained in this section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being exercised by the County Clerk of Bexar County, Texas, except as herein specifically and expressly stated.

Sec. 9. The Sheriff of Bexar County, Texas, shall, by and through a deputy to be appointed as hereinafter provided, attend all sessions of said County Court at Law No. 3, of Bexar County, Texas, and said Sheriff shall, upon the taking effect of this Act, or as soon thereafter as may be possible, appoint one (1) deputy for said Court, provided, however, that the person thus appointed must be acceptable to the Judge of said Court and said appointment of said deputy must be approved and confirmed in writing by said Judge before the same becomes effective. The deputy sheriff so appointed shall, before assuming his duties, take the oath of office prescribed by the Constitution of Texas, and the Sheriff of Bexar County, Texas, shall have the power and authority to require said deputy to furnish bond in such amount, conditioned and payable as may be prescribed by law. Said deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by the Sheriff of Bexar County, Texas, in person. Said deputy shall, from and after his appointment, confirmation and qualification, as hereinabove provided, continue as such deputy at the pleasure of the Judge of said County Court at Law No. 3, of Bexar County, Texas, and should said Judge for any reason whatsoever, not further desire the services of said deputy sheriff, the Sheriff of Bexar County, Texas, shall, upon request of such Judge, appoint another deputy for such court; such appointment, however, to be made in the same manner as hereinabove provided. It shall be the duty of the deputy sheriff appointed as herein provided, to attend all sessions of said County Court at Law No. 3, of Bexar County, Texas, and also perform and render such services in and for said Court, and for the Judge thereof, as are usually and generally performed and rendered by Sheriffs and their deputies in and about the several district and County Courts of this State, and including the serving of any and all process, subpoenas, warrants and writs of any and all kinds, nature and character, in both civil and criminal cases, matters and proceedings; and it shall be the duty of said deputy sheriff to also perform and render any and all other services that may, from time to time, be assigned to him, by the Judge of said Court. Said deputy sheriff shall have, possess and enjoy the same rights, powers, authority and privileges that the Sheriffs and their deputies throughout this State now or may hereafter have, possess and enjoy; and said deputy sheriff is authorized and empowered to act for the deputy sheriff of the County Court at Law No. 1, of Bexar County, Texas, and he is also authorized and em-

powered to act for the deputy sheriff of the County Court at Law No. 2, of Bexar County, Texas, and all of said deputy sheriffs may, and they are hereby authorized and empowered to, act for one another, and it shall be their duty to act for one another when required to do so by either of the Judges of said Courts or by said Sheriff; but said deputy thus acting for another shall not be entitled to receive, nor shall they receive, any additional compensation. The Sheriff of Bexar County, Texas, shall, in the event of a vacancy caused by any reason whatsoever, immediately appoint another deputy for such court, such appointment, however, to be subject to the approval and written confirmation of the Judge of said Court. The salary of the deputy sheriff appointed for said County Court at Law No. 3, of Bexar County, Texas, shall be determined and fixed by the Judge of said Court but shall not exceed the salary now being paid to, or that in the future may be paid to, the deputy sheriff for County Court at Law No. 1, of Bexar County, Texas, or the deputy sheriff for County Court at Law No. 2, of Bexar County, Texas; and said annual salary shall be paid to such deputy sheriff in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the Sheriff of Bexar County, Texas, and such payment of said salary shall be made in the manner provided by law. However, before such monthly salary is paid to said deputy sheriff, the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall cause to be filed with the Sheriff of Bexar County, Texas, or with the proper officer of said County, a written statement, signed by said Judge, certifying that said deputy sheriff has performed and rendered the services required of him and that he is entitled to receive his salary. Provided, that nothing contained in this Section of this Act is intended to change or alter the deputies and powers of the Sheriff of Bexar County, Texas, except as herein specifically and expressly provided.

Sec. 10. At the next General Election after the effective date of this Act there shall be elected a Judge of the County Court at Law No. 3, of Bexar County, Texas, who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five (5) years, well informed in the laws of the State, who shall have resided in and been actively engaged in the practice of law in Bexar County, Texas, for a period of not less than four (4) years prior to such General Election, and who shall hold his office for four (4) year and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Commissioners Court of Bexar County, Texas, shall appoint a Judge of said County Court at Law No. 3, of Bexar County, Texas, who shall have the qualifications herein prescribed and who shall serve until the next General Election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said County Court at Law No. 3, of Bexar

County, Texas, shall, in like manner as hereinabove provided, be filled by said Commissioners Court of Bexar County, Texas, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 11. The Judge of the County Court at Law No. 3, of Bexar County, Texas, shall take the oath of office prescribed by the Constitution of Texas, but no bond shall be required of such Judge. The Judge of the County Court at Law No. 3, of Bexar County, Texas, shall receive and shall be paid the same salary as is now, or as may hereafter be, prescribed by law for the Judges of the County Court at Law No. 1, of Bexar County, Texas, and of the County Court at Law No. 2, of Bexar County, Texas. Said salary shall be paid to said Judge in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said County upon orders of the Commissioners Court of Bexar County, Texas.

Sec. 12. A special judge may be appointed or elected for the County Court at Law No. 3, of Bexar County, Texas, and in the same manner as may now or hereafter be provided by the general laws of this State relating to the appointment and election of a special judge, or judges, of the several District and County Courts and County Courts at Law of this State; and every such special judge thus appointed or elected for said Court shall receive for the services he may actually perform as such special judge the same amount of pay which the regular judge of said court would be entitled to receive for such services; and said amount to be paid to such special judge shall be paid out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said County upon orders of the Commissioners Court of Bexar County, Texas; but no part of the amount paid to any special judge shall be deducted from or paid out of the salary of the regular judge of said County Court at Law No. 3, of Bexar County, Texas.

Sec. 13. The County Court at Law No. 3, of Bexar County, Texas, or the Judge thereof, shall have power to grant all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law No. 3, of Bexar County, Texas.

Sec. 14. The County Court at Law No. 3, of Bexar County, Texas, shall hold six (6) terms of court each year, commencing on the first Monday in January, March, May, July, September and November of each year and each term shall continue until the business of said Court shall have been disposed of; provided, however, that no term of said Court shall continue beyond the date fixed for the commencement of its new term, except upon an order

entered on its minutes during the term extending the term for any particular causes therein specified.

Sec. 15. For the purpose of disposing of the business of said County Court at Law No. 3, of Bexar County, Texas, there shall be appointed by the Criminal District Attorney of Bexar County, Texas, in addition to the assistants now provided by law, one assistant for the purpose of conducting the duties of his office in said Court. Said assistant shall be paid the same salary as is now, or may be hereafter, paid to the assistants serving in County Court at Law No. 1, of Bexar County, Texas, and in County Court at Law No. 2, of Bexar County, Texas, the same to be paid in equal monthly installments, by said County, upon warrants drawn against the General Fund by orders of the Commissioners Court.

[Acts 1957, 55th Leg., p. 1337, ch. 454.]

Art. 1970-301e. Salaries of Judges

From and after the effective day of this Act the Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, and the Judge of the County Court at Law No. 3, of Bexar County, Texas, shall each receive an annual salary of not less than Twelve Thousand Dollars (\$12,000) nor more than Sixteen Thousand Dollars (\$16,000). Such annual salary to be paid to each of said judges shall be determined and fixed by the Commissioners Court of Bexar County, Texas, and, when so determined and fixed, such annual salary shall be paid to each of said judges in equal monthly installments by warrants drawn on the County Treasury of Bexar County, Texas, upon orders of the Commissioners Court of said County.

[Acts 1961, 57th Leg., p. 523, ch. 249, § 1.]

Art. 1970-301e.1. County Courts at Law Nos. 4 and 5 of Bexar County

Sec. 1. There is created the "County Court at Law Number 5 of Bexar County, Texas."

Sec. 2. The County Court at Law Number 5 of Bexar County, Texas, has the same jurisdiction, powers, and duties, and concurrent jurisdiction, powers, and duties in all civil and criminal actions, proceedings, and matters, original and appellate, over which by the constitution and general laws of this state, the County Courts at Law Numbers 1, 2, and 3 of Bexar County, have jurisdiction, and has concurrent jurisdiction with the district courts when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest, as provided in Article 1970a, Revised Statutes.

Sec. 3. Civil and criminal actions, matters, and proceedings may be filed in the County Court at Law Number 5 of Bexar County, Texas, in the same manner and under the same conditions, circumstances, and instances as now obtain for the filing of actions, matters, and proceedings, civil and criminal, in the County Courts at Law Numbers 1, 2, and 3 of

Bexar County, and all such actions, matters and proceedings shall be docketed in the order in the court in which filed, or in such manner as may be determined by a majority of the judges of the said county courts at law and the County Judge of Bexar County, Texas.

Sec. 3a. From and after the passage and taking effect of this Act, probate matters and proceedings may be filed in said County Court at Law Number 4 of Bexar County, Texas, in the same manner and under the same circumstances and conditions as now obtain for the filing of such matters and proceedings in the County Court of Bexar County, Texas, or with the county judge, and all such matters and proceedings shall be docketed in the order in which filed in said court, or in such other manner as may be determined by the judge of the County Court at Law Number 4 of Bexar County, Texas, and the County Judge of Bexar County, Texas. Notwithstanding the provisions of Chapter 502, Acts of the 59th Legislature, 1965 (Article 1970-75a, Vernon's Texas Civil Statutes), it is the intention of this Act that the said County Court at Law Number 4 of Bexar County, Texas, shall give preference and priority to probate matters and proceedings.

Sec. 4. The clerk of said County Court at Law Number 5 of Bexar County, Texas, shall keep a separate docket for said County Court at Law Number 5 of Bexar County, Texas, the same as is now or may be provided by law for keeping of dockets for the county courts at law of Bexar County, Texas; the clerk shall tax the official court reporter's fee as costs in civil actions in said County Court at Law Number 5 of Bexar County, Texas, in like manner as said fee is taxed in civil cases in the district courts of this state. The judges of the County Courts at Law Numbers 1, 2, 3, and 5 of Bexar County, Texas, and each of them may, with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions, matters, and proceedings from his respective court to any one of the other courts by the entry of an order to the effect upon the docket of such court; and the judge of the county court at law to which any such action, matter, or proceeding, civil or criminal, shall have been transferred, shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees, and judgments therein, and in the same manner and with the same force and effect as if such case, action, matter, or proceeding had been originally filed in said county court at law to which transferred. Provided, however, that no cause, action, matter, case, or proceeding shall be transferred without the consent of the judge of the court to which transferred.

Sec. 5. The judges of the County Courts at Law Numbers 1, 2, 3, and 5 of Bexar County, Texas, may, at any time, exchange benches, and may, at any time, sit and act for and with each other in any civil or criminal case, matter, or proceeding now, or hereafter, pending in any of said county courts at

law of Bexar County, Texas; and any and all such acts thus performed by the judge of the County Court at Law Number 1 of Bexar County, Texas, or by the judge of the County Court at Law Number 2 of Bexar County, Texas, or by the judge of the County Court at Law Number 3 of Bexar County, Texas, or by the judge of the County Court at Law Number 5 of Bexar County, Texas, shall be valid and binding upon all parties to such cases, matters, and proceedings.

Sec. 6. The practice in said County Court at Law Number 5 of Bexar County, Texas, shall be the same as prescribed by law relating to county courts and county courts at law. Appeals and writs of error may be taken from judgments and orders of said County Court at Law Number 5 of Bexar County, Texas, and from judgments and orders of the judge thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by law relating to appeals and writs of error from judgments and orders of the county courts and county courts at law throughout this state, and the respective judges thereof, in similar cases. Appeals may also be taken from interlocutory orders of said County Court at Law Number 5 of Bexar County, Texas, appointing a receiver, and also from orders of said County Court at Law Number 5 of Bexar County, Texas, overruling a motion to vacate or an order appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the district courts throughout this state.

Sec. 7. The judge of the County Court at Law Number 5 of Bexar County, Texas, shall appoint an official shorthand reporter for such court, who shall be well skilled in his profession and shall be a sworn officer of the court, and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Statutes,¹ and as the same may hereafter be amended and all other provisions of the law relating to "official court reporters" shall, and the same are hereby made to, apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the district courts of Bexar County, Texas, and paid in the same manner that compensation of official shorthand reporters of said district court of Bexar County is paid.

¹ Article 2286a et seq.

Sec. 8. The county clerk of Bexar County, Texas, shall be the clerk of the County Court at Law Number 5 of Bexar County, Texas, in addition to his duties as they are now, or may hereafter be, prescribed by law. The seal of said court shall be the same as provided by law for county courts, except

that the seal of the County Court at Law Number 5 of Bexar County, Texas, shall contain the words "County Court at Law Number 5 of Bexar County, Texas." The county clerk of Bexar County, Texas, shall, on the effective date of this Act, or as soon thereafter as may be possible, appoint a deputy for said County Court at Law Number 5 of Bexar County, Texas. Said deputy so appointed shall take the oath of office prescribed by the Constitution of Texas, and the county clerk of Bexar County, Texas, shall have power and authority to require said deputy to furnish bond in such amount, conditioned, and payable as may be prescribed by law. Said deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by said county clerk of Bexar County in person; it shall be the duty of said deputy to attend all sessions of said county court at law to which he is appointed and perform such services in and for said court as are usually performed by the county clerk and his deputies of the several county courts of this state; and said deputy shall also perform any and all other services that may, from time to time, be assigned him by the judge of said court. Said deputy shall, in all cases, both civil and criminal, that may be filed in said county court at law to which he is appointed, or that may be transferred to said court from another county court at law of Bexar County, Texas, tax and assess and collect the same fees and costs, and in the same manner, as now provided by law for the county courts of this state and the judges thereof in similar cases; and all such fees and costs, when collected by said county clerk and his deputy, as well as any and all other sums of money received by said county clerk and his deputy in their official capacity, shall by said clerk and his deputy be deposited in such fund, or paid to the proper person or persons entitled to the same, and in the manner as may be provided by law. The deputy appointed hereunder is hereby authorized to act for the deputy of any other county court at law of Bexar County, Texas, and each and all of said deputies shall be, and they are hereby, authorized to act for each other, in any matter pertaining to the clerical business of said court, and it shall be the duty of said deputies to thus act for one another when requested to do so by the judges of the several county courts at law of Bexar County, but they shall receive no additional compensation for so serving. In the event of a vacancy caused by any reason whatsoever, the county clerk of Bexar County, Texas, shall immediately appoint another deputy for said court. The salary of the deputy appointed for said County Court at Law Number 5 of Bexar County, Texas, shall be determined and fixed as prescribed by law for the deputies of the several county courts at law of Bexar County, but shall not exceed the salary now being paid to, or that in the future may be paid to, the deputies for the County Courts at Law Numbers 1, 2, and 3 of Bexar County, Texas; said annual salary to be paid to said deputy in equal monthly installments out of such fund of Bexar

County, Texas, as provided by law for the payment of the salaries of the several deputies of the county clerk of Bexar County, Texas, and such payment of said salary shall be made in the manner provided by law. Provided, that nothing contained in this section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being exercised by the county clerk of Bexar County, Texas, except as herein specifically and expressly stated.

Sec. 9. The sheriff of Bexar County, Texas, shall, by and through a deputy to be appointed as hereinafter provided, attend all sessions of said County Court at Law Number 5 of Bexar County, Texas, and said sheriff shall appoint the deputy. The deputy sheriff so appointed shall, before assuming his duties, take the oath of office prescribed by the Constitution of Texas, and the sheriff of Bexar County, Texas, shall have the power and authority to require said deputy to furnish bond in such amount, conditioned, and payable as may be prescribed by law. Said deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by the sheriff of Bexar County, Texas, in person. It shall be the duty of the deputy sheriff appointed as herein provided, to attend all sessions of said county court at law to which he is appointed, and also perform and render such services in and for said court, and for the judge thereof, as are usually and generally performed and rendered by sheriffs and their deputies in and about the several district and county courts of this state, and including the serving of any and all process, subpoenas, warrants, and writs of any and all kinds, nature, and character, in both civil and criminal cases, matters, and proceedings; and it shall be the duty of said deputy sheriff to also perform and render any and all other services that may, from time to time, be assigned to him by the judge of said court. Said deputy sheriff shall have, possess, and enjoy the same rights, powers, authority, and privileges that the sheriffs and their deputies throughout this state now or may hereafter have, possess, and enjoy; and said deputy sheriff is authorized and empowered to act for the deputy sheriff of any other county court at law of Bexar County, Texas, and all of said deputy sheriffs may, and they are hereby authorized and empowered to, act for one another, and it shall be their duty to act for one another when required to do so by either of the judges of said courts or by said sheriff; but said deputy thus acting for another shall not be entitled to receive, nor shall he receive, any additional compensation. The sheriff of Bexar County, Texas, shall, in the event of a vacancy caused by any reason whatsoever, immediately appoint another deputy for such court. The salary of the deputy sheriff appointed for said County Court at Law Number 5 of Bexar County, Texas, shall be determined and fixed as prescribed by law for the deputy sheriffs for the several county courts at law of Bexar County, but shall not exceed the salary now being paid to, or that in the future may be paid

to, the deputy sheriffs for the County Courts at Law Numbers 1, 2, and 3 of Bexar County, Texas; and said annual salary shall be paid to such deputy sheriff in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the sheriff of Bexar County, Texas, and such payment of said salary shall be made in the manner provided by law. Provided, that nothing contained in this section of this Act is intended to change or alter the duties and powers of the sheriff of Bexar County, Texas, except as herein specifically and expressly provided.

Sec. 10. The judge of the County Court at Law Number 5 of Bexar County, Texas, shall be elected at the general election at which county court at law judges are regularly elected by the qualified voters of Bexar County for a term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. The judge shall hold office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the bar of this state for at least four years; he shall take the oath of office prescribed by the Constitution of Texas, but no bond shall be required of such judge. The judge of the County Court at Law Number 5 of Bexar County, Texas, shall receive and shall be paid the same salary as is now, or as may hereafter be, prescribed by law for the judges of the several county courts at law of Bexar County, Texas, in equal monthly installments out of the general fund of Bexar County, Texas, by warrants drawn on the county treasurer of said county upon orders of the Commissioners Court of Bexar County.

Sec. 11. Any vacancy in the office of the judge of the County Court at Law Number 5 of Bexar County, Texas, shall be filled by appointment made by the Commissioners Court of Bexar County, and the judge so appointed shall serve until January 1 following the next general election and until his successor shall be duly elected and qualified.

Sec. 12. A special judge may be appointed or elected for the County Court at Law Number 5 of Bexar County, Texas, in the same manner as may now or hereafter be provided by the general laws of this state relating to the appointment and election of a special judge, or judges, of the several district and county courts and county courts at law of this state and every such special judge thus appointed or elected for said court shall receive for the services he may actually perform as such special judge the same amount of pay which the regular judge of said court would be entitled to receive for such services; and said amount to be paid to such special judge shall be paid out of the general fund of Bexar County, Texas, by warrants drawn upon the county treasury of said county upon orders of the Commissioners Court of Bexar County, Texas; but no part

of the amount paid to any special judge shall be deducted from or paid out of the salary of the regular judge of said County Court at Law Number 5 of Bexar County, Texas.

Sec. 13. The County Court at Law Number 5 of Bexar County, Texas, or the judge thereof, shall have power to grant all writs necessary to the enforcement of the jurisdiction of said court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court, or of any other court in said county of inferior jurisdiction.

Sec. 14. The County Court at Law Number 5 of Bexar County, Texas, shall hold six terms of court each year, commencing on the first Monday in January, March, May, July, September, and November of each year and each term shall continue until the business of said court shall have been disposed of; provided, however, that no term of said court shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its minutes during the term extending the term for any particular causes therein specified.

Sec. 15. For the purpose of disposing of the business of said County Court at Law Number 5 of Bexar County, Texas, there shall be appointed by the criminal district attorney of Bexar County, Texas, in addition to the assistants now provided by law, one assistant for the County Court at Law Number 5 of Bexar County, Texas, for the purpose of conducting the duties of his office in said court. Said assistant shall be paid the same salary as is now, or may be hereafter, paid to the assistants serving in County Courts at Law Numbers 1, 2, and 3 of Bexar County, the same to be paid in equal monthly installments, by said county, upon warrants drawn against the general fund by orders of the commissioners court.

Sec. 16. The judge of the County Court at Law Number 4 of Bexar County, Texas, may appoint an administrative assistant or assistants to aid him in the performance of his duties in matters probate. The salary of said administrative assistant or assistants shall be set by the Commissioners Court of Bexar County to be paid out of the General Fund of Bexar County, Texas, by warrants drawn on the county treasurer of said county upon orders of the Commissioners Court of Bexar County.

[Acts 1973, 63rd Leg., p. 376, ch. 170, §§ 1 to 15, eff. Aug. 27, 1973. Amended by Acts 1979, 66th Leg., p. 1003, ch. 439, § 1, eff. June 6, 1979; Acts 1983, 68th Leg., p. 1929, ch. 355, § 36, eff. Aug. 29, 1983.]

Art. 1970-301e.2. County Courts at Law Nos. 4 and 6 of Bexar County

Creation

Sec. 1. The County Courts at Law Numbers 4 and 6 of Bexar County are created effective July 1, 1983.

Jurisdiction

Sec. 2. (a) The courts created by this Act have the same jurisdiction of civil and criminal cases as that of the County Courts at Law Numbers 1, 2, 3, and 5 of Bexar County.

(b) The courts created by this Act do not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business that is within the jurisdiction of the commissioners court. The judge of the county court retains and shall exercise all ex officio duties of the county judge.

(c) The courts created by this Act shall give preference to criminal matters and appeals de novo from the municipal and justice courts.

Powers and Duties

Sec. 3. (a) The courts created by this Act or the judge of a court created by this Act may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. They may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county.

(b) The courts created by this Act or the judge of a court created by this Act may punish for contempt as prescribed by general law.

(c) The judge of a court created by this Act has all other powers, duties, immunities, and privileges provided by law for county court judges, except that the judge does not have any authority over the administrative business of the county that is performed by the county judge of the county.

Terms of Court

Sec. 4. The terms of the courts created by this Act begin on the first Mondays in January, March, May, July, September, and November of each year. Each term of court continues until the next succeeding term begins.

Judge

Sec. 5. (a) The judge of a court created by this Act must:

- (1) be a citizen of the United States;
- (2) reside in the county;
- (3) be licensed to practice law in this state; and
- (4) have actively practiced law for at least four years prior to election or appointment.

(b) Subject to Section 8(c), Chapter 427, Acts of the 54th Legislature, 1955 (Article 3883i, Vernon's Texas Civil Statutes), the commissioners court shall

set the annual salary of each judge of a court created by this Act. The annual salary shall be paid in equal monthly installments from county funds.

(c) The commissioners court shall appoint a person to fill a vacancy in the office of the judge of a court created by this Act. The appointee holds office until the next succeeding general election and until his successor is elected and has qualified.

(d) At the general election in 1986 and every fourth year thereafter, the qualified voters of the county shall elect the judges of the courts created by this Act for regular terms of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(e) The judge of a court created by this Act shall take the oath of office prescribed by the constitution of this state.

Court Officials, Personnel, and Facilities

Sec. 6. (a) The judge of a court created by this Act shall appoint an official court reporter. The reporter must be well skilled in his profession and have the qualifications prescribed by law for that office. The reporter shall be a sworn officer of the court and serves at the pleasure of the judge. The reporter is entitled to the same compensation, fees, and allowances as the court reporters of the district courts in the county.

(b) The judge of a court created by this Act may appoint a court coordinator or administrative assistant for the court. A court coordinator or administrative assistant performs the duties prescribed by the judge and cooperates with the administrative judges and state agencies for the uniform and efficient operation of the courts and the administration of justice. The court coordinator or administrative assistant is entitled to be paid from county funds the compensation, fees, and allowances that are set by the commissioners court or as otherwise provided by law. This section is cumulative of the provisions of the law that relate to a court administrator's system for county courts with criminal jurisdiction in certain counties.

(c) The criminal district attorney shall attend the courts created by this Act as required by the judges of the courts.

(d) The county clerk serves as the clerk of the courts created by this Act. The county clerk shall appoint a deputy for each county court at law created by this Act. The deputy shall take the oath of office prescribed by the constitution of this state. The county clerk may require a deputy to furnish bond in an amount, conditioned, and payable as prescribed by law. The deputy shall act in the name of his principal and may perform all official acts that may be performed by the county clerk. The deputy shall attend all sessions of the county court at law to which he is appointed and perform

the services in and for the court that are usually performed by the county clerk and his deputies in the county courts of this state. The deputy shall perform any services that may, from time to time, be assigned him by the judge of the court. The deputy shall, in all cases, both civil and criminal, that may be filed in the county court at law to which he is appointed or that may be transferred to that court from another county court at law of Bexar County, tax, assess, and collect the same fees and costs and in the same manner as provided by law for the county courts of this state and the judges of those courts in similar cases. The clerk and the clerk's deputies shall deposit or pay all fees and costs received in their official capacity as provided by law. A deputy may act for the deputy of any other county court at law of Bexar County when requested to do so by the judges of the county courts at law of Bexar County. A deputy acting for another deputy is not entitled to receive additional compensation. In the event of a vacancy, the county court of Bexar County shall immediately appoint another deputy for the court. The annual salary of the deputy appointed for each of the courts created by this Act is the same as the annual salary of the deputies of the other county courts at law of Bexar County. The salary shall be paid in equal monthly installments out of county funds. Nothing in this section of this Act alters the duties and powers of the county clerk of Bexar County, except as specifically stated.

Special Judge

Sec. 7. (a) If the regular judge of a court created by this Act is absent or is from any cause disabled or disqualified from presiding, a special judge may be appointed or elected in the manner provided by law for special judges of county courts.

(b) A special judge shall take the oath of office that is required by law for the regular judge and has all the power and jurisdiction of the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other process of any kind as "Judge Presiding" when acting for the regular judge.

(c) A special judge is entitled to receive for the services actually performed the same amount of compensation that the regular judge is entitled to receive for the services. The compensation shall be paid out of county funds. None of the amount paid to a special judge for sitting for the regular judge may be deducted or paid out of the salary of the regular judge.

Separate Dockets

Sec. 8. The clerk of a court created by this Act shall keep a separate docket for the court. Cases shall be docketed in the order filed or in any manner as determined by a majority of the judges of the county courts at law of Bexar County and the judge of the county court.

Reporter's Fees

Sec. 9. The official court reporter's fee shall be taxed as costs in civil actions in the same manner as that fee is taxed in civil cases in the district courts of this state.

Transfer of Cases

Sec. 10. A judge of a county court at law of Bexar County may transfer with the consent of the judge of the court to which transfer is to be made civil or criminal actions, matters, and proceedings from his court to any one of the other courts by the entry of an order on the docket of the court. The judge of the county court at law to which a case is transferred has jurisdiction to hear and determine the case and render and enter the necessary and proper orders, decrees, and judgments. A case may not be transferred unless it is within the jurisdiction of the court to which transferred.

Exchange of Benches

Sec. 11. (a) The judges of the county courts at law of Bexar County may exchange benches with each other so that if one is absent, disabled, or disqualified, another may hold court for him without the necessity of transferring the case. A judge may hear all or any part of a case pending in a county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. A judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(b) When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred and all witnesses summoned to appear in a court from which a case is transferred are required to appear before the court to which the case is transferred as if originally issued out of the court to which the transfer is made.

Practice and Procedure

Sec. 12. The practice in the courts created by this Act shall conform to that prescribed by law relating to county courts and county courts at law. Appeals and writs of error may be taken from judgments and orders of the courts created by this Act and from judgments and orders of the judges, in civil and criminal cases, in the same manner as prescribed by law relating to appeals and writs of error from judgments and orders of the county courts and county courts at law. Appeals may be taken from interlocutory orders of the courts created by this Act appointing a receiver, overruling a

motion to vacate, or overruling an order appointing a receiver, but the procedure and manner in which appeals from interlocutory orders are taken is governed by the laws relating to appeals from similar orders of the district courts.

Sheriff and Deputy Sheriff

Sec. 13. The sheriff of Bexar County or the sheriff's appointed deputy shall attend all sessions of the courts created by this Act. The sheriff shall appoint one deputy for each of the courts. Before assuming his duties, the deputy sheriff shall take the oath of office prescribed by the constitution of this state. The sheriff may require the deputy to furnish bond in an amount, conditioned, and payable as prescribed by law. The deputy shall act in the name of his principal and may perform all official acts that the sheriff may perform. The deputy sheriff shall attend all sessions of the county court at law to which he is appointed and shall perform services in and for the court and for the judge that are usually performed by sheriffs and their deputies in the district and county courts, including the serving of process, subpoenas, warrants, and writs in both civil and criminal cases. The deputy sheriff shall perform the services that the judge assigns to him. The deputy sheriff has the powers, authority, and privileges that the sheriffs and their deputies in this state have. The deputy sheriff shall act for the deputy sheriff of any other county court at law of Bexar County when required to do so by a judge of the courts or by the sheriff. A deputy acting for another is not entitled to receive any additional compensation. The sheriff of Bexar County shall immediately appoint a deputy to fill a vacancy in the office of deputy sheriff for a court created by this Act. The salary of the deputy sheriffs appointed for the courts created by this Act shall be the same as the salaries of the other deputy sheriffs for the county courts at law of Bexar County. The annual salary shall be paid in equal monthly installments out of county funds. Nothing in this section alters the duties and powers of the sheriff of Bexar County, except as specifically stated.

Seal

Sec. 14. The seals of the courts created by this Act are the same as provided by law for county courts, except that the seal of the County Court at Law Number 4 of Bexar County shall contain the words "County Court at Law Number 4 of Bexar County, Texas," and the seal of the County Court at Law Number 6 of Bexar County shall contain the words "County Court at Law Number 6 of Bexar County, Texas."

Initial Appointment of Judges

Sec. 15. The commissioners court shall appoint a person to fill each vacancy existing on creation of the offices of judge. The appointee holds office until the next succeeding general election and until his successor is elected and has qualified.

Redesignation of Courts

Sec. 16. The County Court at Law Number 6 of Bexar County, Texas, shall hereafter be called and known as the "Probate Court No. 1 of Bexar County, Texas" and the County Court at Law Number 4 of Bexar County, Texas, shall hereafter be called and known as the "Probate Court No. 2 of Bexar County, Texas."

Probate Jurisdiction

Sec. 17. (a) Probate Court No. 1 of Bexar County and Probate Court No. 2 of Bexar County have the general jurisdiction of a probate court within the limits of Bexar County, concurrent with the jurisdiction of the county court in probate matters and proceedings. Each probate court may probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians, transact all business relating to deceased persons, hear and determine all matters affecting minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, lunacy proceedings, and the apprenticing of minors as provided by law.

(b) All those matters filed with the county clerk, regardless of the court or judge to which the matter or proceeding is addressed, shall be filed by the clerk alternately in Probate Court No. 1 of Bexar County and Probate Court No. 2 of Bexar County. Every odd-numbered case shall be filed in Probate Court No. 1 of Bexar County and every even-numbered case shall be filed in Probate Court No. 2 of Bexar County. The clerk shall keep separate dockets for each of the courts.

Jurisdiction Relating to Mental Health, Alcoholism, and Narcotic Addiction

Sec. 18. (a) The Probate Court No. 1 of Bexar County and the Probate Court No. 2 of Bexar County have general jurisdiction, concurrent with the jurisdiction of the county court, to hear and determine all actions, cases, matters, or proceedings instituted under:

(1) the Texas Mental Health Code (Article 5547-1, et seq., Vernon's Texas Civil Statutes);

(2) Chapter 411, Acts of the 53rd Legislature, Regular Session, 1953 (Article 5561c, Vernon's Texas Civil Statutes); and

(3) Chapter 543, Acts of the 61st Legislature, Regular Session, 1969 (Article 5561c-1, Vernon's Texas Civil Statutes).

(b) All matters for which the courts have jurisdiction under Subsection (a) of this section filed with the county clerk, regardless of the court or judge to which the matter or proceeding is addressed, shall be filed by the clerk alternately in Probate Court No. 1 of Bexar County and Probate Court No. 2 of

Bexar County. Every odd-numbered case shall be filed with Probate Court No. 1 of Bexar County and every even-numbered case shall be filed with Probate Court No. 2 of Bexar County, but the judges of the statutory probate courts and the county judge may determine another manner for filing cases. The clerk shall keep a separate docket for each court.

Eminent Domain Jurisdiction

Sec. 19. (a) Probate Court No. 1 of Bexar County and Probate Court No. 2 of Bexar County have eminent domain jurisdiction.

(b) All actions, cases, matters, or proceedings of eminent domain arising under Title 52, Revised Statutes,¹ or under Chapter 186, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 6674n, Vernon's Texas Civil Statutes), shall be filed and docketed in Probate Court No. 1 of Bexar County, and Probate Court No. 2 of Bexar County.

¹ Article 3264 et seq. (generally repealed; see, now, V.T.C.A. Property Code, § 21.001 et seq.).

County Court Jurisdiction Concurrent

Sec. 20. The county court retains its powers and jurisdiction existing on the effective date of this Act and shall exercise its powers and jurisdiction as a probate court with respect to all probate matters and proceedings other than those transferred to or filed in Probate Court No. 1 of Bexar County or Probate Court No. 2 of Bexar County. The county judge is the judge of the County Court of Bexar County and shall exercise all ex officio duties of the county judge of Bexar County, except insofar as those duties are expressly committed by statute to the judge of Probate Court No. 1 of Bexar County or to the judge of Probate Court No. 2 of Bexar County.

Probate Court No. 2: General Jurisdiction

Sec. 21. (a) Probate Court No. 2 of Bexar County has the same jurisdiction, powers, and duties, and concurrent jurisdiction, powers, and duties in all civil and criminal actions, proceedings, and matters, original and appellate, over which, by the constitution and general laws of this state, the County Courts at Law Numbers 1, 2, and 3 of Bexar County have jurisdiction, and has concurrent jurisdiction with the district courts in which the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest. Probate Court No. 2 shall give preference and priority to probate matters and proceedings.

(b) The practice in civil and criminal matters in Probate Court No. 2 of Bexar County shall be the same as prescribed by law for county courts. Appeals and writs of error may be taken from judgments and orders of Probate Court No. 2 of Bexar County and from judgments and orders of the judge, in civil and criminal cases, and in the same manner as prescribed by law relating to appeals and writs of error from judgments and orders of the

county courts in similar cases. Appeals may be taken from interlocutory orders of Probate Court No. 2 of Bexar County, appointing a receiver, and from orders overruling a motion to vacate or an order appointing a receiver. The procedure and manner in which appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the district courts.

Practice and Procedure

Sec. 22. The practice and procedure in Probate Courts Nos. 1 and 2 of Bexar County shall be the same as that provided by general law for the county courts. All statutes and rules of court relating to proceedings in the county courts, or to the review of or appeals from county courts, apply to Probate Courts Nos. 1 and 2 of Bexar County.

Power of Courts

Sec. 23. The Probate Courts Nos. 1 and 2 of Bexar County may issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of the court, and may punish for contempt as provided by general law for county courts.

Terms of Courts

Sec. 24. The Probate Courts Nos. 1 and 2 of Bexar County shall each hold six terms of court each year, beginning on the first Monday in January, March, May, July, September, and November. Each term continues until the business of the court is completed, but a term of court may not continue beyond the date fixed for the beginning of its new term unless an order is entered on the minutes during the term extending the term for a particular cause specified in the order.

Judges

Sec. 25. Each judge serves a four-year term. Each judge shall be elected as provided by the constitution and laws of this state for the election of judges of county probate courts. Each judge must be well informed in the laws of this state and must have been a licensed and practicing member of the bar of this state for at least five years. Each judge shall take the oath of office prescribed by the Constitution of Texas, but no bond shall be required of the judge.

Vacancy

Sec. 26. A vacancy in the office of the judge of Probate Court No. 1 of Bexar County or Probate Court No. 2 of Bexar County shall be filled by appointment by the commissioners court. The appointee serves until the next general election and until his successor is elected and has qualified.

Absence of Judge

Sec. 27. In the case of the absence, disqualification, or incapacity of the judge of Probate Court No.

1 of Bexar County or Probate Court No. 2 of Bexar County, the county judge or the judge of the other statutory probate court shall sit and act as judge, and may hear and determine, either in his own courtroom or in the courtroom of the court, any pending matter or proceeding, and enter any order in that matter or proceeding that the judge of the court may enter.

Transfer of Cases

Sec. 28. (a) Each of the judges of the statutory probate courts and the judge of the county court may transfer a case for which the statutory probate courts are given jurisdiction by Section 17 or 18 of this Act to the county court or to a statutory probate court.

(b) Each of the judges of the county courts at law of Bexar County and the judge of Probate Court No. 2 of Bexar County may transfer civil or criminal actions, matters, or proceedings among their courts.

(c) A case may not be transferred without the consent of the judge of the court to which it is transferred.

(d) The judge transferring the case shall enter an order to that effect on the minutes of his court.

(e) The judge of the court to which a case is transferred has the jurisdiction to hear and determine the case and enter the necessary orders, decrees, and judgments as if the case had been originally filed in his court.

(f) Processes are returnable to and may be filed in the court to which transfer is made and are valid and binding as if originally issued out of the court to which transfer is made.

Fees

Sec. 29. The judges of Probate Courts Nos. 1 and 2 of Bexar County shall collect the same fees established by law relating to county judges as to matters within the jurisdiction of the court. The judges shall pay the fees into the county treasury as collected. The judge is entitled to receive an annual salary in the amount fixed as provided by law for probate judges. The salary shall be paid in 12 equal monthly installments.

County Clerk

Sec. 30. The county clerk serves as the clerk of Probate Courts Nos. 1 and 2 of Bexar County.

Seal

Sec. 31. The seal of each court shall be the same as provided by law for county courts, except that the seal of Probate Court No. 1 of Bexar County shall contain the words "Probate Court No. 1 of Bexar County, Texas," and the seal of Probate Court No. 2 of Bexar County shall contain the words "Probate Court No. 2 of Bexar County, Texas."

Deputy Clerk

Sec. 32. The county clerk of Bexar County shall appoint a deputy clerk for Probate Court No. 1 of Bexar County and a deputy clerk for Probate Court No. 2 of Bexar County. The person appointed to a court must be acceptable to the judge, and the appointment must be confirmed in writing by the judge before the appointment becomes effective. The deputy clerk shall take the oath of office prescribed by the Constitution of Texas. The county clerk may require the deputy clerk to furnish a bond in an amount, conditioned, and payable as prescribed by law. The deputy clerk acts in the name of the county clerk and he may perform all official acts that may be lawfully done and performed by the county clerk. The deputy clerk shall attend all sessions of the court to which he is appointed and shall perform services in and for the court as are usually performed by the county clerk and his deputies in and for the county courts. The deputy clerk shall perform any other services that may be assigned him by the judge. The deputy clerk shall tax, assess, and collect fees and costs in the same manner as provided by law for county courts. Fees and costs collected by the county clerk and his deputies, as well as any and all other sums of money received by them in their official capacities, shall be deposited in the proper fund or paid to the proper person entitled to them in the manner prescribed by law. The deputy clerk serves at the pleasure of the judge of the court. The salary of the deputy clerk shall be fixed by the judge but may not exceed the salary paid to the deputies for the county courts at law of Bexar County. The annual salary shall be paid in equal monthly installments as provided by law for the payment of the salaries of the deputies of the county clerk. Nothing in this section changes the duties and powers of the county clerk except as specifically set out.

Sheriff

Sec. 33. The county sheriff, by and through a deputy, shall attend all sessions of Probate Court No. 1 of Bexar County and Probate Court No. 2 of Bexar County. The sheriff shall appoint one deputy for each of the courts. The person appointed to a court must be acceptable to the judge, and the appointment must be approved and confirmed in writing by the judge before it becomes effective. The appointed deputy sheriff shall take the oath of office prescribed by law. The sheriff may require the deputy to furnish a bond in an amount, conditioned, and payable as prescribed by law. The deputy shall perform all official acts that the sheriff may lawfully perform. The deputy sheriff serves at the pleasure of the judge. The deputy shall attend all sessions of the court to which he is appointed and shall perform the services in and for the court, and for the judge, that are usually performed by sheriffs and their deputies in the district and county courts, including the serving of any process, subpoenas, warrants, and writs of any

kind, nature, or character, in civil matters and proceedings. The deputy shall perform any other services that may be assigned to him by the judge. The deputy has the same rights, powers, authority, and privileges that the sheriffs and their deputies throughout this state have. The deputy sheriffs of the probate courts and county court may act for each other. The deputies shall act for one another when required to do so by any of the judges or by the sheriff. A deputy acting for another is not entitled to receive any additional compensation. The salary of the deputy sheriff appointed for a court shall be fixed by the judge, but the salary may not exceed the salary paid to the deputy sheriffs for the county courts at law of Bexar County. The annual salary shall be paid in equal monthly installments as provided by law for the payment of the salaries of the deputies of the county sheriff. Nothing in this section changes the duties and powers of the sheriff of Bexar County except as herein specifically provided.

Court Reporter

Sec. 34. The judge of Probate Court No. 1 of Bexar County and the judge of Probate Court No. 2 of Bexar County may each appoint an official court reporter. The reporter must be well skilled in his profession. The reporter is a sworn officer of the court and holds his office at the pleasure of the court. The reporter must have the qualifications prescribed by law for that office. The official reporter is entitled to the same amount of compensation paid to official reporters in the district courts of Bexar County. The reporter's salary shall be paid in the same manner that compensation of official reporters of the district courts of Bexar County is paid.

Administrative Assistants

Sec. 35. The judge of Probate Court No. 1 of Bexar County and the judge of Probate Court No. 2 of Bexar County may each appoint an administrative assistant and an auditor to aid him in the performance of his duties. The judge of each court sets the salary of the administrative assistant and the salary of the auditor. The appointment of an administrative assistant and auditor and the salary are evidenced by an order entered in the minutes of each court. The appointment and the amount of salary continue in effect from year to year until changed by order of the judge of the court in which the administrative assistant and auditor serve. The salary of each auditor and assistant shall be paid monthly out of the general fund of Bexar County or out of any other fund available for the purpose. [Acts 1983, 68th Leg., p. 1914, ch. 355, §§ 1 to 35, eff. Aug. 29, 1983.]

Sections 37 and 38 of the 1983 Act provide:

"Sec. 37. Judges serving in redesignated courts.

"(a) The judge of the County Court at Law Number 6 of Bexar County is the judge of Probate Court No. 1 of Bexar County. The judge serves until December 31, 1986, and until his successor is elected and has qualified.

"(b) The judge of the County Court at Law Number 4 of Bexar County is the judge of Probate Court No. 2 of Bexar County. The judge serves until December 31, 1986, and until his successor is elected and has qualified.

"Sec. 38. Transfer of pending cases

"(a) Any other matters pending in County Court at Law Number 6 of Bexar County shall be transferred to County Courts at Law Numbers 1, 2, 3, 4, 5, and 6. The primary objective in transferring these matters shall be equalization of the case loads.

"(b) All matters pending in County Court at Law Number 4 of Bexar County on the first day of the initial term of Probate Court No. 2 that are in the jurisdiction of the Probate Court No. 2 of Bexar County shall be transferred to that court.

"(c) All processes, writs, bonds, recognizances, or other obligations issued or made in a case transferred under this section shall be returned to and filed in the court to which the transfer is made. Bonds executed and recognizances entered into in those cases bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances and are valid as if issued out of the court to which the case is transferred."

Art. 1970-301f. Repealed by Acts 1983, 68th Leg., p. 1938, ch. 355, § 39(1), eff. Aug. 29, 1983

See, now, art. 1970-301e.2.

Sections 37 and 38 of the 1983 repealing act provide:

"Sec. 37. Judges serving in redesignated courts

"(a) The judge of the County Court at Law Number 6 of Bexar County is the judge of Probate Court No. 1 of Bexar County. The judge serves until December 31, 1986, and until his successor is elected and has qualified.

"(b) The judge of the County Court at Law Number 4 of Bexar County is the judge of Probate Court No. 2 of Bexar County. The judge serves until December 31, 1986, and until his successor is elected and has qualified.

"Sec. 38. Transfer of pending cases

"(a) Any other matters pending in County Court at Law Number 6 of Bexar County shall be transferred to County Courts at Law Numbers 1, 2, 3, 4, 5, and 6. The primary objective in transferring these matters shall be equalization of the case loads.

"(b) All matters pending in County Court at Law Number 4 of Bexar County on the first day of the initial term of Probate Court No. 2 that are in the jurisdiction of the Probate Court No. 2 of Bexar County shall be transferred to that court.

"(c) All processes, writs, bonds, recognizances, or other obligations issued or made in a case transferred under this section shall be returned to and filed in the court to which the transfer is made. Bonds executed and recognizances entered into in those cases bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances and are valid as if issued out of the court to which the case is transferred."

Art. 1970-301f.1. Repealed by Acts 1983, 68th Leg., p. 1938, ch. 355, § 39(2), eff. Aug. 29, 1983

See, now, art. 1970-301e.2.

Art. 1970-301g. County Court of Bexar County for Criminal Cases

Sec. 1. There is hereby created a court to be held in Bexar County, Texas to be called the "County Court of Bexar County for Criminal Cases."

Sec. 2. The County Court of Bexar County for Criminal Cases shall have exclusive jurisdiction of all criminal matters and causes, original and appellate, over which, by the General Laws of the State of Texas, the County Court of said county would have jurisdiction, and the same are hereby transferred to the County Court of Bexar County for Crimi-

nal Cases; and all criminal writs and processes heretofore issued by or out of said County Court, be, and the same are hereby made returnable to the County Court of Bexar County for Criminal Cases.

Sec. 3. The jurisdiction hereby transferred to the County Court of Bexar County for Criminal Cases shall include all criminal cases and matters, the forfeiture of bonds in criminal cases, all proceedings in relation thereto; but the County Court of Bexar County shall retain, as heretofore, the jurisdiction of all cases of eminent domain; the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of administrators, executors and guardians; transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors, as provided by law. The county judge of Bexar county shall be the judge of the County Court of Bexar County, and all ex-officio duties of the county judge shall be exercised by the said judge of the County Court of Bexar County, except in so far as the same shall, by this Act and by Act of the Thirty-second Legislature, General Laws pages 15-17, House Bill No. 111, Chapter 10, be committed to the judge of the County Court of Bexar County for Civil Cases. The county judge of Bexar County shall retain authority to determine all matters relating to or arising out of or connected with the granting or revoking of liquor licenses, and all matters appertaining thereto, try all applications for liquor licenses and shall approve all liquor bonds as may be provided by law. He shall also retain jurisdiction of the Juvenile Court.

Sec. 4. The said County Court of Bexar County for Criminal Cases, and the judge thereof shall have the power to issue writs of injunction, certiorari, supersedeas mandamus, and all other writs necessary to the enforcement of the jurisdiction of said court; and also power to punish for contempt under such provisions as are or may be provided by the General Laws governing County Courts throughout the State; and to issue writs of habeas corpus in cases within the jurisdiction of said court.

Sec. 5. The County Court of Bexar County for Criminal Cases shall hold at least four terms for criminal business annually as may be provided by the Commissioners Court of Bexar County under authority of law, and such other terms each year as may be fixed by the Commissioners Court of Bexar County; provided the Commissioners Court having fixed the terms of said court, shall not change the same until the expiration of one year.

Sec. 6. There shall be elected in said county by the qualified voters thereof, at each general election, a judge of the County Court of Bexar County for Criminal Cases, who shall be learned in the laws

of the State, who shall hold his office for two years, and until his successor shall have been duly qualified.

Sec. 7. The judge of the County Court of Bexar County for Criminal Cases shall execute a bond in the sum of five thousand (\$5,000.00) dollars and take the oath of office as required by the law relating to county judges.

Sec. 8. Special judge of the County Court of Bexar County for Criminal Cases may be appointed or elected as provided by laws relating to County Courts, and to the judges thereof, and shall receive salary and compensations similar to the judge of the court hereby created, but which shall be prorated and paid to him only for the actual number of dates he actually serves.

Sec. 9. The county clerk of Bexar County shall be the clerk of the County Court of Bexar County for Criminal Cases. The seal of said court shall be the same as that provided for County Courts, except that the seal shall contain the words "County Court of Bexar County for Criminal Cases." The sheriff of Bexar County shall in person or by deputy attend the court when required by the judge thereof.

Sec. 10. The jurisdiction and authority now vested by law in the County Court of Bexar County, and the County Court of Bexar County for Civil Cases, for the selection and service of jurors shall be exercised by each of the three courts within their jurisdiction.

Sec. 11. Any vacancy in the office of the judge of the court created by this Act may be filled by the Commissioners Court of Bexar County until the next general election. The Commissioners Court of the county shall, as soon as may be, after this Act shall take effect, appoint a judge of the County Court of Bexar County for Criminal Cases, who shall serve until the next general election, and until his successor shall be duly elected and qualified.

Sec. 12. [Not included.]

Sec. 13. The judge of the County Court of Bexar County for Criminal Cases may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this State.

Sec. 14. The provisions of this law are not intended to in any manner affect the jurisdiction of the County Court of Bexar County for Civil Cases, and this law is intended to create another court somewhat similar to said County Court of Bexar County for Civil Cases, but the court hereby created to have jurisdiction of criminal matters only.

[Acts 1915, 34th Leg., p. 78, ch. 39.]

Art. 1970-301h. Repealed by Acts 1977, 65th Leg., p. 187, ch. 93, § 2, eff. May 2, 1977

See, now, § 8(c) of Art. 3883i.

MENARD COUNTY

Art. 1970-302. Jurisdiction and Time for Holding Menard County Court

Sec. 1. Hereafter the County Court of Menard County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which, by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Menard County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Menard County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in civil cases, of which Court has appellate, original or concurrent jurisdiction with the Justices Courts, where the amount in controversy does not exceed one hundred dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said county court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Menard County, Texas, within thirty days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May and on the first Monday in August and the first Monday in November of each year and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners' Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners' Court.

[Acts 1927, 40th Leg., 1st C.S., p. 112, ch. 38.]

STERLING COUNTY

Art. 1970-303. Jurisdiction and Time for Holding Sterling County Court

Sec. 1. Hereafter the County Court of Sterling County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which, by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Sterling County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Sterling County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in civil cases, of which Court has appellate, original or concurrent jurisdiction with the Justices Courts, where the amount in controversy does not exceed one hundred dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal, exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Sterling County, Texas, within thirty days after

this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May and on the first Monday in August and the first Monday in November of each year and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners' Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners' Court.

[Acts 1927, 40th Leg., 1st C.S., p. 25, ch. 14.]

Art. 1970-303a. Jurisdiction of Sterling County Court Diminished; Civil and Criminal Causes Transferred to District Court

Sec. 1. The county court of Sterling County shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle the accounts of executors, administrators, and guardians, transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, settlement and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as are now or may be provided by general law governing county courts throughout the State, but the said county court of Sterling county shall have no other jurisdiction, civil or criminal, whatsoever.

Sec. 2. That the District Court of Sterling county shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the county court of said Sterling County would have jurisdiction, except as provided in Section 1 of this Act; all causes, other than probate matters and such as are provided by Section 1 of this Act, be and the same are hereby transferred to the District Court of Sterling County, and all writs and process relating to any civil and criminal matters included in the subject matter of jurisdiction prescribed in Section 1 of this Act, issued by or out of said County Court of Sterling County, be and the same are hereby made returnable to the next term of the District Court of said county after this Act takes effect.

Sec. 3. That the county clerk of Sterling County be and he is hereby required, within thirty days after this Act takes effect, to make a full and complete transcript of all entries upon his civil and criminal docket heretofore made in cases which by Section 2 of this Act, are required to be transferred to the District Court of said County, together with all the papers pertaining to such case, a certified bill of costs in each case and all such cases shall be immediately docketed by the District Court as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had been originally filed in and triable in said District Court, and all process now issued and returnable to said County Court shall be returnable to said District Court.

Sec. 4. That this Act shall not be construed to in anywise or manner affect judgments heretofore rendered by said County Court of Sterling County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said county, but the County Clerk of said county shall issue all executions, and orders of sale, and proceedings thereunder, and this Act in so doing shall be valid and binding to all intents and purposes, the same as if no change had been made as by Section 2 therein contemplated.

[Acts 1933, 43rd Leg., Spec.Laws, p. 63, ch. 52.]

IRION COUNTY

Art. 1970-304. Jurisdiction and Time for Holding Irion County Court

Sec. 1. Hereafter the County Court of Irion County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for County Courts.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Irion County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Irion County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment

of said Court in Civil cases, of which Court has appellate, original or concurrent jurisdiction with the Justices Courts, where the amount in controversy does not exceed one hundred dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Irion County, Texas, within thirty days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County, of which cases by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August and the first Monday in November of each year, and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners' Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners' Court.

[Acts 1927, 40th Leg., 1st C.S., p. 24, ch. 13.]

CAMERON COUNTY

Art. 1970-305. County Court at Law No. 1 of Cameron County

Sec. 1. There is hereby created a court to be held in Brownsville, Cameron County, Texas, which shall be known as the County Court at Law No. 1 of Cameron County.

Sec. 2. (a) The County Court at Law No. 1 of Cameron County shall have and exercise the jurisdiction in all matters and cases, civil and criminal, original and appellate, over which by the general laws of the State, the County Court of said County would have jurisdiction.

(b) The County Court at Law No. 1 of Cameron County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases in which the matter in controversy exceeds Five Hundred Dollars (\$500.00) and does not exceed Twenty

Thousand Dollars (\$20,000.00), exclusive of interest, as provided by general law.

Sec. 3. The County Court at Law No. 1 of Cameron County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the general laws of this State is conferred upon Justice Courts.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of the County Court at Law No. 1 of Cameron County in Civil cases of which said court has appellate or original concurrent jurisdiction with the Justice Court, where the judgment or amount in controversy does not exceed One Hundred Dollars (\$100.00) exclusive of interest and costs.

Sec. 5. (a) This Act shall not be construed to deprive the Justice Courts of the jurisdiction conferred upon them by law, but only to give concurrent original jurisdiction to the County Court at Law No. 1 of Cameron County over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal to the County Court at Law No. 1 of Cameron County from the Justice Court where the right of appeal to the County Court exists by law.

(b) This Act does not diminish the jurisdiction of the District Courts but only gives concurrent jurisdiction to the County Courts at Law over the matters specified in Section 2(b) of this Act. The District Courts retain and shall continue to exercise the jurisdiction conferred by law on District Courts.

(c) This Act does not affect the jurisdiction of the Commissioners' Court nor of the County Judge of Cameron County as the presiding officer of the Commissioners' Court as to roads, bridges, and public highways, and the general administration of county business that is within the jurisdiction of the Commissioners' Court or the Judge of the County Court of Cameron County.

(d) The County Court of Cameron County shall have and retain concurrently with the County Court at Law No. 1 of Cameron County and the County Court at Law No. 2 of Cameron County the general jurisdiction of a probate court but shall have no other jurisdiction, civil or criminal. The County Judge of Cameron County shall be the Judge of the County Court of Cameron County, and all ex officio duties of the County Judge shall continue to be exercised by the Judge of the County Court of Cameron County.

Sec. 6. (a) The Judge of the County Court of Cameron County and the Judges of the County Courts at Law in Cameron County may transfer cases to and from the dockets of their respective Courts, except that a case may not be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred and may not be transferred unless it is within the jurisdiction of the Court to which it is transferred. The County Judge and the Judges of the County

Courts at Law may exchange benches and court-rooms with each other so that if one is absent, disabled, or disqualified, another Judge may hold court for him without the necessity of transferring the case. A Judge may hear all or any part of a case pending in the County Court or a County Court at Law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. A Judge may not sit or act in a case unless it is within the jurisdiction of his Court. Each judgment and order shall be entered in the minutes of the Court in which the case is pending.

(b) When a case is transferred from one Court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring Court are returnable to the Court to which the case is transferred as if originally issued by that Court. The obligees in all bonds and recognizances taken in and for a Court from which a case is transferred, and all witnesses summoned to appear in a Court from which a case is transferred, are required to appear before the Court to which the case is transferred as if originally issued out of the Court to which the transfer is made.

Sec. 7. The County Court at Law No. 1 of Cameron County shall hold six (6) terms of Court each year, commencing on the first Monday in January, March, May, July, September, and November of each year and each term shall continue until the business of said Court shall have been disposed of; provided, however, that no term of said Court shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its minutes during the term extending the term for any particular causes therein specified.

Sec. 8. There shall be elected in Cameron County by the qualified voters of the county a Judge of the County Court at Law No. 1 of Cameron County who must be a citizen of the United States, must have resided in Cameron County for at least two years prior to the Judge's election or appointment, and must be a licensed attorney in this State who has been actively engaged in the practice of law or has been a Judge of a Court in this State, or both combined, for at least four years prior to the Judge's election or appointment. The Judge of the County Court at Law No. 1 is elected for a term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. The Judge shall continue to perform the duties of the office until his successor is elected and qualified.

Sec. 9. The County Attorney of Cameron County shall represent the State in all prosecutions pending in the County Court at Law No. 1 of Cameron County, and shall be entitled to the same fee as now prescribed by law for such prosecutions in the County Courts.

Sec. 10. The Judge of the County Court at Law No. 1 may not engage in the private practice of law during his term of office.

Sec. 11. A Special Judge of the County Court at Law No. 1 of Cameron County may be appointed or elected as provided by the law relating to County Courts and to the Judges thereof. A Special Judge shall be compensated in the same manner as provided for Special Judges of the County Courts.

Sec. 12. The County Court at Law No. 1 of Cameron County, or the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court of the county of inferior jurisdiction to the County Court at Law No. 1 of Cameron County.

Sec. 13. The County Clerk of Cameron County shall be the clerk of the County Court at Law No. 1 of Cameron County. The seal of the court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law No. 1 of Cameron County," and the Sheriff of Cameron County shall in person or by deputy attend the court when required by the judge thereof, and the County Clerk of Cameron County is authorized, if it becomes necessary, in his judgment, to appoint a deputy to specially attend to the matters pertaining to the County Court at Law No. 1 of Cameron County.

Sec. 14.(a) The laws that govern the drawing, selection, and service of jurors for County Courts apply to the County Courts at Law. Jurors summoned for a County Court at Law or the County Court may, by order of the Judge of the Court in which they are summoned, be transferred to any of the other Courts for service and may be used as if summoned for the Court to which they may be transferred. On concurrence of the Judges of the County Courts at Law and the County Judge, jurors may be summoned for service in all of those Courts and shall be used interchangeably in all of those Courts. Jurors regularly impaneled for the week by the District Court may, at the request of either the Judge of the County Court or the Judge of a County Court at Law, be made available by the District Judge in the numbers requested and shall serve for the week in the County Court or the County Court at Law.

(b) Practice in the County Court at Law No. 1 shall conform to that prescribed by law for the County Court, except that the practice and procedure, rules of evidence, issuance of process, and all other matters pertaining to the conduct of trials and hearings in the County Court at Law No. 1 involving matters of concurrent jurisdiction with the District Courts shall be governed by the laws and rules pertaining to District Courts. A jury is composed

of 12 members, except that a jury is composed of six members in a misdemeanor criminal case or any other case where the Court has concurrent jurisdiction with the County Court.

Sec. 15. Any vacancy in the office of the Judge of the County Court at Law No. 1 of Cameron County may be filled by the Commissioners' Court, and when so filled the Judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 16. The Judge of the County Court at Law No. 1 of Cameron County may receive an annual salary, the amount of which shall be fixed by the Commissioners' Court of Cameron County. The salary shall be paid out of the County Treasury of Cameron County on the order of the Commissioners' Court and shall be paid monthly in equal installments. The amount may not exceed the sum that is equal to 90 percent of the total annual salary paid a District Court Judge having jurisdiction in Cameron County. The Judge of the County Court at Law No. 1 of Cameron County shall assess the same fees as are prescribed by law relating to the County Judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, no part of which shall be paid to the Judge, but he shall draw the salary as specified in this section.

Sec. 17. All cases appealed from the Justice Court and other inferior courts in Cameron County, Texas, shall be made direct to the County Courts at Law of Cameron County, under the provisions heretofore governing such appeals.

Sec. 18. The judge of the County Court at Law No. 1 of Cameron County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

[Acts 1927, 40th Leg., 1st C.S., p. 167, ch. 59. Amended by Acts 1955, 54th Leg., p. 223, ch. 57, §§ 1, 2; Acts 1959, 56th Leg., p. 283, ch. 159, § 1; Acts 1969, 61st Leg., p. 1255, ch. 394, §§ 1, 2, eff. May 29, 1969; Acts 1971, 62nd Leg., p. 1862, ch. 549, § 1, eff. June 1, 1971; Acts 1983, 68th Leg., p. 5485, ch. 1034, § 1, eff. June 19, 1983.]

Section 2 of the 1971 amendatory act provided:

"In any matter or proceeding within the jurisdiction of both the County Court at Law of Cameron County and the County Court of Cameron County, any transfer from the docket of one court to the docket of the other, exchange of benches by the judges of the two courts or any other similar action authorized by this Act prior to the effective date of this Act is hereby validated."

Section 7 of the 1983 amendatory act provided:

"If the 68th Legislature, Regular Session, enacts a uniform statutory court act renaming the county courts at law as circuit courts and repealing the law governing the county courts at law in Cameron County (compiled as Articles 1970-305, 1970-305a, 1970-305b, and 1970-305c, Vernon's Texas Civil Statutes), this Act has no effect, and the uniform act governs those courts."

The 68th Legislature did not enact a uniform statutory court act.

Art. 1970-305a. Name Changed to County Court at Law of Cameron County

Sec. 1. The name of the "County Court of Cameron County at Law," created by House Bill No. 91, Chapter 59, Acts of the Fortieth Legislature, First Called Session, 1927, codified as Article 1970-305 of Vernon's Civil Statutes of the State of Texas, is hereby changed to County Court at Law of Cameron County.

Sec. 2. All laws heretofore or hereafter enacted by the Legislature, applicable or relating to the "County Court of Cameron County at Law" shall hereafter be applicable and relate to the County Court at Law of Cameron County.

[Acts 1951, 52nd Leg., p. 115, ch. 70.]

Art. 1970-305b. Repealed by Acts 1983, 68th Leg., p. 5497, ch. 1034, § 6, eff. June 19, 1983

See, now, art. 1970-305, § 16.

Art. 1970-305c. County Court at Law No. 2 of Cameron County

Creation

Sec. 1. The County Court at Law No. 2 of Cameron County is created. It shall sit in Brownsville, Texas.

Jurisdiction

Sec. 2. (a) The County Court at Law No. 2 of Cameron County shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the general laws of the state, the county courts have jurisdiction, and shall have jurisdiction concurrent with the County Court at Law No. 1 of Cameron County in matters and causes, civil and criminal, original and appellate.

(b) The County Court at Law No. 2 of Cameron County shall have and exercise original concurrent jurisdiction with the justice courts and with the County Court at Law No. 1 of Cameron County in all civil and criminal matters which by the general laws of this state is conferred on justice courts. No appeal or writ of error shall be taken to the court of civil appeals from any final judgment of the County Court at Law No. 2 of Cameron County in civil cases of which the court has appellate or original concurrent jurisdiction with the justice court, where the judgment or amount in controversy does not exceed \$100, exclusive of interest and costs. This Act does not deprive the justice courts of the jurisdiction conferred on them by law, but gives concurrent original jurisdiction to the county courts at law of Cameron County over the matters specified in this subsection. This Act does not deny the right of appeal to the county courts at law of Cameron County from the justice court where the right of appeal to the county court exists by law. All cases appealed from the justice court and other inferior courts in Cameron County shall be made direct to

the county courts at law under the provisions governing such appeals.

(c) The County Court at Law No. 2 of Cameron County shall also have the general jurisdiction of a probate court within the limits of Cameron County, concurrent with jurisdiction of the County Court of Cameron County and the County Court at Law No. 1 of Cameron County in such matters and proceedings.

(d) The County Court at Law No. 2 of Cameron County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest, as provided by general law.

(e) The County Court of Cameron County shall have and retain concurrently with the County Court at Law No. 1 of Cameron County and the County Court at Law No. 2 of Cameron County the general jurisdiction of a probate court but shall have no other jurisdiction, civil or criminal. The county judge of Cameron County shall be the judge of the County Court of Cameron County, and all ex officio duties of the county judge shall continue to be exercised by the judge of the County Court of Cameron County unless by this Act committed to the judges of the county courts at law. The county courts at law do not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways or the general administration of county business which is within the jurisdiction of the commissioners court or the presiding judge of the commissioners court.

(f) This Act does not diminish the jurisdiction of the district courts but only gives concurrent jurisdiction to the county courts at law over the matters specified in Subsection (d) of this section. The district courts retain and shall continue to exercise the jurisdiction conferred by law on district courts.

Writ Power

Sec. 3. The County Court at Law No. 2 of Cameron County, or the judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of the court or of any other court in the county of inferior jurisdiction to the County Court at Law No. 2.

Terms

Sec. 4. The County Court at Law No. 2 of Cameron County shall hold six terms of court each year, commencing on the first Monday in January, March, May, July, September, and November of each year, and each term shall continue until the next succeeding term begins.

Judge

Sec. 5. (a) There shall be elected in Cameron County, by the qualified voters of the county, a judge of the County Court at Law No. 2 who must be a citizen of the United States, must have resided in Cameron County for at least two years prior to the judge's election or appointment, and must be a licensed attorney in this state who has been actively engaged in the practice of law or has been a judge of a court in this state, or both combined, for at least four years prior to the judge's election or appointment. Beginning at the general election in 1982 and every fourth year thereafter, there shall be elected a judge of the County Court at Law No. 2 for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. A vacancy in the office of the judge of the County Court at Law No. 2 of Cameron County shall be filled by appointment of the Commissioners Court of Cameron County, and when so filled, the judge shall hold the office until the next general election and until his or her successor is elected and has qualified.

(b) The judge of the County Court at Law No. 2 shall execute a bond and take the oath of office as required by law relating to county judges.

(c) The judge of the County Court at Law No. 2 may be removed from office in the same manner and for the same causes as provided by law for county judges.

(d) A special judge of the County Court at Law No. 2 may be appointed or elected as provided by law relating to county courts and to the judges thereof, who shall be compensated in the same manner as provided for special judges of the county courts.

(e) The judge of the County Court at Law No. 2 may not engage in the private practice of law during his term of office.

Compensation

Sec. 6. The judge of the County Court at Law No. 2 of Cameron County may receive an annual salary, the amount of which shall be fixed by the Commissioners Court of Cameron County. The salary shall be paid out of the county treasury of Cameron County on the order of the commissioners court and shall be paid monthly in equal installments. The amount shall not exceed 90 percent of the amount paid a district court judge having jurisdiction in Cameron County.

Personnel

Sec. 7. (a) The county clerk, county attorney, and sheriff of Cameron County shall serve as clerk, county attorney, and sheriff, respectively, for the County Court at Law No. 2. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their offices and are entitled to the compen-

sation, fees, and allowances prescribed by law for their respective offices.

(b) The judge of the County Court at Law No. 2 shall appoint an official shorthand reporter for the court who shall have the qualifications provided by law for official court reporters, shall be a sworn officer of the court, and shall hold office at the pleasure of the judge. The duties of the reporter shall be the same as provided by general law for official court reporters, and the salary of the reporter shall be set by the commissioners court and paid monthly by the commissioners court out of any funds available for the purpose. All other provisions of the law relating to official court reporters shall apply insofar as they are applicable to the court reporter authorized by this Act and insofar as they are not inconsistent with this Act.

Jurors

Sec. 8. (a) The jurisdiction and authority vested by law in the county court and the judge thereof for the drawing, selection, and service of jurors shall also be exercised by the county courts at law and the judges thereof. Jurors summoned for a county court at law or the county court may, by order of the judge of the court in which they are summoned, be transferred to any of the other courts for service and may be used as if summoned for the court to which they may be transferred. On concurrence of the judges of the county courts at law and the county judge, jurors may be summoned for service in all of those courts and shall be used interchangeably in all of those courts.

(b) Jurors regularly impaneled for the week by the district court or courts may, on request of either the county judge or the judge of a county court at law, be made available by the district judge or judges in such numbers as may be requested for service for the week in either or both of the county courts at law or the county court, and such jurors shall serve in the county court and county court at law the same as if they had been drawn and selected as is otherwise provided by law.

Transfer of Cases; Exchange of Benches

Sec. 9. (a) The judges of the county court and the county courts at law may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred. In cases transferred to any of the courts by order of the judge of one of the other courts, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are

transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before the transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(b) The county judge and the judges of the county courts at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him or her without the necessity of transferring the case involved. Any judge may hear all or any part of a case pending in the county court or a county court at law, but only in matters within his or her jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his or her own docket. However, the judge of any court may not sit or act in a case unless it is within the jurisdiction of his or her court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. This provision providing for the exchange of benches by and between the judge of the county court and the judges of the county courts at law is cumulative of and in addition to the provisions in this Act for the selection and appointment of a special judge of the county court at law.

Seal

Sec. 10. The seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 2 of Cameron County, Texas."

Practice and Procedure

Sec. 11. Practice in the county courts at law shall conform to that prescribed by law for the county court, except that the practice and procedure, rules of evidence, issuance of process, and all other matters pertaining to the conduct of trials and hearings in the county courts at law involving matters of concurrent jurisdiction with the district courts shall be governed by the laws and rules pertaining to district courts. A jury is composed of 12 members, except that a jury is composed of six members in a misdemeanor criminal case or any other case in which the court has concurrent jurisdiction with the county court.

[Acts 1979, 66th Leg., p. 999, ch. 438, eff. Jan. 1, 1980. Amended by Acts 1983, 68th Leg., p. 5494, ch. 1034, §§ 2 to 5, eff. June 19, 1983.]

Section 7 of the 1983 amendatory act provided:

"If the 68th Legislature, Regular Session, enacts a uniform statutory court act renaming the county courts at law as circuit courts and repealing the law governing the county courts at law in Cameron County (compiled as Articles 1970-305, 1970-305a, 1970-305b, and 1970-305c, Vernon's Texas Civil Statutes), this Act has no effect, and the uniform act governs those courts."

The 68th Legislature did not enact a uniform statutory court act.

BOWIE COUNTY

Art. 1970-306. Jurisdiction of Bowie County Court Diminished

Sec. 1. That the County Court of Bowie County shall have and exercise the general jurisdiction of probate courts, shall probate wills, appoint guardians of minors, idiots, lunatics, persons¹ non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, settlement and distribution of estates of deceased persons, and to apprentice minors as prescribed by law, and to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts under such provisions as are or may be provided by general law governing County Courts throughout the State; but said County Court shall have no other jurisdiction, civil or criminal.

Sec. 2. That the District Courts of said County shall have and exercise jurisdiction in all matters and causes, civil and criminal, over which, by General Laws of the State of Texas, the County Court of said County would have jurisdiction, except as provided in Section 1 of this Act, and that all cases other than probate matters and such as are provided in Section 1 of this Act be and the same are hereby transferred to the District Courts of said County, and all writs and process, civil and criminal, heretofore issued by or out of said County Court, other than those appertaining to matters over which by Section 1 of this Act jurisdiction is given to the County Court of said County, be and the same are hereby made returnable to the next term of the District Courts in and for said County.

Sec. 3. That the Clerk of the County Court of said Bowie County be and he is hereby required, within twenty days after this Act takes effect, to file with the Clerk of the District Court of said County all original papers in all of said causes, both civil and criminal, and all dockets and orders and proceedings had in all such causes, and said District Clerk shall immediately docket all of such causes on the docket or dockets of the District Courts of said County, and all of such causes, both civil and criminal shall stand on the dockets of said District Courts in the same manner and place as each individual case stood on the docket of the County Court of said County.

[Acts 1927, 40th Leg., 1st C.S., p. 19, ch. 9.]

¹ So in enrolled bill. Session Laws omit word "persons."

KERR COUNTY

Art. 1970-307. Jurisdiction and Time for Holding County Court of Kerr County

Sec. 1. That the County Court of Kerr County shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars exclusive of interest,

and that it shall have concurrent jurisdiction with the District Court of said County when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said County Court shall have appellate jurisdiction in civil cases over which Justice's Courts of said County have original jurisdiction when the judgment of the Court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest, and said County Court shall have the power to hear and determine cases brought up from the Justice's Courts by certiorari under the provisions of law relating thereto.

Sec. 3. The County Judge of said County shall have authority either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said Court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution and laws have not exclusively conferred the power on the District Judge or District Court thereof.

Sec. 4. Said Court shall have, as now, the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, and common drunkards, grant letters testamentary and of administration; settle accounts of executors, administrators, and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons; apprentice minors as provided by law; and to issue all writs necessary to the enforcement of its jurisdiction, orders, and decrees; and generally to exercise all the powers in probate matters conferred upon such courts by the Constitution and laws of the State.

Sec. 5. Such Court shall have jurisdiction in the forfeiture of all bonds and recognizances taken in criminal cases of which said Court has original or appellate jurisdiction.

Sec. 6. Said Court shall have and exercise exclusive jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except misdemeanors in which the highest penalty that may be imposed by law is a fine, without imprisonment, that does not exceed two hundred dollars; and said Court shall have appellate jurisdiction of criminal cases in which Justice Courts and other inferior tribunals of said County have original jurisdiction.

Sec. 7. The District Court of said County shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of civil cases of which the County Court of said County, by the provisions of this Act, has original or appellate jurisdiction.

Sec. 8. It shall be the duty of the District Clerk of said County, within thirty days after this Act shall take effect, to make full and complete transcript of orders on the criminal and civil dockets then pending before the District Court of said County, of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court, and to file said transcript together with the original papers in each case, in the County Court of said County, and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 9. The said Court shall also have the power to hear and determine all motions against sheriffs and other officers of the Court for failure to pay over moneys collected under the process of said Court, or other defalcations of official duty in connection with said process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the County jail not exceeding three days, any person guilty of contempt of said Court, and all other powers, and jurisdictions conferred on County Courts by the Constitution and General Laws of the State of Texas.

Sec. 10. The terms of said Court shall commence on the first Monday in February, and on the first Monday in May, and on the first Monday in August, and on the first Monday in November, in each year, and shall continue in session for three weeks at each term, or until the business may be disposed of; provided, that the County Commissioners' Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary.

[Acts 1927, 40th Leg., 1st C.S., p. 254, ch. 96.]

WASHINGTON COUNTY

Art. 1970-308. Jurisdiction of Washington County Court

Sec. 1. The county court of Washington County shall have and exercise original concurrent jurisdiction with the justices' courts in all civil matters which by the general laws of this State is conferred upon said justice of the peace courts.

Sec. 2. Said county court shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings as is by the General Laws of this State conferred upon county courts.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said county court in civil cases of which said court has appellate jurisdiction or original concurrent jurisdiction with the justices' court where the judgment or amount in controversy does not exceed one hundred dollars exclusive of interest and costs.

Sec. 4. Nothing in this Act shall be construed to deprive the justices' courts of the jurisdiction now conferred upon them by law or in any manner to impair or alter their jurisdiction, but only to give

original concurrent jurisdiction to said county court over such matters as are specified in Section 1 of this Act; nor shall this Act be construed to deny the right of appeal from the Justices' court to said county court in any case originally brought in any justice court where the right of appeal now exists by General law.

[Acts 1929, 41st Leg., p. 542, ch. 265.]

OFFICIAL SHORTHAND REPORTERS

Art. 1970-309. Reporters and Compensation

That the Official Shorthand Reporters of the County Courts at Law of each county having a population of not less than 202,000 and not more than 203,000, according to the 14th Census of the United States of the year 1920, shall, from and after the passage and taking effect of this Act, be entitled to receive the same fee allowed the Official Shorthand Reporters of the District Courts, and, in addition thereto, shall be entitled to receive a salary of Two Thousand Five Hundred (\$2,500.00) Dollars, annually, to be paid in equal monthly installments by said county by warrants drawn from the general funds thereof, out of the County Treasury by the orders of the Commissioners' Court.

[Acts 1929, 41st Leg., 2nd C.S., p. 19, ch. 14, § 1.]

PARTICULAR COUNTY COURTS

Art. 1970-310. Other Acts Creating or Affecting Jurisdiction of Particular County Courts

Angelina—Jurisdiction restored: Acts 1893, March 21, ch. 34, p. 31.

Atascosa—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.

Bailey—Jurisdiction increased: Acts 1911, March 20, ch. 93, p. 171.

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

Baylor—Jurisdiction diminished: Acts 1981, 67th Leg., p. 3039, ch. 794, eff. Sept. 1, 1981.

Bee—Jurisdiction increased: Acts 1903, March 26, ch. 62, p. 88.

Blanco—Jurisdiction diminished: Acts 1881, Feb. 9, ch. 6, p. 3.

Bosque—Jurisdiction diminished: Acts 1881, March 26, ch. 60, p. 64.

Brazoria—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.

Brazos—Jurisdiction restored: Acts 1959, 56th Leg., p. 4, ch. 2. Amended and jurisdiction diminished: Acts 1975, 64th Leg., p. 112, ch. 50, § 8, eff. Jan. 1, 1977.

Brewster—Jurisdiction restored: Acts 1889, Feb. 21, ch. 9, p. 6.

Brown—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.

- Burnet**—Jurisdiction restored: Acts 1885, March 24, ch. 49, p. 47.
- Callahan**—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.
- Cameron**—Jurisdiction diminished: Acts 1931, April 9, ch. 307, p. 769.
- Camp**—Jurisdiction restored: Acts 1895, April 26, ch. 65, p. 91. General jurisdiction in matters of eminent domain transferred to district court: Acts 1971, 62nd Leg., p. 1952, ch. 592, §§ 1, 2, eff. June 2, 1971.
- Carson**—Jurisdiction restored: Acts 1919, July 15, 2nd C.S., ch. 17, p. 37.
- Cass**—Jurisdiction diminished: Acts 1879, July 8, C.S., ch. 25, p. 21. General jurisdiction in matters of eminent domain transferred to district court: Acts 1971, 62nd Leg., p. 1168, ch. 273, §§ 1 to 6, eff. May 19, 1971. Jurisdiction in misdemeanor guilty plea causes: Acts 1983, 68th Leg., p. 4814, ch. 847, § 1, eff. June 19, 1983.
- Chambers**—Jurisdiction restored: Acts 1905, April 12, ch. 79, p. 111.
- Coke**—Jurisdiction restored: Acts 1901, March 29, ch. 37, p. 47.
- Coleman**—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.
- Comal**—Jurisdiction diminished: Acts 1883, March 16, ch. 35, p. 24.
- Comanche**—Jurisdiction restored: Acts 1883, April 9, ch. 66, p. 55.
- Concho**—Jurisdiction restored: Acts 1909, April 7, 1st C.S., ch. 5, p. 268.
- Coryell**—Jurisdiction restored: Acts 1887, March 25, ch. 68, p. 47.
- Cottle**—Jurisdiction diminished: Acts 1981, 67th Leg., p. 3039, ch. 794, eff. Sept. 1, 1981.
- Crockett**—Acts 1909, 31st Leg., 1st C.S., ch. 31, repealed in part and jurisdiction restored: Acts 1955, 54th Leg., p. 384, ch. 105, effective April 26, 1955.
- Dawson**—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
- Delta**—Jurisdiction restored: Acts 1895, March 12, ch. 27, p. 32.
- Dickens**—Jurisdiction increased: Acts 1915, March 15, ch. 59, p. 108.
- Dimmitt**—Jurisdiction restored: Acts 1905, 90 days after April 15, date of adjournment, ch. 92, p. 136.
- Donley**—Jurisdiction restored: Acts 1889, March 21, ch. 53, p. 48.
- Duval**—Jurisdiction diminished: Acts 1899, Jan. 31, ch. 3, p. 2.
- Erath**—Jurisdiction restored: Acts 1885, March 31, ch. 109, p. 103.
- Falls**—Jurisdiction diminished: Acts 1917, March 20, ch. 89, p. 243. Amended and jurisdiction diminished: Acts 1975, 64th Leg., p. 84, ch. 39, § 1, eff. April 8, 1975.
- Fannin**—General jurisdiction in matters of eminent domain transferred to district court: Acts 1971, 62nd Leg., p. 820, ch. 89, §§ 1 to 6.
- Franklin**—Jurisdiction restored: Acts 1905, Feb. 9, ch. 10, p. 12.
- Frio**—Jurisdiction restored: Acts 1907, March 18, ch. 25, p. 40.
- Gaines**—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
- Garza**—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
- Gillespie**—Jurisdiction diminished: Acts 1881, Feb. 25, ch. 19, p. 13.
- Glasscock**—Jurisdiction restored: Acts 1957, 55th Leg., p. 399, ch. 196, eff. May 6, 1957.
- Goliad**—Civil jurisdiction increased: Acts 1895, April 15, ch. 45, p. 57.
- Gonzales**—Jurisdiction increased: Acts 1957, 55th Leg., p. 278, ch. 127, § 1, effective April 30, 1957. Jurisdiction diminished: Acts 1957, 55th Leg., p. 867, ch. 383, effective April 30, 1957.
- Gray**—Jurisdiction restored: Acts 1907, April 4, ch. 58, p. 125.
- Greer**—Jurisdiction restored: Acts 1889, March 21, ch. 53, p. 48.
- Gregg**—Jurisdiction restored: Acts 1895, Feb. 15, ch. 8, p. 6.
- Grimes**—Jurisdiction restored: Acts 1885, Feb. 10, ch. 10, p. 11.
- Hamilton**—Jurisdiction restored: Acts 1893, March 13, ch. 24, p. 22.
- Hansford**—Jurisdiction restored: Acts 1917, Feb. 13, ch. 19, p. 31.
- Hardin**—Jurisdiction restored: Acts 1897, March 20, ch. 31, p. 28.
- Hartley**—Jurisdiction restored: Acts 1903, 90 days after April 1, date of adjournment, ch. 46, p. 64.
- Haskell**—Jurisdiction increased: Acts 1919, 90 days after March 19, date of adjournment, ch. 33, p. 55.
- Hemphill**—Jurisdiction increased: Acts 1915, March 22, ch. 125, p. 192.
- Henderson**—Jurisdiction restored: Acts 1883, Feb. 3, ch. 26, p. 14, and Acts 1909, ch. 37, p. 80.
- Hidalgo**—Jurisdiction restored: Acts 1903, March 26, ch. 62, p. 88.
- Hopkins**—Original jurisdiction in matters of eminent domain transferred to district courts: Acts 1967, 60th Leg., p. 84, ch. 44, §§ 1 to 6, eff. April 7, 1967.
- Houston**—Jurisdiction restored: Acts 1883, April 13, ch. 87, p. 84.
- Hutchinson**—Jurisdiction diminished: Acts 1905, Jan. 31, ch. 8, p. 8.
- Karnes**—Jurisdiction restored: Acts 1903, 90 days after April 1, date of adjournment, ch. 14, p. 20.
- Kimble**—Jurisdiction increased: Acts 1931, April 16, ch. 320, p. 793.

- King**—Jurisdiction restored: Acts 1903, 90 days after April 1, date of adjournment, ch. 46, p. 64. Jurisdiction diminished: Acts 1981, 67th Leg., p. 3039, ch. 794, eff. Sept. 1, 1981.
- Knox**—Jurisdiction diminished: Acts 1981, 67th Leg., p. 3039, ch. 794, eff. Sept. 1, 1981.
- Lamb**—Jurisdiction increased: Acts 1911, 90 days after March 11, date of adjournment, ch. 93, p. 171.
- Lampasas**—Jurisdiction restored: Acts 1897, May 7, ch. 127, p. 181.
- La Salle**—Jurisdiction diminished: Acts 1889, March 27, ch. 97, p. 109. Jurisdiction restored: Acts 1971, 62nd Leg., p. 1214, ch. 295, eff. May 24, 1971.
- Leon**—Jurisdiction restored: Acts 1897, April 3, ch. 80, p. 103.
- Liberty**—Jurisdiction restored: Acts 1895, April 15, ch. 44, p. 55.
- Lipscomb**—Jurisdiction restored: Acts 1907, March 13, ch. 17, p. 28.
- Live Oak**—Jurisdiction restored: Acts 1887, March 25, ch. 68, p. 47.
- Llano**—Jurisdiction restored: Acts 1885, March 24, ch. 49, p. 47.
- Lynn**—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
- McCulloch**—Jurisdiction restored: Acts 1901, 90 days after April 9, date of adjournment, ch. 82, p. 216.
- McMullen**—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
- Marion**—Jurisdiction diminished: Acts 1897, March 11, ch. 36, p. 38.
- Mason**—Jurisdiction diminished: Acts 1887, March 26, ch. 73, p. 54.
- Matagorda**—Jurisdiction restored: Acts 1903, Jan. 30, ch. 5, p. 5.
- Medina**—Jurisdiction restored: Acts 1895, April 15, ch. 44, p. 55.
- Mills**—Jurisdiction restored: Acts 1907, April 15, ch. 101, p. 199.
- Mitchell**—Jurisdiction increased: Acts 1919, 90 days after March 19, date of adjournment, ch. 11, p. 15.
- Montgomery**—Jurisdiction restored: Acts 1885, March 24, ch. 49, p. 47.
- Morris**—Jurisdiction diminished: Acts 1883, Feb. 9, ch. 11, p. 6. Jurisdiction restored: Acts 1957, 55th Leg., p. 78, ch. 37, effective March 29, 1957. Original jurisdiction in matters of eminent domain transferred to district court: Acts 1967, 60th Leg., p. 872, ch. 378, eff. June 8, 1967; amended by Acts 1969, 61st Leg., p. 707, ch. 246, eff. May 21, 1969.
- Nacogdoches**—Jurisdiction restored: Acts 1891, March 10, ch. 23, p. 24.
- Navarro**—Jurisdiction restored: Acts 1881, March 12, ch. 37, p. 28.
- Newton**—Jurisdiction restored: Acts 1905, May 9, ch. 126, p. 312.
- Nueces**—Jurisdiction diminished: Acts 1930, 90 days after March 20, date of adjournment, 5th C.S., ch. 69, p. 224.
- Ochiltree**—Jurisdiction restored: Acts 1909, 90 days after March 13, date of adjournment, ch. 63, p. 115.
- Orange**—Jurisdiction restored: Acts 1897, March 31, ch. 74, p. 92, and Acts 1903, March 6, ch. 29, p. 41.
- Palo Pinto**—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.
- Panola**—Jurisdiction restored: Acts 1887, March 25, ch. 68, p. 47.
- Parker**—Jurisdiction restored: Acts 1883, Feb. 3, ch. 26, p. 14.
- Pecos**—Jurisdiction restored: Acts 1883, April 9, ch. 66, p. 55.
- Polk**—Jurisdiction restored: Acts 1903, March 7, ch. 33, p. 46.
- Potter**—Creating County Court at Law: Acts 1931, March 17, ch. 303, p. 760.
- Presidio**—Jurisdiction restored: Acts 1883, April 9, ch. 66, p. 55.
- Real**—Jurisdiction diminished: Acts 1917, March 1, ch. 53, p. 92. Repealed and jurisdiction restored: Acts 1979, 66th Leg., p. 452, ch. 208, eff. Aug. 27, 1979.
- Red River**—Jurisdiction restored: Acts 1883, Feb. 3, ch. 26, p. 14.
- Roberts**—Jurisdiction restored: Acts 1905, ch. 79, p. 111.
- Robertson**—Jurisdiction diminished: Acts 1917, March 26, ch. 96, p. 256.
- Sabine**—Jurisdiction diminished: Acts 1959, 56th Leg., 2nd C.S., p. 90, ch. 7.
- San Augustine**—Jurisdiction diminished: Acts 1959, 56th Leg., 2nd C.S., p. 90, ch. 7.
- San Jacinto**—Jurisdiction restored: Acts 1907, March 21, ch. 34, p. 55.
- San Patricio**—Jurisdiction restored: Acts 1893, April 28, ch. 65, p. 85.
- San Saba**—Jurisdiction restored: Acts 1903, March 10, ch. 35, p. 51.
- Schleicher**—Jurisdiction increased: Acts 1931, March 6, ch. 298, p. 754.
- Scurry**—Jurisdiction increased: Acts 1919, July 15, 2nd C.S., ch. 13, p. 39.
- Starr**—Jurisdiction restored: Acts 1903, March 26, ch. 62, p. 88.
- Stephens**—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.
- Taylor**—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.

Terry—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.

Throckmorton—Jurisdiction restored: Acts 1887, March 25, ch. 68, p. 47.

Titus—Jurisdiction restored: Acts 1901, ch. 78, p. 201 and Acts 1905, ch. 45, p. 56.

Tom Green—Jurisdiction restored: Acts 1883, April 9, ch. 66, p. 55.

Travis—Jurisdiction restored: Acts 1891, March 25, ch. 56, p. 75.

Trinity—Jurisdiction restored: Acts 1905, Jan. 25, ch. 6, p. 5.

Tyler—Jurisdiction restored: Acts 1893, March 8, ch. 16, p. 12.

Uvalde—Jurisdiction restored: Acts 1883, Feb. 8, ch. 26, p. 14.

Webb—Jurisdiction diminished: Acts 1893, Feb. 11, ch. 9, p. 5.

Wharton—Jurisdiction restored: Acts 1893, March 13, ch. 24, p. 22.

Willacy—Jurisdiction restored: Acts 1965, 59th Leg., p. 999, ch. 486, § 1.

Wilson—Jurisdiction restored: Acts 1889, March 16, ch. 46, p. 41.

Yoakum—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.

Young—Jurisdiction restored: Acts 1885, March 24, ch. 49, p. 47.

POTTER COUNTY

Art. 1970-311. Jurisdiction of Potter County Court at Law Diminished; Transfer of Causes to County Court and Justice Court

Sec. 2. All causes of action pending in the County Court of Potter County at Law on the effective date of this Act over which the County Court of Potter County would have had jurisdiction under general law had it not been for the creation of said County Court of Potter County at Law, are hereby transferred to the County Court of Potter County, and all process, writs, and bonds, civil and criminal, issued in said causes prior to and executed subsequent to the taking effect of this Act, shall be returnable to the County Court of Potter County. And all bonds executed and recognizances entered into in the County Court of Potter County at Law shall bind the parties for their appearance and to fulfill the obligations of such bonds and recognizances at the terms of the County Court of Potter County; and all process of every nature heretofore issued and returned or executed prior to the taking effect of this Act and returned before or after the taking effect of this Act, as well as all bonds and recognizances heretofore or hereafter taken or entered into in the County Court of Potter County at Law, shall all likewise be as valid and binding in the County Court of Potter County as they would have

been in the County Court of Potter County at Law had this Act not been passed.

Sec. 3. All causes of action pending in the County Court of Potter County at Law over which any Justice Court of Potter County would have had jurisdiction under general law had it not been for the creation of said County Court of Potter County at Law, shall be and the same are hereby transferred to the proper Justice Court, and all process, writs, and bonds, civil and criminal, issued prior to and/or executed subsequent to the taking effect of this Act out of such causes, shall be and the same are hereby made returnable to the proper Justice Court. And all bonds executed and recognizances entered into in the County Court of Potter County at Law in such cases shall bind the parties for their appearance and to fulfill the obligations of such bonds and recognizances at the terms of the proper Justice Court to which said causes are hereby transferred, and all process of every nature whatsoever issued in said causes as well as all bonds and recognizances, shall all likewise be valid and binding in such Justice Court as they would have been in the County Court of Potter County at Law had this Act not been passed.

[Acts 1933, 43rd Leg., Spec.Laws, p. 65, ch. 54.]

Art. 1970-311a. County Court at Law of Potter County Created, etc.

Sec. 1. There is hereby created a court to be held in Amarillo, Potter County, Texas, which shall be known as the County Court at Law of Potter County.

Sec. 2. The County Court at Law of Potter County shall have original and concurrent jurisdiction with the County Court of Potter County, in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of this state, County Courts have jurisdiction, except as provided in Section 6 of this Act; but this provision shall not affect jurisdiction of the Commissioners Court or the County Judge of Potter County, Texas as the presiding officer of the Commissioners Court as to roads, bridges and public highways, and matters of eminent domain, which are now within the jurisdiction of the Commissioners Court or the judge of Potter County.

With the consent of the other, the judge of either of such courts shall have the power to transfer to the other court any case over which the courts have concurrent jurisdiction pending upon the docket of his court except in cases where the writ of certiorari has been granted.

Sec. 3. The County Court at Law of Potter County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil matters which by the General Laws of this state is conferred upon Justice Courts. Neither the County Court at Law of Potter County nor the judge there-

of shall have jurisdiction to act as a coroner nor to preside at inquests, nor have jurisdiction of claims which come within the jurisdiction of the Small Claims Court as prescribed by Article 2460a of the Revised Civil Statutes of Texas.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of the County Court at Law of Potter County in civil cases of which said court had appellate or original concurrent jurisdiction with the Justice Court where the judgment or amount in controversy would not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the County Court at Law of Potter County over such matters as are specified in this Act; nor shall this Act be construed to deny the right of an appeal to the County Court at Law of Potter County from the Justice Court, where the right of appeals to the County Court now exists by law.

Sec. 6. The County Court of Potter County shall retain, as heretofore, the general jurisdiction of a Probate Court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by law; and the said court, or the judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said court; and also to punish contempts under such provisions as are or may be provided by General Law governing County Courts throughout the state. The County Judge of Potter County shall be the judge of the County Court of Potter County. All ex officio duties of the County Judge shall be exercised by the judge of the County Court of Potter County except in so far as the same shall, by this Act, be committed to the judge of the County Court at Law of Potter County.

Sec. 7. The terms of the County Court at Law of Potter County shall be as prescribed by the laws relating to the County Courts. The terms of the County Court at Law of Potter County shall be held as now established for the terms of the County Court of Potter County and the same may be changed in accordance with the laws governing the change in the terms of the County Court of Potter County.

Sec. 8. There shall be elected in Potter County by the qualified voters thereof, at each general election, a judge of the County Court at Law of Potter County. No person shall be elected or ap-

pointed judge of the court who is not a resident citizen of Potter County. He shall also be a licensed attorney of the State of Texas and shall have been a licensed attorney of the State of Texas for at least two years immediately prior to his appointment or election. The person elected such judge shall hold his office for four years and until his successor shall have been duly elected and qualified.

Sec. 9. The County Attorney of Potter County shall represent the state in all prosecutions in the County Court at Law of Potter County, as provided by law for such prosecutions in County Courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 10. As soon as this Act becomes effective the Commissioners Court of Potter County shall appoint a judge of the County Court at Law of Potter County, who shall hold his office until the next general election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said court.

Sec. 11. The judge of the County Court at Law of Potter County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this state.

Sec. 12. The judge of the County Court at Law of Potter County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 13. A special judge of the County Court at Law of Potter County may be appointed or elected as provided by law relating to County Courts and to the judge thereof. He shall receive the sum of Thirty (\$30.00) Dollars per day for each day he so actually serves, to be paid out of the general fund of the county by the Commissioners Court.

Sec. 14. In the case of the disqualification of the judge of the County Court at Law of Potter County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge to try such case or cases where the judge of the County Court at Law of Potter County is disqualified. In case of the selection of such special judge by agreement of the parties or their attorneys, such special judge shall draw the same compensation as that provided in Section 13 of this Act.

Sec. 15. The County Court at Law of Potter County, or the judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court or of any other court in said county of inferior jurisdiction to the County Court at Law.

Sec. 16. The County Clerk of Potter County shall be the clerk of the County Court at Law of Potter County, and the seal of the court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Potter County."

Sec. 17. The sheriff of Potter County shall in person or by deputy attend the County Court at Law of Potter County when required by the judge thereof.

Sec. 18. The jurisdiction and authority now vested by law in the County Court of Potter County and the judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law of Potter County and the judge thereof; but jurors and talesmen summoned for either of said courts may by order of the judge of the court in which they are summoned be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred. Upon concurrence of the judge of the County Court at Law of Potter County and the judge of the County Court of Potter County jurors may be summoned for service in both courts and shall be used interchangeably in both such courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Sec. 19. Any vacancy in the office of the judge of the County Court at Law of Potter County shall be filled by the Commissioners Court, and when so filled the judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 20. The judge of the County Court at Law of Potter County shall receive the same salary and be paid from the same fund and in the same manner as is now prescribed or may be established by law for the County Judge of Potter County, to be paid out by the County Treasurer of Potter County, Texas, on the order of the Commissioners Court of said county, and said salary shall be paid monthly in equal installments.

Sec. 21. The judge of the County Court at Law of Potter County shall assess the same fees as are prescribed by law relating to the County Judge's fees all of which shall be collected by the clerk of the court and shall be paid into the County Treasury on collection, no part of which shall be paid to the judge, but he shall draw the salary as above specified in this Act.

Sec. 22. The judge of the County Court at Law of Potter County may appoint an official shorthand reporter for such court who shall be well skilled in

his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. Such reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Potter County to be paid out of the County Treasury of Potter County, as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and is hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 23. The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Potter County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law of Potter County.

[Acts 1955, 54th Leg., p. 219, ch. 56.]

Art. 1970-311b. County Court at Law No. 2 of Potter County

Sec. 1. There is created a court to be held in Amarillo, Potter County, Texas, which shall be known as the County Court at Law No. 2 of Potter County.

Sec. 2. The County Court at Law No. 2 of Potter County shall have original and concurrent jurisdiction with the County Court of Potter County and the County Court at Law of Potter County in all matters and causes, civil, criminal, and probate, original and appellate, over which by the general laws of this state, county courts have jurisdiction. This provision shall not affect the jurisdiction of the commissioners court or the county judge of Potter County as the presiding officer of the commissioners court as to roads, bridges and public highways, and matters which are now within the jurisdiction of the commissioners court or the judge of Potter County.

Sec. 3. The County Court at Law No. 2 of Potter County shall have and exercise original concurrent jurisdiction with the justice courts in all civil matters which by the general laws of this state is conferred on justice courts. Neither the County Court at Law No. 2 of Potter County nor the judge thereof shall have jurisdiction to act as a coroner or to preside at inquests, or have jurisdiction of claims which come within the jurisdiction of the Small Claims Court as prescribed by Chapter 309, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 2460a, Vernon's Texas Civil Statutes).

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of the County Court at Law No. 2 of Potter

County in civil cases of which the court had appellate or original concurrent jurisdiction with the justice court where the judgment or amount in controversy would not exceed \$100, exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the justice courts of jurisdiction now conferred on them by law, but only to give concurrent original jurisdiction to the County Court at Law No. 2 of Potter County over such matters as are specified in this Act; nor shall this Act be construed to deny the right of an appeal to the County Court at Law No. 2 of Potter County from the justice court, where the right of appeals to the county court now exists by law.

Sec. 6. The County Court of Potter County shall retain the general jurisdiction of a probate court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, and to apprentice minors as provided by law; and the court, or the judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of the court, and also to punish contempts under such provisions as are or may be provided by general law governing county courts throughout the state. The County Judge of Potter County shall be the judge of the County Court of Potter County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Potter County except in so far as the same shall, by this Act, be committed to the judges of the County Courts at Law of Potter County.

Sec. 7. The terms of the County Court at Law No. 2 of Potter County shall be as prescribed by the laws relating to the county courts. The terms of the County Court at Law No. 2 of Potter County shall be held as now established for the terms of the County Court of Potter County and the same may be changed in accordance with the laws governing the change in the terms of the County Court of Potter County.

Sec. 8. No person may be elected or appointed judge of the court who is not a resident citizen of Potter County. He also shall have been a licensed attorney of the State of Texas for at least four years immediately prior to his appointment or election. The person elected judge shall hold his office for four years and until his successor shall have been duly elected and qualified.

Sec. 9. The County Attorney of Potter County shall represent the state in all prosecutions in the County Court at Law No. 2 of Potter County, as provided by law for such prosecutions in county

courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the county courts.

Sec. 10. As soon as this Act becomes effective, the Commissioners Court of Potter County shall appoint a judge of the County Court at Law No. 2 of Potter County, who shall hold his office until the next general election and until his successor is duly elected and has qualified. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Potter County a judge of the County Court at Law No. 2 for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. The commissioners court shall provide suitable quarters for the holding of the court.

Sec. 11. The judge of the County Court at Law No. 2 of Potter County may be removed from office in the same manner and for the same causes as any county judge may be removed under the laws of this state.

Sec. 12. The judge of the County Court at Law No. 2 of Potter County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 13. A special judge of the County Court at Law No. 2 of Potter County may be appointed or elected as provided by law relating to county courts and to the judge thereof. He shall receive a sum of money for each day he actually serves equal to the compensation for each day paid to the regular judge of County Court at Law No. 2 of Potter County, to be paid out of the general fund of the county by the commissioners court.

Sec. 14. In the case of the disqualification of the judge of the County Court at Law No. 2 of Potter County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge to try the case or cases in which the judge of the County Court at Law No. 2 of Potter County is disqualified. In case of the selection of a special judge by agreement of the parties or their attorneys, the special judge shall draw the same compensation as that provided in Section 13 of this Act.

Sec. 15. The County Court at Law No. 2 of Potter County, or the judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of the court or of any other court in the county of inferior jurisdiction to the County Court at Law No. 2.

Sec. 16. The county clerk of Potter County shall be the clerk of the County Court at Law No. 2 of Potter County, and the seal of the court shall be the same as that provided by law for county courts,

except the seal shall contain the words "County Court at Law No. 2 of Potter County."

Sec. 17. The sheriff of Potter County shall in person or by deputy attend the County Court at Law No. 2 of Potter County when required by the judge thereof.

Sec. 18. The jurisdiction and authority now vested by law in the County Court of Potter County and the judge thereof, for the drawing, selection, and service of jurors and talesmen shall also be exercised by the County Court at Law No. 2 of Potter County and the judge thereof; but jurors and talesmen summoned for either of the county courts at law or county court may by order of the judge of the court in which they are summoned be transferred to one of the other courts for service therein and may be used therein as if summoned for the court to which they may be thus transferred. On concurrence of the judges of the county courts at law of Potter County and the judge of the county court of Potter County, jurors may be summoned for service in all county courts and shall be used interchangeably in all such courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect shall be as valid as if no change had been made, and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of the courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Sec. 19. Any vacancy in the office of the judge of the County Court at Law No. 2 of Potter County shall be filled by the commissioners court, and when so filled the judge shall hold office until the next general election and until his successor is elected and has qualified.

Sec. 20. The judges of the County Court at Law of Potter County and the County Court at Law No. 2 of Potter County may each be paid an annual salary of not more than the total salary paid any District Judge in and for Potter County to be paid out of the general fund of Potter County by the County Treasurer of Potter County, on the order of the commissioners court of the county.

Sec. 21. The judge of the County Court at Law No. 2 of Potter County shall assess the same fees as are prescribed by law relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, no part of which shall be paid to the judge, but he shall draw the salary as specified in Section 20 of this Act.

Sec. 22. The judge of the County Court at Law No. 2 of Potter County may appoint an official shorthand reporter for such court who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. The reporter shall take the oath required of official court reporters and shall receive

a salary as set by the Commissioners Court of Potter County to be paid out of the county treasury of Potter County, as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters are hereby made to apply in all provisions, insofar as they are applicable, to the official shorthand reporter herein authorized to be appointed and insofar as they are not inconsistent with this Act.

Sec. 23. The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law No. 2 of Potter County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law No. 2 of Potter County.

Sec. 24. The County Clerk of Potter County shall distribute the cases filed, both civil and criminal. All cases with even numbers shall be filed and docketed in the County Court at Law of Potter County and all cases with odd numbers shall be filed and docketed in the County Court at Law No. 2 of Potter County. With the consent of the judge of the court to which a case is transferred, the judge of either county court at law or the county court shall have the power to transfer to the other courts any case pending upon the docket of his court over which the courts have concurrent jurisdiction, except in cases where the writ of certiorari has been granted. The judges of the county courts at law may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

Sec. 25. The effective date of this Act is January 1, 1977.

[Acts 1975, 64th Leg., p. 1955, ch. 645, eff. Jan. 1, 1977.]

GILLESPIE COUNTY

Art. 1970-312. Jurisdiction of County Court of Gillespie County Increased

Sec. 1. Hereafter the County Court of Gillespie County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Gillespie County shall be such as provided by the Constitution and General Laws of this State, con-

sistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Gillespie County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said County Court in civil cases, of which said Court has appellate, original or concurrent jurisdiction with Justices Courts, where the amount in controversy does not exceed One Hundred Dollars (\$100.00) exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Court of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court where the right of appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Gillespie County, Texas, within thirty (30) days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil docket then pending in the District Court of said County of which cases, by the provisions of this Act, original or appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said County Court of Gillespie County shall commence on the first Monday in January, first Monday in April, first Monday in July and first Monday in October each year and each of said terms shall continue in session for three weeks, or until the business may be disposed of; providing that the Commissioners Court of said County may hereafter change the terms of said Court and the length of the terms whenever it may be deemed necessary by said Commissioners Court. [Acts 1933, 43rd Leg.Spec.Laws, p. 84, ch. 64.]

DUVAL COUNTY

Art. 1970-313. Jurisdiction of County Court of Duval County Increased

Sec. 1. The county court of Duval County shall, from and after the passage of this Act have, as now, general jurisdiction of the probate court and generally exercise all powers in probate matters conferred upon such courts by the Constitution and laws of the State, and keep and maintain all jurisdic-

tion which it now has and exercises in all civil matters.

Sec. 2. Said court shall also have and exercise exclusive jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except misdemeanors in which the highest penalty which may be imposed by law is a fine without imprisonment and does not exceed Two Hundred (\$200) Dollars, and shall have appellate jurisdiction of all criminal cases in which justice courts and other inferior tribunals of said county have original jurisdiction, and the district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct.

Sec. 3. That Chapter 3, of the General Laws of the Regular Session of the Twenty-sixth Legislature be, and the same is hereby repealed.

Sec. 4. The district clerk of Duval County is hereby required within thirty days after this Act takes effect, to make a full and complete transcript of all entries upon the criminal docket of said court in cases now pending therein, which, under this Act, are now within the jurisdiction of the county court, and shall transfer all such cases, together with the papers pertaining thereto, and a certified bill of the costs in each case, to the county clerk of Duval County, and all such cases shall be immediately docketed by the county clerk; all such cases so transferred from the district court to the county court shall stand on the docket of said court as appearance cases for the next succeeding term and shall be docketed and disposed of in the same manner as if same had been originally filed in the county court and all processes now issued and returnable to said district court shall be returnable to said county court; all processes heretofore issued by the district court in said cases as well as all bonds and recognizances heretofore taken in the district court shall be as valid as though no change had been made as to the jurisdiction of said respective courts, and all bonds executed and recognizances entered in said district court shall bind the parties for their appearance to the next term of the county court after this law becomes effective.

Sec. 5. This Act shall not be construed to in any manner affect judgments heretofore rendered by the district court of Duval County in causes, which by this Act, are transferred to the county court of said county, and the district clerk of said county shall issue all executions and orders of sale and the proceedings thereunder shall be as valid and binding to all intents and purposes as though this Act had not been passed. [Acts 1933, 43rd Leg., 1st C.S., p. 163, ch. 60.]

RED RIVER COUNTY

Art. 1970-314. Repealed by Acts 1965, 59th Leg., p. 1276, ch. 585, § 4, eff. Aug. 30, 1965

Art. 1970-314a. Jurisdiction of County Court of Red River County

Sec. 1. The County Court of Red River County, Texas, shall have and exercise the general jurisdic-

tion of Probate Courts, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors as prescribed by law, and to exercise jurisdiction over all matters of eminent domain over which the County Courts have jurisdiction under the General Laws of this State, and shall enter orders providing for the support of deserted wives and children or both, pendente lite, and may punish for the violation or refusal to obey such order as for contempt; and to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts under such provisions as are, or may be, provided by General Law governing County Courts throughout the State; and said County Court shall also have original concurrent jurisdiction with the District Court of said County in all juvenile delinquency proceedings and in all criminal cases of which County Courts throughout the State, under the General Laws of the State, have original jurisdiction; but said County Court shall have no other jurisdiction, civil or criminal.

Sec. 2. The District Court of said County shall have and exercise jurisdiction in all matters and causes, civil or criminal, over which, by General Laws of the State of Texas, the County Court of said County shall have jurisdiction; and that said District Court shall have exclusive appellate jurisdiction over all criminal cases appealed from the Justice Courts of said County; and that all criminal cases, now on the docket of the County Court of Red River County, Texas, which have been appealed from the Justice Courts of said County be, and the same are hereby, transferred to the District Court of said County; and writs and processes heretofore issued out of or by said County Court in such cases be, and the same are, hereby made returnable to the next term of the District Court of said County.

Sec. 3. That the Clerk of the County Court of Red River County, Texas, be, and he is hereby, required, within ten (10) days after this Act becomes effective, to make full and complete transcripts of all of the entries on his criminal docket heretofore made in those criminal cases which have been appealed from Justice Courts of said County, which by Section 2 hereof are transferred to the District Court of said County, and file the same, together with all original papers of all of said causes and proceedings, with the Clerk of the District Court of said County; and all of such causes under this Act transferred to the District Court shall be immediately docketed by the Clerk of said Court and shall stand on the docket of said Court as other cases which have been originally filed in the District Court of said County.

Sec. 4. The following laws are repealed: Chapter 498, Acts of the 44th Legislature, 3rd Called Session, 1936; Chapter 457, Acts of the 45th Legislature, Regular Session, 1937; and Chapter 23, page 196, General Laws, Acts of the 46th Legislature, 1939 (Article 1970-314, Vernon's Texas Civil Statutes).

[Acts 1965, 59th Leg., p. 1276, ch. 585.]

COLLINGSWORTH COUNTY

Art. 1970-315. Jurisdiction of County Court of Collingsworth Increased

Sec. 1. The County Court of Collingsworth County shall have and exercise original concurrent jurisdiction with the justice courts in all civil matters which by the General Laws of this State is conferred upon said justice of the peace courts.

Sec. 2. Said County Court of Collingsworth County shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings as is by the General Laws of this State conferred upon county courts.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment in said County Court in civil cases of which said court has appellate jurisdiction, or original concurrent jurisdiction with the justice's court where the judgment or amount in controversy does not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 4. Nothing in this Act shall be construed to deprive the justice courts of the jurisdiction now conferred upon them by law, or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Section 1 of this Act; nor shall this Act be construed to deny the right of appeal from the justice's court to said county court in any case originally brought in a justice court where the right of appeal now exists by general law.

[Acts 1937, 45th Leg., p. 375, ch. 184.]

STERLING COUNTY

Art. 1970-316. Jurisdiction of Sterling County Increased

Sec. 1. Hereafter the County Court of Sterling County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county records.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which by this Act are made returnable to the County Court, and the Clerk of the District Court of said County shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Sterling County shall be such as provided by the Constitution and General Laws of the State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Sterling County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justices Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in civil cases, of which Court has appellate, original, or concurrent jurisdiction with the Justices Courts where the amount in controversy does not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of this State.

Sec. 7. It shall be the duty of the District Clerk of Sterling County, Texas, within thirty (30) days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case, in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August, and the first Monday in November of each year, and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided that the County Commissioners Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners Court.

Sec. 9. All laws and parts of laws in conflict with this Act are hereby expressly repealed in so far as they relate to Sterling County, Texas.

[Acts 1937, 45th Leg., p. 266, ch. 140. Amended by Acts 1937, 45th Leg., p. 362, ch. 176.]

CROSBY AND FISHER COUNTIES

Art. 1970-317. Crosby and Fisher County Courts, Civil Jurisdiction Increased

Sec. 1. That the County Courts of Crosby and Fisher Counties shall have and exercise original concurrent jurisdiction with the Justices Courts in all civil matters which by the General Laws of this State is conferred upon Justices Courts.

Sec. 2. Said County Courts shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the General Laws of this State is conferred upon County Courts.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Courts in civil cases of which said Courts have appellate or original concurrent jurisdiction with the Justices Courts where the judgment or amount in controversy does not exceed One Hundred Dollars (\$100), exclusive of interests and costs.

Sec. 4. This Act shall not be construed to deprive the Justices Courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said Courts over such matters as are specified in Section 1 of this Act, nor shall this Act be construed to deny the right of appeal from the Justices Courts to the said County Courts in any case originally brought in the Justices Courts where the right of appeal now exists by law.

[Acts 1937, 45th Leg., p. 771, ch. 372.]

GILLESPIE COUNTY

Art. 1970-318. Gillespie County Court; Probate Jurisdiction Conferred; Civil and Criminal Jurisdiction Diminished

Sec. 1. That hereafter the County Court of Gillespie County, Texas, shall have and exercise the general jurisdiction of a Probate Court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors, administrators, and guardians and transact all business pertaining to estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition and distribution and settlement of estates of deceased persons; and to apprentice minors as required by law and all matters of eminent domain over which the County Courts have jurisdiction under the General Laws of this State; and to issue all writs necessary to the enforcement of its jurisdiction; and to punish contempt under such provisions as are, or may be provided by General Law covering County Courts throughout the State; but said County Court shall have no other jurisdiction, civil or criminal.

Sec. 2. That the District Court or Courts of said County shall have and exercise jurisdiction in all matters and causes, civil and criminal, over which,

by the General Laws of this State, the County Court would have jurisdiction, except as provided in Section 1 of this Act and excepting all causes and matters, civil and criminal, over which by the General Laws of the State, the Justice Courts of said County would have jurisdiction; and that all causes, other than probate matters and such as are provided in Section 1, be and the same are hereby transferred to the District Court or Courts of said County; and writs and processes, civil and criminal, heretofore issued out or by said County Court other than those pertaining to matters which by Section 1 of this Act, jurisdiction is given to the County Court, be and the same are hereby made returnable to the next term of the District Court or Courts of said County.

Sec. 3. That the Clerk of the County Court of Gillespie County, Texas, be and he is hereby required immediately after this Act becomes effective, to make full and complete transcripts of all the entries on his dockets, civil and criminal, heretofore made in causes, which by Section 2 are transferred to the District Court or Courts of said County, and file the same, together with all original papers of all of said causes and proceedings with the Clerk of the District Court or Courts of said County which shall include all judgments, both civil and criminal, that remain uncollected and not satisfied; and for the purpose of carrying into effect this Act, the Court having jurisdiction of such matters shall have full and ample power to enforce the same by issuing execution or other process required by law and all of such causes under this Act transferred to the District Court, shall be immediately docketed by the Clerk of said Court, and shall stand on the dockets of said Courts as appearance cases for the next term of said Court; for each of said transcripts, the County Clerk shall receive Twenty-five (25) Cents per one hundred (100) words, and Fifty (50) Cents for certificate thereto to be taxed against the party cast in the suit, if a civil suit and if criminal, against the defendant if convicted.

Sec. 4. This Act shall not be construed in any wise or in any manner as affecting judgments rendered by the County Court pertaining to matters and causes which by this Act are made returnable to the District Court but the Clerk of the District Court of said County shall issue all executions and orders of sale and proceedings thereunder shall be as valid and binding to all intents and purposes as though the change had not been made in this Act. [Acts 1937, 45th Leg., p. 136, ch. 458.]

Art. 1970-318a. Civil and Criminal Jurisdiction Restored

Sec. 1. Hereafter the County Court of Gillespie County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This Act shall not be construed to in anywise or in any manner affect judgments hereto-

fore rendered by the District Court pertaining to matters and causes which, by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Gillespie County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Gillespie County shall, in addition to the civil and criminal jurisdiction conferred upon county courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the justices courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon justices courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said court in civil cases, of which court has appellate, original or concurrent jurisdiction with the justices courts, where the amount in controversy does not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the justices courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said county court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the justice court to said county court in any case originally brought in the justice court, where the right to appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Gillespie County, Texas, within thirty (30) days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said county of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said county court and to file said transcript, together with the original papers in each case in the county court of said county and the County Clerk shall enter said cases on the respective dockets of said county court as appearance cases for trial by said court.

Sec. 8. The terms of said courts shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August, and the first Monday in November, of each year; and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners Court of said county may hereafter change the terms of said

court whenever it may be deemed necessary by said Commissioners Court.

[Acts 1951, 52nd Leg., p. 770, ch. 421.]

KENDALL COUNTY

Art. 1970-319. County Court of Kendall County; Civil and Criminal Jurisdiction

Sec. 1. That the County Court of Kendall County shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars (\$200.00) and shall not exceed five hundred dollars (\$500.00) exclusive of interest and shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars (\$500.00) and not exceed one thousand dollars (\$1,000.00).

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which justices' court have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars (\$20.00), and said county court shall have power to hear and determine cases brought up from the justice's court by certiorari under the provisions of the title of the Revised Civil Statutes relating thereto.

Sec. 3. The county judge of said county shall have authority, either in term time or vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which criminal cases said court has jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except cases in which the highest penalty or fine that may be imposed under the law may not exceed two hundred dollars, and said courts shall also have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have jurisdiction.

Sec. 6. The District Court of Kendall County shall no longer have jurisdiction of cases of which the county court of said county by the provisions of this Act has exclusive original or appellate jurisdiction, and it shall be the duty of the clerk of the district court of said county within thirty days from the passage of this Act to make a full and complete transcript of all orders on his dockets in cases now pending before said district court of which cases by the terms of this Act exclusive jurisdiction is given to the county court, and to deliver said transcripts, together with the original papers and a certified bill of costs, to the clerk of said county court, and said

county clerk shall enter said case or cases on his dockets for trial by said county court.

Sec. 7. The county court of said county shall hereafter hold its regular terms for civil and criminal business as provided in the Constitution and General Laws of the State, and process heretofore issued from the district court of said county in cases to be transferred under this Act to the county court shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the dockets of said county court.

Sec. 8. The county court of said Kendall County shall have, as now, the general jurisdiction of probate courts for the probate of wills, appointments of guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, and for the issuance of letters testamentary and of administration, settlement of accounts of administrators and guardians and the settlement of distribution of decedent's estates, and the apprenticeship of minors, and all other necessary powers conferred by law on courts of probate.

Sec. 9. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

[Acts 1915, 34th Leg., 1st C.S., p. 55, ch. 27.]

GLASSCOCK COUNTY

Art. 1970-320. Glasscock County Court; Civil and Criminal Jurisdiction Diminished

Sec. 1. The County Court of Glasscock County shall have and exercise the general jurisdiction of a Probate Court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle the accounts of executors, administrators, and guardians, transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as are now or may be provided by General Law governing County Courts throughout the State, but the said County Court of Glasscock County shall have no other jurisdiction, civil or criminal, whatsoever.

Sec. 2. That the District Court of Glasscock County shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the County Court of said Glasscock County would have jurisdiction, except as provided in Section 1 of this Act; all causes other than probate matters and such as are provided by Section 1 of this Act be and the same are hereby transferred to the District Court of Glasscock County, and all writs and process relating to any civil or

criminal matters included in the subject matter of jurisdiction prescribed in Section 1 of this Act, issued by or out of said County Court of Glasscock County, be and the same are hereby made returnable to the next term of the District Court of said County after this Act takes effect.

Sec. 3. That the County Clerk of Glasscock County be and he is hereby required, within thirty (30) days after this Act takes effect, to make a full and complete transcript of all entries upon his civil and criminal docket heretofore made in cases which by Section 2 of this Act are required to be transferred to the District Court of said County, together with all the papers pertaining to such cases, a certified bill of costs in each case, and all cases shall be immediately docketed by the District Court as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had been originally filed in and triable in said District Court, and all process now issued and returnable to said County Court shall be returnable to said District Court.

Sec. 4. That this Act shall not be construed to in anywise or manner affect judgments heretofore rendered by said County Court of Glasscock County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said County, but the County Clerk of said County shall issue all executions, and orders of sale, and proceedings thereunder, and this Act in so doing shall be valid and binding to all intents and purposes, the same as if no change had been made as by Section 2 therein contemplated.

[Acts 1939, 46th Leg., p. 191.]

STEPHENS COUNTY

Art. 1970-321. Stephens County Court; Civil and Criminal Jurisdiction Diminished

Sec. 1. That the County Court of Stephens County shall retain and continue to have and exercise the general jurisdiction in matters of eminent domain, and the general jurisdiction of Probate Courts, and all jurisdiction other than in civil and criminal matters, jurisdiction of which is here conferred on the District Court of Stephens County, Texas, now or hereafter conferred upon such County Court by the Constitution and Laws of the State, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but said County Court shall have no civil or criminal jurisdiction, except as to final judgments referred to in Section 2 hereof.

Sec. 2. That the District Court having jurisdiction in said Stephens County shall have and exercise jurisdiction in all matters and cases of a civil and criminal nature, whether the same be of original jurisdiction or of appellate jurisdiction, over which, by the General Laws of the State of Texas now existing and hereinafter enacted, the County Court of said County would have had jurisdiction, and that all pending civil and criminal cases be and the same

are hereby transferred to the District Court for the Ninetieth Judicial District of Texas, sitting in Stephens County, Texas, and all writs and process heretofore issued by or out of said County Court in said civil or criminal cases be and the same are hereby made returnable to the next term of the District Court, in and for the Ninetieth Judicial District of Texas, sitting in Stephens County, Texas. Provided, however, that there shall not be transferred to said District Court jurisdiction over any judgments, even in civil or criminal cases, rendered prior to the time this Act takes effect and which have become final, but as to such judgments the said County Court shall retain jurisdiction for the enforcement thereof by execution, order of sale, or other appropriate process. Provided further, however, that as to any civil or criminal case on appeal from said County Court, should a judgment be entered by the Court of Civil Appeals or the Supreme Court, or the Court of Criminal Appeals, remanding the case for a new trial or for further proceedings, same shall be remanded to the District Court of Stephens County, Texas, and all jurisdiction in respect to said particular case shall thereafter vest in the District Court sitting in and having jurisdiction of Stephens County, Texas.

Sec. 3. That the County Attorney of Stephens County, Texas, shall represent the State in all misdemeanor cases before the District Court of Stephens County, Texas, and shall receive therefor the same fees to which he would be entitled under the law as County Attorney had said cases been tried in the County Court.

Sec. 4. That the Clerk of the County Court of said Stephens County be and is hereby required, within twenty (20) days after this Act takes effect, to file with the Clerk of the District Court of said County, all original papers in cases here transferred to the said District Court, and all Judges' dockets and certified copies of any interlocutory judgment or other order entered in the Minutes of the County Court in said cases so transferred, and the District Clerk shall immediately docket all such cases on the docket of the said District Court for the Ninetieth Judicial District of Texas, and all such cases shall stand on the docket of said Court in the same manner and place as each stands on the docket of the County Court. Provided, further, that it shall not be necessary that the District Clerk refile any papers theretofore filed by the County Clerk, nor shall he receive any fees for the filing of same, but papers in said case bearing the file mark of the County Clerk, prior to the time of said transfer, shall be held to have been filed in the case as of the date filed without being refiled by the District Clerk. Said County Clerk in cases so transferred shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the County Clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the District Court as a deposit in the particular case for which

same was deposited. Credit shall also be given the litigants for all jury fees paid in the County Court. [Acts 1939, 46th Leg., p. 198.]

MARION COUNTY

Art. 1970-322. County Court of Marion County; Jurisdiction in Criminal Matters; Fee of County Judge

Sec. 1. In addition to the jurisdiction heretofore conferred by law upon the County Court of Marion County, Texas, and the County Judge of Marion County, Texas, the said County Court shall have jurisdiction within Marion County of all criminal matters and causes of misdemeanor over which the District Court of Marion County, Texas, now has jurisdiction, and the jurisdiction of said Courts over such matters shall be concurrent, provided that the jurisdiction of the District Court of Marion County, Texas, shall be and remain as now fixed by law and be in nowise affected by this Act; and provided further, that the jurisdiction hereby conferred upon the County Judge of Marion County, Texas, shall extend to and only to those cases in which pleas of guilty are entered by the defendant in any cases of misdemeanor filed in said Court.

Sec. 2. The County Judge of Marion County, Texas, shall receive a fee of Three Dollars (\$3) for each and every case tried before him in which a plea of guilty is entered, and the fees of the other offices of the Court shall be and remain as is now provided by the laws of this State.

[Acts 1939, 46th Leg., p. 194.]

Art. 1970-322a. County Court of Marion County; Concurrent Jurisdiction of Certain Criminal Matters

Sec. 1. (a) In addition to the jurisdiction heretofore conferred by law upon the County Court of Marion County, Texas, and the County Judge of Marion County, Texas, the said County Court shall have jurisdiction within Marion County of all criminal matters and causes of misdemeanor over which the District Courts of Marion County, Texas, now has jurisdiction, and the jurisdiction of said Courts over such matters shall be concurrent, provided that the jurisdiction of the District Courts of Marion County, Texas, shall be and remain as now fixed by law and be in nowise affected by this Act; and provided further, that the jurisdiction hereby conferred upon the County Judge of Marion County, Texas, shall extend to and only to those cases in which pleas of guilty are entered by the defendant in any cases of misdemeanor filed in said Court.

(b) The County Attorney of Marion County shall continue to represent the state in all criminal matters pending before the District Courts in Marion County.

Sec. 3. The County Judge of Marion County, Texas, shall receive a fee of Three (\$3.00) Dollars for each and every misdemeanor case tried before

him, and the fees of the other officers of the court shall be and remain as is now provided by the laws of this state.

Sec. 4. The County Attorney of Marion County shall represent the state in all misdemeanor and felony cases before the District Court of Marion County, Texas.

[Acts 1947, 50th Leg., p. 214, ch. 121. Amended by Acts 1969, 61st Leg., p. 519, ch. 181, §§ 1, 3, eff. May 9, 1969; Acts 1975, 64th Leg., p. 1857, ch. 581, § 3, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 56, ch. 25, § 11, eff. April 8, 1981.]

Section 2 of the Act of 1947 provided:

"The Clerk of the District Court of Marion County, Texas, shall, and is hereby required within twenty (20) days after this Act takes effect, to file with the Clerk of the County Court of said county, all the original misdemeanor cases, judges' dockets and certified copies of any interlocutory judgments or other orders entered in the minutes of the District Court in said cases so transferred; and the County Clerk of Marion County, Texas, shall immediately docket all such cases on the docket of the District Court. It shall not be necessary that the County Clerk shall re-file any papers theretofore filed by the District Clerk, nor shall he receive any fees for the filing of the same, but papers in said case bearing the file mark of the District Clerk prior to the time of said transfer, shall be held to have been filed in the case as of the date filed, without being re-filed by the County Clerk. Said District Clerk, in cases so transferred, shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the District Clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the County Clerk as a deposit in the particular case for which the same was deposited. Credit shall also be given the litigants for all jury fees paid in the District Court."

Section 2 of the amendatory act of 1969 provided:

"(a) All misdemeanor cases, except those in which pleas of guilty were filed, docketed in the County Court of Marion County, Texas, prior to the effective date of this Act shall be transferred to the docket of the District Court of Marion County, Texas. The Judge of the District Court of Marion County, Texas, shall have the power to try all cases and determine all ancillary matters as if the cases had been originally filed in that court.

"(b) All writs and processes issued prior to the effective date of this Act, by the County Court of Marion County, Texas, in cases transferred to the District Court of Marion County, Texas, shall be returnable to the district court as if issued from that court.

"(c) All bonds returnable to the County Court of Marion County, Texas, in cases transferred to the District Court of Marion County, Texas, shall be returnable to the court to which the case is transferred."

PANOLA COUNTY

Art. 1970-323. Repealed by Acts 1947, 50th Leg., p. 42, ch. 31, § 7**Art. 1970-323a. Panola County Court; Panola District Court; Jurisdiction; Transfer of Dockets**

Sec. 1. The County Court of Panola County, Texas, from and after the effective date of this Act, shall have and exercise jurisdiction in all probate, civil and criminal matters, as provided in the Constitution of the State of Texas and the general law governing county Courts throughout the State.

Sec. 2. That the District Court of Panola County, Texas, shall have and exercise the general jurisdiction, both original and appellate, in all civil and criminal matters and causes, as provided in the Constitution of the State of Texas and in the gener-

al law governing the jurisdiction of district Courts throughout the State.

Sec. 3. All causes pending in the County Court of Panola County and in the District Court of Panola County, the jurisdiction of which is changed by this Act, shall be and the same are hereby transferred in conformity with the provisions of this Act to the Court having jurisdiction of such cause under the provisions hereof, and all writs and process relating to such causes which have been issued by or out of either of said Courts shall be and the same are hereby made returnable to the next term of the Court having jurisdiction of said cause under the provisions of this Act.

Sec. 4. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the District Court of Panola County pertaining to matters and causes which by this Act are made returnable to the County Court of Panola County, and the Clerk of the District Court of said County shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 5. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the County Court of Panola County pertaining to matters and causes which by this Act are made returnable to the District Court of Panola County, and the Clerk of the County Court of said County shall issue all executions and orders of sale and proceedings thereunder which shall be as valid and binding to all intents and purposes as though the change had not been made as directed by this Act.

Sec. 6. The clerks of the respective Courts shall transfer the dockets of all cases the jurisdiction of which is changed by the provisions of this Act to the Court having such jurisdiction after the effective date of this Act, and shall transfer all Court papers and do such other things as may be necessary to fully transfer all said causes and matters to the Court having jurisdiction of same under the provisions of this Act.

[Acts 1947, 50th Leg., p. 42, ch. 31.]

Art. 1970-323b. County Court at Law of Panola County

Creation

Sec. 1. The County Court at Law of Panola County is created.

Jurisdiction

Sec. 2. (a) The County Court at Law of Panola County has concurrent jurisdiction with the district court in:

(1) cases in which the matter in controversy exceeds \$500 and does not exceed \$50,000, excluding interest;

(2) appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy;

(3) eminent domain cases and proceedings, regardless of the amount in controversy; and

(4) cases and proceedings involving adoptions, birth records, or removal of disability of minority or coverture; change of names of persons; child welfare, custody, support and reciprocal support, dependency, neglect, or delinquency; paternity; termination of parental rights; divorce and marriage annulment, including the adjustment of property rights, custody and support of minor children involved therein, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions involving child support and custody of minors and wife or child desertion; and independent actions involving controversies between parent and child, between parents, and between spouses.

(b) The court created by this Act has concurrent jurisdiction with the county court in:

(1) all civil and criminal cases and proceedings, original and appellate, prescribed by law for county courts; and

(2) probate matters and proceedings.

(c) The court created by this Act has concurrent jurisdiction with the county and district courts in juvenile matters and proceedings as provided by Chapter 178, Acts of the 66th Legislature, Regular Session, 1979 (Article 2338-1.1, *Vernon's Texas Civil Statutes*).

(d) The court created by this Act has concurrent jurisdiction with the justice court in all criminal matters for which jurisdiction is conferred on justice courts by the general laws of this state. This section does not deny the right of appeal to the court created by this Act from the justice court where the right of appeal to the county court exists by law.

(e) The court created by this Act does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business that is within the jurisdiction of the commissioners court. The judge of the county court retains and shall exercise all ex officio duties of the county judge.

(f) This section does not diminish the jurisdiction of the district courts and justice courts but only gives concurrent jurisdiction to the court created by this Act over the matters specified in Subsections (a)-(d). The district courts and justice courts retain and shall continue to exercise the jurisdiction conferred by law on those courts.

(g) Article 1951, Revised Statutes, does not apply to the court created by this Act. Neither Article 1951 nor Section 4, Chapter 832, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3266a,

Vernon's Texas Civil Statutes), affects or diminishes the jurisdiction of the court created by this Act.

Powers and Duties

Sec. 3. (a) The County Court at Law of Panola County or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county.

(b) The court created by this Act or its judge may punish for contempt as prescribed by general law.

(c) The judge of the court created by this Act has all other powers, duties, immunities, and privileges provided by law for county court judges, except that the judge does not have any authority over the administrative business of the county that is performed by the county judge of the county.

Terms of Court

Sec. 4. The terms of the County Court at Law of Panola County begin on the first Mondays in January and July of each year. Each term of court continues until the next succeeding term begins.

Judge

Sec. 5. (a) The judge of the County Court at Law of Panola County must be a citizen of the United States, have resided in the county for at least one year prior to election or appointment, be licensed to practice law in this state, and have actively practiced law for at least four years prior to election or appointment.

(b) The commissioners court shall fix the annual salary of the judge of the court created by this Act at a sum that is at least equal to the amount that is \$1,000 less than the total annual salary, including supplements, received by the judges of the district courts in the county. The annual salary shall be paid in equal monthly installments.

(c) The commissioners court shall appoint a person to fill a vacancy in the office of the judge of the court created by this Act. The appointee holds office until the next succeeding general election and until his successor is elected and has qualified.

(d) Beginning at the first general election following creation of the court at which county court at law judges are regularly elected, and every fourth year thereafter, the qualified voters of the county shall elect the judge of the court created by this Act for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(e) The judge shall take the oath of office prescribed by the constitution of this state. While in office, the judge may not receive from a law firm

any money other than money earned before taking office.

(f) The judge may not engage in the private practice of law.

Court Officials, Personnel, and Facilities

Sec. 6. (a) The judge may appoint a court coordinator or administrative assistant for the court created by this Act. A court coordinator or administrative assistant performs the duties prescribed by the judge and cooperates with the administrative judges and state agencies for the uniform and efficient operation of the courts and the administration of justice. The court coordinator or administrative assistant is entitled to be paid from county funds the compensation, fees, and allowances that are set by the commissioners court or as otherwise provided by law. This section is cumulative of the provisions of the law that relate to a court administrator's system for county courts with criminal jurisdiction in certain counties.

(b) The criminal district attorney or county attorney and the sheriff of the county shall attend the court created by this Act as required by the judge of the court. The county clerk serves as clerk of the court except that, in matters within the concurrent jurisdiction of the court created by this Act and the district court, the district clerk serves as clerk of the court.

(c) The commissioners court shall provide the physical facilities and the deputy clerks, bailiffs, and other personnel necessary to operate the court created by this Act.

Special Judge

Sec. 7. (a) If the regular judge of the County Court at Law of Panola County is absent or is from any cause disabled or disqualified from presiding, the presiding judge of the administrative judicial district in which the county is located may appoint a person licensed to practice law in this state to sit as a special judge.

(b) To be eligible for appointment as a special judge, the person must meet the qualifications required of the regular judge, except that the only residency requirement for a person who is a retired judge of a district court or county court at law is that the retired judge must reside in the administrative judicial district.

(c) A special judge shall take the oath of office that is required by law for the regular judge and has all the power and jurisdiction of the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other process of any kind as "Judge Presiding" when acting for the regular judge.

(d) A special judge is entitled to receive for the services actually performed the same amount of compensation that the regular judge is entitled to receive for the services. The compensation shall be

paid out of county funds on certification by the presiding judge of the administrative judicial district that the special judge has rendered the services and is entitled to receive the compensation. None of the amount paid to a special judge for sitting for the regular judge may be deducted or paid out of the salary of the regular judge. Section 42.104, Title 110B, Revised Statutes, does not apply to a retired judge of a district court who is appointed a special judge under this section.

Transfer of Cases; Exchange of Benches

Sec. 8. (a) The judge of the county court and the judge of the county court at law in Panola County may transfer cases to and from the dockets of their respective courts, except that a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. The county judge and the judge of the county court at law in Panola County may exchange benches and courtrooms with each other so that if one is absent, disabled, or disqualified, the other may hold court for him without the necessity of transferring the case. Either judge may hear all or any part of a case pending in the county court or a county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. A judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(b) On motion of a party, on agreement of the parties, or on their own motion, the judges of the county court at law in Panola County and the district courts in the county may transfer civil cases and proceedings to and from the dockets of their respective courts, except that a case or proceeding may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. If a judge is disqualified in a case or proceeding, he shall transfer the case or proceeding from his court to one of the other courts.

(c) When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which the case is transferred as if originally issued out of the court to which the transfer is made.

Juries; Practice and Procedure

Sec. 9. The drawing of jury panels, selection of jurors, and practice in the County Court at Law of Panola County shall conform to that prescribed by general law for county courts, except that practice, procedure, rules of evidence, issuance of process and writs, juries, and all other matters pertaining to the conduct of trials and hearings in the court created by this Act involving those matters of concurrent jurisdiction with district courts shall be governed by the laws and rules pertaining to district courts.

Seal

Sec. 10. The seal of the court created by this Act is the same as that provided by law for county courts, except that the seal shall contain the words "County Court at Law of Panola County."

Initial Appointment of Judge

Sec. 11. The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge as provided by Section 5(c) of this Act.

Effective Date

Sec. 12. This Act takes effect January 1, 1984. [Acts 1983, 68th Leg., p. 5665, ch. 1074, eff. Jan. 1, 1984.]

TRAVIS COUNTY

Art. 1970-324. County Court at Law No. 1 of Travis County

Sec. 1. That there is hereby created a Court to be held in Austin, Travis County, Texas, to be called the County Court at Law No. 1 of Travis County, Texas, in lieu of the present County Court at Law of Travis County, Texas.

Sec. 2. The County Court at Law No. 1 of Travis County, Texas, shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of the State the County Court of said County would have jurisdiction. The jurisdiction of the County Court at Law No. 1 of Travis County, Texas, and of the Judge thereof shall extend to all matters of which jurisdiction has heretofore vested in the County Court or in the County Judge or in the County Court at Law of Travis County, Texas; and such County Court at Law No. 1 of Travis County, Texas, shall exercise and have concurrent jurisdiction with the County Court or County Judge or any other numbered County Court at Law of Travis County, now or hereafter created, as to all probate matters. The County Court at Law No. 1 has jurisdiction concurrent with the district court in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

Sec. 3. The County Court of Travis County shall have and retain, as heretofore, jurisdiction now conferred by law over probate matters; but such jurisdiction shall hereafter be concurrent as herein pro-

vided; but the County Court of said County as now existing shall have no jurisdiction over other matters civil or criminal. The County Judge of Travis County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Travis County, except insofar as the same shall by this Act or otherwise be committed exclusively to the County Court at Law No. 1 of Travis County, Texas, now or hereafter created.

Sec. 4. The County Judge of Travis County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Travis County transfer to the County Court at Law No. 1 of Travis County or to any other numbered County Court at Law of Travis County, now or hereafter created, any such probate matter or proceeding then pending in the County Court of Travis County and all processes extant at the time of such transfer shall be returned to and filed in the County Court at Law No. 1 of Travis County or any other numbered County Court at Law of Travis County, having jurisdiction thereof, now or hereafter created, and shall be as valid and binding as though originally issued out of said County Court at Law No. 1 of Travis County or any other numbered County Court at Law of Travis County, now or hereafter created. The County Court of Travis County shall have and retain concurrently with the County Court at Law No. 1 of Travis County and any other numbered County Court at Law of Travis County, now or hereafter created, the general jurisdiction of a Probate Court and the jurisdiction now conferred or which may be conferred by law over probate matters.

Sec. 5. The terms of the County Court at Law No. 1 of Travis County, Texas, shall be held in the Courthouse of Travis County as follows, to wit: Beginning on the first Mondays in January, March, May, July, September and November in each year, and each term of said Court shall continue in session until the convening of the next succeeding term. The practice in said Court, and appeals and writs of error therefrom shall be as prescribed by the laws of this state relating to County Courts except as herein expressly provided.

Sec. 6. The present Judge of the County Court at Law No. 1 of Travis County, Texas, shall serve as the Judge of the County Court at Law No. 1 of Travis County, Texas, until the General Election in 1966 and until his successor shall have been duly elected and qualified. The person elected Judge of the County Court at Law No. 1 of Travis County, Texas, at the General Election in 1966 shall serve for a term of four (4) years, and there shall be elected every four (4) years thereafter a Judge of the County Court at Law No. 1 of Travis County, Texas. The Judge of the County Court at Law No. 1 of Travis County, Texas, must be a qualified voter in Travis County, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, Texas, who shall have been actively

engaged in the practice of law for a period of not less than four (4) years next preceding the General Election.

Sec. 7. The Judge of the County Court at Law No. 1 of Travis County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A Special Judge of the County Court at Law No. 1 of Travis County, may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall receive the same compensation per day for each day he so actually serves as the Judge of the County Court at Law No. 1 of Travis County, Texas, to be paid out of the General Funds of the County by the Commissioners Court.

Sec. 9. Any vacancy in the office of the Judge of the County Court at Law No. 1 of Travis County shall be filled by the Commissioners Court, and when so filled, the Judge shall hold office until the next General Election and until his successor is elected and qualified. The Commissioners Court of Travis County, Texas, shall provide suitable quarters for the holding of said County Court at Law No. 1 of Travis County, Texas.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law No. 1 of Travis County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law No. 1 of Travis County is disqualified.

Sec. 11. The Judge of the County Court at Law No. 1 of Travis County may be removed from office in the same manner and for the same causes as any County Judge or Judge of any County Court at Law may be removed under the laws of this State.

Sec. 12. When either party to a civil case pending in the County Court or County Court at Law No. 1, or any other numbered County Court at Law of Travis County, now or hereafter created, applies therefor, the Judge thereof shall appoint a competent stenographer, to report the oral testimony given in such case. Such stenographer shall take the oath required of official court reporters, and shall receive not less than Ten Dollars (\$10) per day, to be taxed and collected as costs. In such cases, the provisions of this title with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the Court, shall apply to all statements of facts in civil cases tried in said Court, and all provisions of law governing statement of facts and bills of exception to be filed in District Court and the use of same on appeal, shall apply to civil cases tried in said Courts.

Sec. 13. The County Court at Law No. 1 of Travis County, and the Judge thereof, shall have power to issue writs of injunction, mandamus, se-

questration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of concurrent or inferior jurisdiction to said County Court at Law No. 1 of Travis County.

Sec. 14. All cases appealed from the justice courts and other inferior courts in Travis County, Texas, shall be made direct to the County Court at Law No. 1 of Travis County, or to any other numbered County Court at Law of Travis County, now or hereafter created.

Sec. 15. The County Clerk of Travis County, Texas shall be the Clerk of the County Court at Law No. 1 of Travis County. The seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law No. 1 of Travis County." The Sheriff of Travis County shall in person or by deputy attend the said Court when required by the Judge thereof. The County Attorney of Travis County shall represent the State in all prosecutions pending in said County Court at Law No. 1 of Travis County, and he shall be entitled to the same fee as now prescribed by law for such prosecution in the County Courts.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Travis County for the drawing, selection, and service of jurors shall be exercised by said County Court at Law No. 1 or by any other numbered County Court at Law of Travis County, now or hereafter created, but juries summoned for either or any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to any of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Text of § 17 as amended by Acts 1971, 62nd Leg., p. 1444, ch. 401, § 1

Sec. 17. The Judge of the County Court at Law No. 1 of Travis County, Texas, may be paid by the Commissioners Court of Travis County a yearly salary not less than the amount paid District Judges from the general revenue fund of the State of Texas and not more than the total salary, including supplements, paid any District Judge sitting in Travis County, Texas. The salary shall be paid out of the general fund of the County in equal monthly installments by warrants drawn upon the County Treasurer upon Orders of the Commissioners Court of Travis County, Texas. The Judge of the County Court at Law No. 1 shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County treasury as prescribed by law.

Text of § 17 as amended by Acts 1971, 62nd Leg., 1st C.S., p. 11, ch. 1, § 1

Sec. 17. The Judge of the County Court at Law No. 1 of Travis County, Texas, may be paid by the

Commissioners Court a yearly salary not less than \$19,000 and not more than the amount paid District Judges from the general revenue fund of the State of Texas. The salary shall be paid out of the general fund of the County on equal monthly installments by warrants drawn upon the County Treasurer upon Orders of the Commissioners Court of Travis County, Texas. The Judge of the County Court at Law No. 1 shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law.

[Acts 1941, 47th Leg., p. 188, ch. 136. Amended by Acts 1943, 48th Leg., p. 312, ch. 203, § 1; Acts 1949, 51st Leg., p. 338, § 1; Acts 1962, 57th Leg., 3rd C.S., p. 117, ch. 41, § 1; Acts 1963, 58th Leg., p. 123, ch. 72, § 1; Acts 1965, 59th Leg., p. 175, ch. 69, §§ 1, 2, 3, eff. April 8, 1965; Acts 1967, 60th Leg., p. 1196, ch. 532, § 2, eff. Jan. 1, 1968; Acts 1971, 62nd Leg., 1st C.S., p. 11, ch. 1, § 1, eff. June 7, 1971; Acts 1971, 62nd Leg., p. 1444, ch. 401, § 1, eff. Aug. 30, 1971; Acts 1981, 67th Leg., p. 501, ch. 208, § 1, eff. May 28, 1981.]

Art. 1970-324a. County Court at Law No. 2 of Travis County

Sec. 1. That there is hereby created a Court to be held in Austin, Travis County, Texas, to be called the County Court at Law No. 2 of Travis County, Texas, in addition to the present County Court at Law of Travis County, Texas. The effective date of this Act shall be January 1, 1964.

Sec. 2. The County Court at Law No. 2 of Travis County, Texas, shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of said County would have jurisdiction. The jurisdiction of the County Court at Law No. 2 of Travis County, Texas, and of the Judge thereof, shall extend to all matters of which jurisdiction has heretofore vested in the County Court or in the County Judge or in the County Court at Law of Travis County, Texas; and such County Court at Law No. 2 of Travis County, Texas, shall exercise and have concurrent jurisdiction with the County Court or County Judge or any other numbered County Court at Law of Travis County, now or hereafter created, as to all probate matters. The County Court at Law No. 2 has jurisdiction concurrent with the district court in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

Text of § 3 as amended by Acts 1971, 62nd Leg., p. 1445, ch. 401, § 2, eff. Aug. 30, 1971

Sec. 3. The County Court of Travis County shall have and retain, as heretofore, jurisdiction now conferred by law over probate matters; and such jurisdiction shall hereafter be concurrent as herein provided; but the County Court of said County as now existing shall have no jurisdiction over other matters civil or criminal. The County Judge of Travis

County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Travis County, except insofar as the same shall by this Act or otherwise be committed exclusively to the County Court at Law No. 2 of Travis County, Texas, now or hereafter created.

Text of § 3 as amended by Acts 1971, 62nd Leg., 1st C.S., p. 12, ch. 1, § 2, eff. June 7, 1971

Sec. 3. The County Court of Travis County shall have and retain, as heretofore, jurisdiction now conferred by law over probate matters; but such jurisdiction shall hereafter be concurrent as herein provided; but the County Court of said County as now existing shall have no jurisdiction over other matters civil or criminal. The County Judge of Travis County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Travis County, except insofar as the same shall by this Act or otherwise be committed exclusively to the County Court at Law No. 1 of Travis County, Texas, now or hereafter created.

Sec. 4. The County Judge of Travis County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Travis County transfer to the County Court at Law No. 2 of Travis County or any other County Court at Law of Travis County, now or hereafter created, any such probate matter or proceeding then pending in the County Court of Travis County and all processes extant at the time of such transfer shall be returned to and filed in the County Court at Law No. 2 of Travis County or any other County Court at Law of Travis County, now or hereafter created, until otherwise provided by law, and shall be as valid and binding as though originally issued out of said County Court at Law No. 2 of Travis County or any other such County Court at Law of Travis County. The County Court of Travis County shall have and retain concurrently with the County Court at Law No. 2 of Travis County and any other County Court at Law of Travis County, now or hereafter created, the general jurisdiction of a Probate Court and of jurisdiction now conferred or which may be conferred by law over probate matters.

Sec. 5. The terms of the County Court at Law No. 2 of Travis County shall be held in the courthouse of Travis County as follows, to-wit: Beginning on the first Mondays in January, March, May, July, September, and November in each year, and each term of said Court shall continue in session until the convening of the next succeeding term. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts, except as herein expressly provided.

Sec. 6. The present Judge of the County Court at Law No. 2 of Travis County, Texas, shall serve as the Judge of the County Court at Law No. 2 of

Travis County, Texas, until the General Election in 1966 and until his successor shall have been duly elected and qualified. The person elected Judge of the County Court at Law No. 2 of Travis County, Texas, at the General Election in 1966 shall serve for a term of four (4) years, and there shall be elected every four (4) years thereafter a Judge of the County Court at Law No. 2 of Travis County, Texas. The Judge of the County Court at Law No. 2 of Travis County, Texas, must be a qualified voter in Travis County, Texas, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, Texas, who shall have been actively engaged in the practice of law for a period of not less than four (4) years next preceding the General Election.

Sec. 7. The Judge of the County Court at Law No. 2 of Travis County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A Special Judge of the County Court at Law No. 2 of Travis County, may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall receive such compensation as may be provided by law for Special Judges of County Courts or County Courts at Law, whichever is the greater, to be paid out of the general funds of the County by the Commissioners Court.

Sec. 9. Any vacancy in the office of the Judge of the County Court at Law No. 2 of Travis County shall be filled by the Commissioners Court, and when so filled, the Judge shall hold office until the next general election and until his successor is elected and qualified. The Commissioners Court of Travis County, Texas, shall provide a suitable quarters for the holding of said County Court at Law No. 2 of Travis County, Texas.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law No. 2 of Travis County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law No. 2 of Travis County is disqualified. Otherwise, a Special Judge may be appointed or elected as is now or may hereafter be provided by law for County Judges or for Judges of County Courts at Law.

Sec. 11. The Judge of the County Court at Law No. 2 of Travis County may be removed from office in the same manner and for the same causes as any County Judge or Judge of a County Court at Law may be removed under the laws of this state.

Sec. 12. When either party to a civil case pending in the County Court or County Court at Law No. 2, or any other County Court at Law of Travis County, now or hereafter created, applies therefor, the Judge thereof shall appoint a competent stenographer, to report the oral testimony given in such case. Such stenographer shall take the oath required of official Court reporters, and shall receive

not less than Ten Dollars (\$10.00) per day, to be taxed and collected as costs. In such cases, the provisions of this title with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the Court, shall apply to all statements of facts in civil cases tried in said Courts, and all provisions of law governing statement of facts and bills of exception to be filed in District Courts and the use of same on appeal, shall apply to civil cases tried in said Courts.

Sec. 13. The County Court at Law No. 2 of Travis County, and the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of concurrent or inferior jurisdiction to said County Court at Law No. 2 of Travis County.

Sec. 14. All cases appealed from the Justice Courts and other inferior Courts in Travis County, Texas, shall be made direct to the County Court at Law No. 2 of Travis County, or to any other County Court at Law of Travis County, now or hereafter created until otherwise provided by law.

Sec. 15. The County Clerk of Travis County, Texas, shall be the Clerk of the County Court at Law No. 2 of Travis County. The seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law No. 2 of Travis County." The Sheriff of Travis County shall in person or by deputy attend the said Court when required by the Judge thereof. The County Attorney of Travis County shall represent the state in all prosecutions pending in said County Court at Law No. 2 of Travis County, and he shall be entitled to the same fee as now prescribed by law for such prosecution in the County Courts.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Travis County for the drawing, selection, and service of jurors shall be exercised by said County Court at Law No. 2 or by any other County Court at Law of Travis County, but juries summoned for either or any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to any of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Text of § 17 as amended by Acts 1971, 62nd Leg., p. 1445, ch. 401, § 2

Sec. 17. The Judge of the County Court at Law No. 2 of Travis County, Texas, may be paid by the Commissioners Court of Travis County a yearly salary not less than the amount paid District Judges

from the general revenue fund of the State of Texas and not more than the total salary, including supplements, paid any District Judge sitting in Travis County, Texas. The salary shall be paid out of the general fund of the County in equal monthly installments by warrants drawn upon the County Treasurer upon Orders of the Commissioners Court of Travis County, Texas. The Judge of the County Court at Law No. 2 shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law.

Text of § 17 as amended by Acts 1971, 62nd Leg., 1st C.S., p. 12, ch. 1, § 2

Sec. 17. The Judge of the County Court at Law No. 2 of Travis County, Texas, may be paid by the Commissioners Court a yearly salary not less than \$19,000 and not more than the amount paid District Judges from the general revenue fund of the State of Texas. The salary shall be paid out of the general fund of the County in equal monthly installments by warrants drawn upon the County Treasurer upon Orders of the Commissioners Court of Travis County, Texas. The Judge of the County Court at Law No. 2 shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law.

[Acts 1965, 59th Leg., p. 175, ch. 69, §§ 4, 5, eff. April 8, 1965. Amended by Acts 1967, 60th Leg., p. 1196, ch. 532, § 2, eff. Jan. 1, 1968; Acts 1971, 62nd Leg., 1st C.S., p. 12, ch. 1, § 2, eff. June 7, 1971; Acts 1971, 62nd Leg., p. 1445, ch. 401, § 2, eff. Aug. 30, 1971; Acts 1981, 67th Leg., p. 501, ch. 208, § 2, eff. May 28, 1981.]

Art. 1970-324a.1. County Court at Law No. 3 of Travis County

Sec. 1. That there is hereby created a court to be held in Austin, Travis County, Texas, to be called the County Court at Law Number 3 of Travis County, Texas, in addition to the present county courts at law of Travis County, Texas. The effective date of this Act shall be January 1, 1974.

Sec. 2. The County Court at Law Number 3 of Travis County, Texas, shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the general laws of the state the county court of said county would have jurisdiction. The jurisdiction of the County Court at Law Number 3 of Travis County, Texas, and of the judge thereof, shall extend to all matters of which jurisdiction has heretofore vested in the county court or in the county judge or in the county courts at law of Travis County, Texas; and such County Court at Law Number 3 of Travis County, Texas, shall exercise and have concurrent jurisdiction with the county court or county judge or any other numbered county court at law of Travis County, now or hereafter created, as to all probate matters. The County Court at Law No. 3 has jurisdiction concurrent with the district court in civil

cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

Sec. 3. The County Court of Travis County shall have and retain, as heretofore, jurisdiction now conferred by law over probate matters; and such jurisdiction shall hereafter be concurrent as herein provided; but the county court of said county as now existing shall have no jurisdiction over other matters civil or criminal. The County Judge of Travis County shall be the judge of the county court of said county, and all ex officio duties of the county judge shall be exercised by said judge of the County Court of Travis County, except insofar as the same shall by this Act or otherwise be committed exclusively to the county courts at law of Travis County, Texas, now or hereafter created.

Sec. 4. The County Judge of Travis County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Travis County transfer to the County Court at Law Number 3 of Travis County or any other county court at law of Travis County, now or hereafter created, any such probate matter or proceeding then pending in the County Court of Travis County and all processes extant at the time of such transfer shall be returned to and filed in the County Court at Law Number 3 of Travis County or any other county court at law of Travis County, now or hereafter created, until otherwise provided by law, and shall be as valid and binding as though originally issued out of said County Court at Law Number 3 of Travis County or any other such county court at law of Travis County. The County Court of Travis County shall have and retain concurrently with the County Court at Law Number 3 of Travis County and any other county court at law of Travis County, now or hereafter created, the general jurisdiction of a probate court and of jurisdiction now conferred or which may be conferred by law over probate matters.

Sec. 5. The terms of the County Court at Law Number 3 of Travis County shall be held in the courthouse of Travis County as follows, to wit: beginning on the first Mondays in January, March, May, July, September, and November in each year, and each term of said court shall continue in session until the convening of the next succeeding term. The practice in said court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to county courts, except as herein expressly provided.

Sec. 6. The Commissioners Court of Travis County, Texas, shall appoint a Judge of the County Court at Law Number 3 of Travis County, Texas, who shall serve until the next general election, and until his successor shall have been duly elected and qualified. The person elected Judge of the County Court at Law Number 3 of Travis County, Texas, shall serve for a term of four years, and there shall be elected every four years thereafter a Judge of the County Court at Law Number 3 of Travis Coun-

ty, Texas. Such judge must be a qualified voter in said county, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, Texas, who shall have been actively engaged in the practice of law for a period of not less than four years next preceding such general election.

Sec. 7. The Judge of the County Court at Law Number 3 of Travis County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 8. A Special Judge of the County Court at Law Number 3 of Travis County may be appointed or elected as provided by law relating to county courts and to the judges thereof, who shall receive such compensation as may be provided by law for special judges of county courts or county courts at law, whichever is the greater, to be paid out of the general funds of the county by the commissioners court.

Sec. 9. Any vacancy in the office of the Judge of the County Court at Law Number 3 of Travis County shall be filled by the commissioners court, and when so filled, the judge shall hold office until the next general election and until his successor is elected and qualified. The Commissioners Court of Travis County, Texas, shall provide a suitable quarters for the holding of said County Court at Law Number 3 of Travis County, Texas.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law Number 3 of Travis County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge to try such case or cases where the Judge of the County Court at Law Number 3 of Travis County is disqualified. Otherwise, a special judge may be appointed or elected as is now or may hereafter be provided by law for county judges or for judges of county courts at law.

Sec. 11. The Judge of the County Court at Law Number 3 of Travis County may be removed from office in the same manner and for the same causes as any county judge or judge of a county court at law may be removed under the laws of the state.

Sec. 12. When either party to a civil case pending in the County Court or County Court at Law Number 3, or any other county court at law of Travis County, now or hereafter created, applies therefor, the judge thereof shall appoint a competent stenographer, to report the oral testimony given in such case. Such stenographer shall take the oath required of official court reporters, and shall receive not less than \$10 per day, to be taxed and collected as costs. In such cases, the provisions of this title with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the court, shall apply to all statements of facts in civil cases tried in said courts, and all provisions of law governing statement of facts and bills of exception to be filed

in district courts and the use of same on appeal shall apply to civil cases tried in said courts.

Sec. 13. The County Court at Law Number 3 of Travis County, and the judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court, or of any other court in said county of concurrent or inferior jurisdiction to said County Court at Law Number 3 of Travis County.

Sec. 14. All cases appealed from the justice courts and other inferior courts in Travis County, Texas, shall be made direct to the County Court at Law Number 3 of Travis County, or to any other county court at law of Travis County, now or hereafter created, until otherwise provided by law.

Sec. 15. The County Clerk of Travis County, Texas, shall be the Clerk of the County Court at Law Number 3 of Travis County. The seal of said court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law Number 3 of Travis County." The Sheriff of Travis County shall in person or by deputy attend the said court when required by the judge thereof. The County Attorney of Travis County shall represent the state in all prosecutions pending in said County Court at Law Number 3 of Travis County, and he shall be entitled to the same fee as now prescribed by law for such prosecution in the county courts.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Travis County for the drawing, selection, and service of jurors shall be exercised by said County Court at Law Number 3 or by any other county court at law of Travis County, but juries summoned for either or any of said courts may by order of the judge of the court in which they are summoned be transferred to any of the other courts for service therein and may be used therein as if summoned for the court to which they may be thus transferred.

Sec. 17. The Judge of the County Court at Law Number 3 of Travis County, Texas, may be paid by the commissioners court a yearly salary not less than \$19,000 and not more than the amount paid district judges from the general revenue fund of the State of Texas. The salary shall be paid out of the general fund of the county in equal monthly installments by warrants drawn upon the county treasurer upon orders of the Commissioners Court of Travis County, Texas. The Judge of the County Court at Law Number 3 shall assess the same fees and costs as are now prescribed by law for county judges, to be deposited in the county treasury as prescribed by law.

Sec. 18. The Judge of the County Court at Law Number 3 of Travis County, Texas, shall not engage

in the private practice of law while holding the office of judge of the said court.

[Acts 1963, 58th Leg., p. 333, ch. 127. Amended by Acts 1973, 63rd Leg., p. 1077, ch. 414, eff. Jan. 1, 1974; Acts 1981, 67th Leg., p. 502, ch. 208, § 3, eff. May 28, 1981.]

Art. 1970-324a.2. County Court at Law No. 4 of Travis County

Creation

Sec. 1. The County Court at Law Number 4 of Travis County is created. The court shall sit in Austin, Texas.

Jurisdiction of County Court at Law

Sec. 2. The County Court at Law Number 4 of Travis County shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the general laws of the state the county court of the county would have jurisdiction, and its jurisdiction is concurrent with the other county courts at law of Travis County. The County Court at Law Number 4 of Travis County shall have and exercise jurisdiction concurrent with the County Court of Travis County and the other county courts at law of Travis County over all probate matters and proceedings. The County Court at Law Number 4 has jurisdiction concurrent with the district court in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000 exclusive of interest.

Jurisdiction of County Court

Sec. 3. The County Court of Travis County shall have and retain jurisdiction conferred by law over probate matters, and such jurisdiction shall be concurrent with the county courts at law. The County Court of Travis County shall have no jurisdiction over other matters, civil or criminal. The county judge of Travis County shall be the judge of the county court of the county, and all ex officio duties of the county judge shall be exercised by the judge of the County Court of Travis County, unless by this Act, or otherwise, committed exclusively to the county courts at law of Travis County.

Filing and Transfer of Cases; Exchange of Benches

Sec. 4. On the first day of the initial term of the County Court at Law Number 4, there shall be transferred to the docket of that court, under the direction of the county judge and by order entered upon the minutes of the County Court of Travis County, all mental health and probate actions, matters, and proceedings then pending in the County Court of Travis County, and all writs and processes theretofore issued by or out of either the County Court of Travis County or any of the county courts at law of Travis County in such actions, matters, and proceedings shall be returnable to the County Court at Law Number 4 of Travis County as though originally issued therefrom. All new mental health and probate actions, matters, and proceedings filed

on or after the first day of the initial term of the County Court at Law Number 4 with the county clerk of Travis County, irrespective of the court or judge to which the matter or proceeding is addressed, shall be filed by the clerk in the County Court at Law Number 4. The county judge of Travis County may sit at any time for the judge of the County Court at Law Number 4 with regard to mental health and probate actions, matters, and proceedings. No mental health or probate proceeding had in either of the courts, or any order entered therein, shall be invalid because of a failure of the clerk to file new matters and proceedings as provided by this section. The judge of either of those courts, in his discretion, may, on or after the first day of the initial term of the County Court at Law Number 4, transfer to any other county court at law of Travis County, any mental health or probate matter or proceeding then or thereafter pending in those courts, and all processes extant at the time of the transfer shall be returned to and filed in the court to which the transfer is made and shall be as valid and binding as though originally issued out of the court to which the transfer is made. No application, pleading, motion, order, judgment, oath, bond, citation, return of citation, or any other mental health or probate matter or proceeding shall be invalid because of any reference therein to either of the courts by the name of the other, and any reference therein to either of the courts by the name of the other shall be legally sufficient for every purpose.

Terms; Practice and Procedure

Sec. 5. The terms of the County Court at Law Number 4 shall begin on the first Mondays in January, March, May, July, September, and November in each year, and each term of the court shall continue until the convening of the next succeeding term. The practice in the court, and appeals and writs of error from the court, shall be as prescribed by the laws relating to county courts, except as expressly provided by this Act.

Judge

Sec. 6. The Commissioners Court of Travis County shall appoint a judge of the County Court at Law Number 4, who shall serve until the next general election, and until his or her successor is elected and has qualified. Beginning at the general election in 1982 and every four years thereafter, a judge of the County Court at Law Number 4 shall be elected by the qualified voters of the county for a regular term of four years. The judge must be a qualified voter in the county, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, who shall have been actively engaged in the practice of law for a period of not less than two years next preceding the judge's election or appointment.

Bond and Oath

Sec. 7. The judge of the County Court at Law Number 4 shall execute a bond and take the oath of office as required by law relating to county judges.

Vacancy; Quarters

Sec. 8. Any vacancy in the office of the judge of the County Court at Law Number 4 shall be filled by the commissioners court, and when so filled, the judge shall hold office until the next general election and until his successor is elected and has qualified. The commissioners court shall provide suitable quarters for the holding of the County Court at Law Number 4.

Disqualification

Sec. 9. In the case of the disqualification of the judge of the County Court at Law Number 4 to try any case pending in the court, the parties or their attorneys may agree on the selection of a special judge to try the case, or the judges of the county courts at law may exchange benches or transfer a case to another county court at law, as provided by law. A special judge may be appointed or elected as provided by law for county judges or for judges of county courts at law, who shall receive such compensation as may be provided by law for special judges of county courts or county courts at law, whichever is the greater, to be paid out of the general funds of the county by the commissioners court.

Removal

Sec. 10. The judge of the County Court at Law Number 4 may be removed from office in the same manner and for the same causes as any county judge or judge of a county court at law may be removed under the laws of the state.

Court Reporter

Sec. 11. The judge of the County Court at Law Number 4 shall appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be as provided by law for official court reporters. The official court reporter is entitled to the compensation fixed by the commissioners court.

Writ Power

Sec. 12. The County Court at Law Number 4 and the judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court in the county with concurrent or inferior jurisdiction to the County Court at Law Number 4.

Appealed Cases

Sec. 13. All cases appealed from the justice courts and other inferior courts in Travis County shall be made direct to the County Court at Law Number 4 or to any other county court at law of Travis County.

Personnel; Seal

Sec. 14. The county clerk of Travis County shall be the clerk of the County Court at Law Number 4. The seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law Number 4 of Travis County." The sheriff of Travis County shall in person or by deputy attend the court when required by the judge of the court. The county attorney of Travis County shall represent the state in all prosecutions pending in the County Court at Law Number 4, and shall be entitled to the same fee as now prescribed by law for such prosecution in the county courts.

Jurors

Sec. 15. The jurisdiction and authority now vested by law in the County Court of Travis County for the drawing, selection, and service of jurors shall be exercised by the County Court at Law Number 4 or by any other county court at law of Travis County, but juries summoned for either or any of the courts may, by order of the judge of the court in which they are summoned, be transferred to any of the other courts for service therein and may be used in any of those courts as if summoned for the court to which they are transferred.

Compensation

Sec. 16. The judge of the County Court at Law Number 4 may be paid by the commissioners court a yearly salary in an amount determined by the commissioners court, but not more than 90 percent of the amount paid district judges from the General Revenue Fund of the state. The salary shall be paid out of the general fund of the county in equal monthly installments by warrants drawn upon the county treasurer upon orders of the commissioners court. The judge of the County Court at Law Number 4 shall assess the same fees and costs as are now prescribed by law for county judges, to be deposited in the county treasury as prescribed by law.

Private Practice Prohibited

Sec. 17. The judge of the County Court at Law Number 4 shall not engage in the private practice of law while holding the office of judge of the court.

[Acts 1979, 66th Leg., p. 826, ch. 373, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., p. 502, ch. 208, § 4, eff. May 28, 1981.]

Art. 1970-324b. Exchange of Benches of County Courts at Law of Travis County

The Judge of each of the County Courts at Law of Travis County may, in his discretion, either in term-time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any cause, civil or criminal, on his docket, to the docket of the other County Court at Law; and the Judges of said Courts may, in their discretion, exchange benches from time to time; and whenever a Judge of one of said Courts is disqualified, he shall transfer the case from his Court to the other County Court at Law, and either Judge may, in his own courtroom, try and determine any case or proceeding pending in either County Court at Law, without having the case transferred, or may sit in the other County Court at Law and there hear and determine any case there pending; and each judgment and order shall be entered in the minutes of the Court in which the case is pending; and the Judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any County Court at Law. In case of absence, sickness, or disqualification of either Judge of the County Courts at Law, the other Judge of the County Court at Law may hold Court for him. Either of said Judges may hear any part of any case or proceeding pending in either of said County Courts at Law and determine the same or may hear and determine any question in any case and either Judge may complete the hearing and render judgment in said case. In cases transferred to any one of the County Courts at Law by order of the Judge of one of said Courts, all process, writs, bonds, recognizances or other obligations issued or made in said cases shall be returned to and filed in the Court to which transfer is made. All bonds executed and recognizances entered into in said cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the Court to which the cases are transferred to as are fixed by law and by this Act. And all processes issued or returned before transfer of said cases as well as all bonds and recognizances before taken in said cases shall be valid and binding as though originally issued out of the Court to which such transfer may be made.

[Acts 1965, 59th Leg., p. 175, ch. 69, § 6, eff. April 8, 1965.]

Art. 1970-324c. Practice of Law by Judges of County Courts at Law of Travis County

The Judges of the County Court at Law No. 1 and the County Court at Law No. 2 of Travis County, Texas shall not engage in the private practice of law while holding the office of judge of said courts.

[Acts 1967, 60th Leg., p. 1196, ch. 532, § 3, eff. Jan. 1, 1968.]

Art. 1970-324d. Eminent Domain Cases in Travis County

Sec. 1. The County Courts at Law shall have concurrent original jurisdiction over eminent domain proceedings with the County Court of Travis County and the administrative and ministerial jurisdiction to file and dispose of proceedings in eminent domain concurrently and coextensively with the County Court and other County Courts at Law of Travis County now or hereafter created.

Sec. 2. Eminent domain cases filed in Travis County shall be assigned in rotation to the County Courts at Law by the County Clerk.

[Acts 1971, 62nd Leg., p. 1446, ch. 401, § 3, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., 1st C.S., p. 13, ch. 1, § 3, eff. June 7, 1971.]

OFFICIAL INTERPRETERS**Art. 1970-325. Official Interpreters for County Courts at Law**

Sec. 1. The judge of the County Court at Law of any county having a County Court at Law, is authorized to appoint an official interpreter for such County Court at Law. And the County Commissioners shall by resolution fix the salary of said official interpreter and provide for the payment of such salary, and shall prescribe the duties of such official interpreter.

Sec. 2. The judge of the County Court at Law shall have authority to terminate such employment of such interpreter at any time.

Sec. 3. The official interpreter so appointed by the judge of the County Court at Law shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony given in the County Court at Law, and which oath shall suffice for his service as official interpreter of such court in all cases before such court during his term of office.

[Acts 1941, 47th Leg., p. 357, ch. 195.]

NAVARRO COUNTY**Art. 1970-326. County Court of Navarro County; Jurisdiction**

Sec. 1. The County Court of Navarro County shall have and exercise the general jurisdiction of a Probate Court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons pending in such courts; to conduct lunacy hearings; to apprentice minors, as provided by law; and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provision as now or may be provided for by General Law governing County Courts throughout the State; but neither said Coun-

ty Court of Navarro County, nor the Judge thereof, shall have any jurisdiction over matters of eminent domain, or other original civil jurisdiction; and the said County Court of Navarro County shall have criminal jurisdiction under such provisions as are now or may be provided for by General Law governing County Courts throughout the State; and said County Court shall have such appellate jurisdiction, save as to eminent domain, as is now or may hereafter be given it by law; provided, however, that all future statutes pertaining to probate matters enacted by the Legislature of the State of Texas, shall be operative in said Navarro County, as fully as though this statute had not been enacted.

Sec. 2. That the District Court of Navarro County and the presiding judge thereof shall have and exercise original jurisdiction in matters of eminent domain and in all civil matters and causes over which, by the laws of this State, the County Court of Navarro County would have had original jurisdiction, but for the provisions set out in Section 1 of this Act; all causes, other than probate matters, criminal matters and cases appealed from the Justice of the Peace Courts, as are provided in Section 1 of this Act shall be and the same are hereby transferred to the District Court of Navarro County, and all writs and process relating to such civil matters and causes included in the subject matter of jurisdiction prescribed in this Act, issued by or out of said County Court of Navarro County be and the same are hereby made returnable to the next term of the District Court of said County after this Act takes effect.

Sec. 3. That the County Clerk of Navarro County be and he is hereby required, within thirty days after this Act takes effect, to make a full and complete transcript of all entries upon his civil docket heretofore made in cases which by Section 2 of this Act are required to be transferred to the District Court of said County, to prepare a certified bill of costs in each case, and to transmit the same together with all the papers pertaining to such cases to the Clerk of the District Court of said county; all such cases shall be immediately docketed by the District Clerk as appearance cases for the next succeeding term of such District Court, and all process now issued and returnable to said County Court shall be returnable to said District Court.

Sec. 4. That this Act shall not be construed to in anywise or manner affect final judgments heretofore rendered by said County Court of Navarro County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said County; but such County Court shall retain jurisdiction to enforce said final judgments and the County Clerk of said County shall issue all writs of execution and orders of sale, and proceedings thereunder, and his act in so doing shall be valid and binding to all intents and purposes, the

same as if no change had been made as set out in Section 2.

[Acts 1941, 47th Leg., p. 553, ch. 350.]

Art. 1970-327. Repealed by Acts 1943, 48th Leg., p. 689, ch. 38, § 6

MORRIS COUNTY

Art. 1970-328. County Court of Morris County; Jurisdiction

Sec. 1. In addition to the jurisdiction heretofore conferred by law upon the County Court of Morris County, Texas, and the County Judge of Morris County, Texas, the said County Court shall have jurisdiction within Morris County of all criminal matters and causes of misdemeanor over which the District Court of Morris County, Texas, now has jurisdiction, and the jurisdiction of said courts over such matters shall be concurrent; provided that the jurisdiction of the District Court of Morris County, Texas, shall be and remain as now fixed by law and be in nowise affected by this Act; and provided further, that the jurisdiction hereby conferred upon the County Judge of Morris County, Texas, shall extend to and only to those cases in which pleas of guilty are entered by the defendant in any cases of misdemeanor filed in said court.

Sec. 2. The County Judge of Morris County, Texas, shall receive a fee of Three (\$3.00) Dollars for each and every case tried before him in which a plea of guilty is entered, and the fees of the other officers of the Court shall be and remain as is now provided by the laws of this state.

[Acts 1943, 48th Leg., p. 411, ch. 278.]

POWERS

Art. 1970-329. Judge of County Court at Law in Counties Under 500,000 May Act for County Judge in Certain Cases

Sec. 1. That the Judge of any County Court at Law in any county having a population of less than five hundred thousand (500,000) inhabitants according to the last preceding, or any future Federal Census, may act for the County Judge of the county in any juvenile, lunacy, probate and condemnation proceeding or matter and also may perform for the County Judge any and all other ministerial acts required by the laws of this State of the County Judge, during the absence, inability or failure of the County Judge for any reason to perform such duties; and any and all such acts thus performed by the Judge of the County Court at Law, while acting for the County Judge, shall be valid and binding upon all parties to such proceedings or matters the same as if performed by the County Judge. Provided that the powers thus given the Judges of the County Courts at Law of this State shall extend to and include all powers of the County Judge except his powers and duties in connection with the transaction of the business of the county, as presiding officer of the Commissioners Court and as the budget officer for the Commissioners Court.

Sec. 2. That the absence, inability or failure of the County Judge to perform any of the duties hereinabove set forth shall be certified by the County Judge or the Commissioners Court to the Judge of any such County Court at Law, and when such certification is for the purpose of conferring powers to do some judicial act, such certificate shall be spread upon the minutes of the appropriate Court.

Sec. 3. That notwithstanding the additional powers and duties conferred upon the Judges of the County Courts at Law of this State no additional compensation or salary shall be paid to them, but the compensation or salary of such Judges of the County Courts at Law shall remain the same as now, or as may be hereafter, fixed by law.

Sec. 4. That is it not intended by this Act to repeal any law providing for the election and/or appointment of a special County Judge, but this Act shall be cumulative of, and in addition to, such law or laws.

Sec. 5. That if any part, section, subsection, paragraph, sentence, clause, phrase, or word, of this Act shall be held by the Courts to be unconstitutional or invalid, such holding shall not in any manner affect the validity of the remaining portions of this Act.

[Acts 1943, 48th Leg., p. 689, ch. 382.]

TITUS COUNTY

Art. 1970-330. Repealed by Acts 1975, 64th Leg., p. 1366, ch. 521, § 5, eff. June 19, 1975

See, now, art. 1970-330a.

Art. 1970-330a. Jurisdiction of Titus County Court and District Courts

Sec. 1. The County Court of Titus County has the full jurisdiction granted by the constitution and general law to county courts.

Sec. 2. The district courts having jurisdiction in Titus County have the jurisdiction granted by the constitution and general law to district courts.

Sec. 3. (a) All cases pending on the effective date of this Act in the district courts having jurisdiction in Titus County which are within the jurisdiction of the county court under Section 1 of this Act are transferred to the County Court of Titus County.

(b) All writs and process relating to cases transferred under Subsection (a) of this section are returnable to the next term of the County Court of Titus County.

Sec. 4. The provisions of this Act may not be construed to affect judgments rendered by the district courts having jurisdiction in Titus County prior to the effective date of this Act. The clerks of the district courts having jurisdiction in Titus County shall issue all executions and orders of sale and

proceeding thereunder, which shall be valid and binding.

[Acts 1975, 64th Leg., p. 1366, ch. 521, §§ 1 to 4, eff. June 19, 1975.]

FRANKLIN COUNTY

Art. 1970-331. Repealed by Acts 1965, 59th Leg., p. 800, ch. 385, § 2, eff. Aug. 30, 1965

Art. 1970-331a. Repealed by Acts 1967, 60th Leg., p. 722, ch. 302, § 5, eff. May 25, 1967

Art. 1970-331b. Repealed by Acts 1971, 62nd Leg., p. 951, ch. 161, § 5, eff. May 11, 1971

Art. 1970-331c. County Court and District Courts of Franklin County; Jurisdiction and Related Matters

Sec. 1. The County Court of Franklin County has the full jurisdiction granted by the Constitution and general law to county courts.

Sec. 2. The district courts having jurisdiction in Franklin County have the jurisdiction granted by the Constitution and general law to district courts.

Sec. 3. (a) All cases pending on the effective date of this Act in the district courts having jurisdiction in Franklin County which are within the jurisdiction of the county court under Section 1 of this Act are transferred to the County Court of Franklin County.

(b) All writs and process relating to cases transferred under Subsection (a) are returnable to the next term of the County Court of Franklin County.

Sec. 4. This Act may not be construed to affect judgments rendered by the district courts having jurisdiction in Franklin County prior to the effective date of this Act. The clerks of the district courts having jurisdiction in Franklin County shall issue all executions and orders of sale and proceedings thereunder, which shall be valid and binding.

[Acts 1971, 62nd Leg., p. 951, ch. 161, eff. May 11, 1971.]

GRAYSON COUNTY

Art. 1970-332. Grayson County; County Court at Law; Jurisdiction; Terms; Judge; Prosecutor; Writs; Clerk and Court Reporter

Sec. 1. There is hereby created a Court to be held in Sherman, Grayson County, Texas, which shall be known as the County Court at Law of Grayson County.

Sec. 2. The County Court at Law of Grayson County shall have and exercise the jurisdiction in all matters and cases, civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of said County would have jurisdiction except as herein provided in Section 3 of this Act, and all cases pending in the County Court of said County, other than probate matters such as are provided in Section 3 of this Act, at the time this Act shall become effective, shall be and the same are hereby transferred to the County Court at Law

of Grayson County, and all writs and process, civil and criminal, heretofore issued by or out of the said County Court other than those pertaining to matters which are hereby exempt from this Act that are to remain in the County Court of Grayson County shall be and the same are hereby made returnable to the County Court at Law of Grayson County.

Sec. 3. The County Court at Law of Grayson County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State are conferred upon Justice Courts.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Court at Law of Grayson County in civil cases of which said Court has appellate or original concurrent jurisdiction with the Justice Court, where the judgment or amount in controversy does not exceed One Hundred Dollars (\$100) exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the Justice Courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said County Court at Law of Grayson County over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal to the County Court at Law of Grayson County from the Justice Court where the right of appeal to the County Court now exists by law. The jurisdiction of the County Court at Law of Grayson County, and the Judge thereof, shall extend to all matters of eminent domain of which jurisdiction has heretofore vested in the County Court of Grayson County or in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners Court nor of the County Judge of Grayson County as presiding officer of said Commissioners Court as to roads, bridges, and public highways, or matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge of the County Court of Grayson County.

Sec. 6. The County Court of Grayson County shall have and retain, as heretofore, the general jurisdiction of the Probate Court and all jurisdiction now conferred by law over probate matters, and the Court herein created shall have no other jurisdiction than that named in this Act, and the County Court of Grayson County as now and heretofore existing shall have all jurisdiction which it now has, save and except that which is given the County Court at Law of Grayson County in this Act, but the County Court now existing shall have no jurisdiction over other matters, civil or criminal. The County Judge of Grayson County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Grayson County, except in so far as the same shall by this Act be committed to the County Court at Law of Grayson County.

Sec. 7. The terms of the County Court at Law of Grayson County, and the practice therein, and the appeals and writs of error therefrom shall be as prescribed by the laws relating to County Courts. The terms of the County Court at Law of Grayson County shall be held in the Courthouse of Grayson County, and shall begin on the first Monday in February, April, June, August, October and December of each year and shall continue in session until the Saturday before the first Monday in April, June, August, October, December and February of each year.

Sec. 8. There shall be elected in Grayson County by the qualified voters thereof at each general election a Judge of the County Court at Law of Grayson County, who shall be a qualified voter in said County, and who shall be a regularly licensed attorney at law in this State, and who shall be a resident of Grayson County, Texas, and shall have been actively engaged in the practice of law for a period of not less than one (1) year next preceding such general election, who shall hold such office for two (2) years and until his successor shall have been duly elected and qualified.

Sec. 9. The County Attorney of Grayson County shall represent the State in all prosecutions pending in said County Court at Law of Grayson County, and shall be entitled to the same fee as now prescribed by law for such prosecutions in the County Courts.

Sec. 10. As soon as this Act becomes effective the Governor shall appoint a Judge of the County Court at Law of Grayson County, who shall hold his office until the next general election.

Sec. 11. In the case of the disqualification of the Judge of the County Court at Law in any case pending in this Court, the County Judge shall sit in such case, or, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases; and in default of such agreement a majority of the practicing lawyers of Grayson County shall elect a Judge to try such cases where the County Judge at Law is disqualified.

Sec. 12. The County Court at Law of Grayson County, or the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law.

Sec. 13. The County Clerk of Grayson County shall be the Clerk of the County Court at Law of Grayson County, and the Seal of said Court shall be the same as that provided by law for County Courts, except the Seal shall contain the words "County Court at Law of Grayson County."

Sec. 14. The jurisdiction or authority now vested by law in the County Court for the selection and service of jurors shall be exercised by the County Court at Law of Grayson County and all petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such juries shall be required to appear and serve at the next ensuing terms of said Courts as fixed by this Act, and their acts as jurors shall be as valid as if they had served as jurors in the Court for which they were originally drawn.

Sec. 15. Any vacancy in the office of the Judge of the County Court at Law of Grayson County may be filled by the Commissioners Court, and when so filled the Judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 16. (a) The Judge of the County Court at Law of Grayson County may receive an annual salary up to an amount equal to the total annual salary of the County Attorney of Grayson County to be paid out of the County Treasury of Grayson County, Texas, on the order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Grayson County shall assess the same fees as are now prescribed by law relating to the County Judge's fee, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Section.

(b) The Judge of the County Court at Law of Grayson County may not actively engage in the private practice of law while serving as judge of the county court at law.

Sec. 17. All cases appealed from the Justice Court and other inferior Courts in Grayson County, Texas, shall be made direct to the County Court at Law of Grayson County, under the provisions heretofore governing such appeals.

Sec. 18. The Judge of the County Court at Law of Grayson County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

Sec. 18A. The Judge of the County Court at Law of Grayson County may appoint an official shorthand reporter for his court in the manner now provided for district courts in this State who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than the compensation paid the official shorthand reporters of the district courts of Grayson County, Texas, said salary to be fixed, determined, set and allowed by the commissioners court of Grayson County, and shall be in addition to transcript fees, fees for statement of facts and all other fees. Said salary when so fixed and deter-

mined by the commissioners court shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the commissioners court, in the same manner as salaries of other county officers are paid. From and after passage of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the commissioners court of Grayson County.

Sec. 19. All laws and parts of laws in conflict herewith, if any, are hereby repealed.

Sec. 20. If any part, section, paragraph, sentence, or clause contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of this Act, and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity.

[Acts 1947, 50th Leg., p. 219, ch. 126. Amended by Acts 1967, 60th Leg., p. 859, ch. 365, §§ 1, 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 161, ch. 60, §§ 1, 2, eff. April 3, 1969; Acts 1975, 64th Leg., p. 628, ch. 259, § 1, eff. Sept. 1, 1975.]

Art. 1970-332a. County Court at Law No. 2 of Grayson County

Sec. 1. On the date determined by the provisions of Section 19 of this Act, there is created a court to be held in Sherman, Grayson County, Texas, which shall be known as the County Court at Law No. 2 of Grayson County.

Sec. 2. The County Court at Law No. 2 of Grayson County shall have and exercise the jurisdiction in all matters and cases, civil, criminal, juvenile, and probate, original and appellate, over which by the general laws of this state county courts have jurisdiction, and has jurisdiction concurrent with the County Court at Law of Grayson County in matters and cases, civil and criminal, original and appellate. The County Court of Grayson County shall have and retain, as heretofore, the general jurisdiction of a probate court and has jurisdiction concurrent with the County Court at Law No. 2 of Grayson County in probate matters and cases. The provisions of this Act do not affect the jurisdiction of the Commissioners Court nor of the County Judge of Grayson County as presiding officer of the commissioners court as to roads, bridges, and public highways, or matters which are now in the jurisdiction of the Commissioners Court or the Judge of the County Court of Grayson County. The County Judge of Grayson County shall be the judge of the county court of the county, and all ex officio duties of the county judge shall be exercised by the judge of the County Court of Grayson County, except insofar as the same shall by this Act be committed to the County Court at Law No. 2 of Grayson County.

Sec. 3. The County Court at Law No. 2 of Grayson County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest, as provided by general law.

Sec. 4. (a) The County Court at Law No. 2 of Grayson County shall have and exercise original concurrent jurisdiction with the justice courts in all civil and criminal matters which by the general laws of this state are conferred upon justice courts.

(b) No appeal or writ of error shall be taken to the court of civil appeals from any final judgment of the County Court at Law No. 2 of Grayson County in civil cases of which the court has appellate or original concurrent jurisdiction with the justice court, where the judgment or amount in controversy does not exceed \$100, exclusive of interest and costs.

(c) This Act shall not be construed to deprive the justice courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the County Court at Law No. 2 of Grayson County over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal to the County Court at Law No. 2 of Grayson County from the justice court where the right of appeal to the county court now exists by law.

Sec. 5. The terms of the County Court at Law No. 2 of Grayson County, and the practice therein, and the appeals and writs of error therefrom shall be as prescribed by the laws relating to county courts. The terms of the County Court at Law No. 2 of Grayson County shall be held in the Courthouse of Grayson County, and shall begin on the first Monday in February, April, June, August, October, and December of each year, and shall continue in session until the Saturday before the first Monday in April, June, August, October, December, and February of each year.

Sec. 6. The judge of the County Court at Law No. 2 of Grayson County shall be a qualified voter in Grayson County, shall be a regularly licensed attorney at law in this state, shall be a resident of Grayson County, and shall have been actively engaged in the practice of law for a period of not less than one year next preceding his appointment or election.

Sec. 7. At the general election in 1978 and every four years thereafter, a judge shall be elected for a regular four-year term by the qualified electors of Grayson County.

Sec. 8. Any vacancy in the office of the judge of the County Court at Law No. 2 of Grayson County may be filled by the commissioners court, and when so filled the judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 9. In the case of the disqualification of the judge of the County Court at Law No. 2 in any case pending in this court, the county judge or the judge of the County Court at Law of Grayson County may sit in such case, or, the parties or their attorneys may agree on the selection of a special judge to try such case or cases; and in default of such agreement a majority of the practicing lawyers of Grayson County shall elect a judge to try such cases where the judge of the County Court at Law No. 2 is disqualified.

Sec. 10. (a) The judges of the county court and the county courts at law may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) In cases transferred to either of the courts by order of the judge of one of the other courts, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before the transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 11. The County Court at Law No. 2 of Grayson County, or the judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction to the County Court at Law No. 2.

Sec. 12. The County Attorney of Grayson County shall represent the state in all prosecutions pending in the County Court at Law No. 2 of Grayson County, and shall be entitled to the same fee as now prescribed by law for such prosecutions in the county courts.

Sec. 13. The County Clerk of Grayson County shall be the clerk of the County Court at Law No. 2 of Grayson County, and the seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 2 of Grayson County."

Sec. 14. The jurisdiction or authority now vested by law in the county court for the selection and service of jurors shall be exercised by the County Court at Law No. 2 of Grayson County.

Sec. 15. (a) The judge of the County Court at Law No. 2 of Grayson County may receive an annual salary up to an amount equal to the total annual salary of the County Attorney of Grayson County to be paid out of the county treasury of Grayson County on the order of the commissioners court of the county, and the salary shall be paid monthly in equal installments. The judge of the County Court at Law No. 2 of Grayson County shall assess the same fees as are now prescribed by law relating to the county judge's fee, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, no part of which shall be paid to the judge, but he shall draw the salary as specified in this section.

(b) The judge of the County Court at Law No. 2 of Grayson County may not actively engage in the private practice of law while serving as judge of the county court at law.

Sec. 16. All cases appealed from the justice court and other inferior courts in Grayson County, Texas, shall be made direct to the County Court at Law of Grayson County or the County Court at Law No. 2 of Grayson County, under the provisions heretofore governing such appeals.

Sec. 17. The judge of the County Court at Law No. 2 of Grayson County may be removed from office in the same manner and for the same causes as any county judge may be removed under the laws of this state.

Sec. 18. The judge of the County Court at Law No. 2 of Grayson County may appoint an official shorthand reporter for his court in the manner now provided for district courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. The official shorthand reporter shall receive a salary of not more than the compensation paid the official shorthand reporters of the district courts of Grayson County. The salary shall be fixed, determined, set, and allowed by the commissioners court of Grayson County, and shall be in addition to transcript fees, fees for statement of facts, and all other fees. The salary when so fixed and determined by the commissioners court shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the commissioners court, in the same manner as salaries of other county officers are paid. From and after passage of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the commissioners court of Grayson County.

Sec. 19. The County Court at Law No. 2 of Grayson County is created on January 1, 1979, or on a date determined by the Commissioners Court of Grayson County by an order entered on its minutes, whichever date is earlier. If the County Court at

Law No. 2 is created on January 1, 1979, the office of the judge is initially filled by the judge elected at the general election in 1978. If the County Court at Law No. 2 is created on an earlier date by order of the commissioners court, the governor shall appoint a judge of the County Court at Law No. 2 of Grayson County, who shall serve until the next general election and until his successor shall be duly elected and has qualified.

[Acts 1975, 64th Leg., p. 2027, ch. 669, eff. Sept. 1, 1975.]

HILL COUNTY

Art. 1970-333. Hill County; Jurisdiction; Clerk's Duties; Shorthand Reporter; County Attorney's Duties

Sec. 1. The County Court of Hill County shall have and exercise the general jurisdiction of a probate Court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement and distribution of estates of deceased persons pending in such Court; to conduct lunacy hearings; to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as now or may be provided for by General Law governing County Courts throughout the State; and in addition thereto, the County Court of Hill County and the Judge thereof, subject to the conditions stated in this Act, shall have jurisdiction over matters of original civil jurisdiction, original criminal jurisdiction, appellate civil jurisdiction, and appellate criminal jurisdiction as are normally exercised by County Courts under the Constitution and General Laws of this State; provided, however, that all future Statutes pertaining to probate matters enacted by the Legislature of the State of Texas, shall be operative in said Hill County as fully as though this Statute had not been enacted.

Sec. 2. The Judge of the 66th District Court in Hill County will be the presiding Judge, insofar as the District Court and the county court are concerned, over original and appellate jurisdiction in all civil and criminal matters in causes over which by the laws of this State the County Court of Hill County would have original or appellate jurisdiction; and all such causes will be filed with the District Clerk of Hill County in the District Court. The Judge of the District Court may, in his discretion, assign to the County Court of Hill County, for trial and disposition, cases, or portions of cases, of original and appellate jurisdiction in civil and criminal matters and causes over which, by the General Laws of this State, the County Court of Hill County would have original or appellate jurisdiction. The

assignments shall be made by docket notation. The purpose and intent of this Statute is to vest the 66th District Court and the County Court of Hill County with concurrent jurisdiction over matters of original and appellate jurisdiction in all civil and criminal matters over which, by the General Laws of this State, the County Court of Hill County would have original or appellate jurisdiction, subject to the control over assignments of the cases, or parts of the cases, by the District Court, as provided in this section.

Sec. 3. The District Clerk of Hill County shall continue to perform all the clerical functions of the County Court of Hill County as to all matters and causes over which the District Court and County Court have concurrent jurisdiction, as provided in this Act. Insofar as all cases over which the District Court and County Court have concurrent jurisdiction, the Clerk shall charge fees at the rate set by law for County Court cases.

Sec. 4. The Judge of the County Court of Hill County may appoint an official shorthand reporter for his Court in the manner provided for District Courts in this State, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. In addition to transcript fees, fees for statement of facts and all other fees, the official shorthand reporter shall receive a salary to be fixed by the Commissioners Court of Hill County in an amount not more than the compensation paid the official shorthand reporter of the District Court in Hill County and to be paid out of the General Fund, or the Jury Fund, or out of any fund available for the purpose, as may be determined by the Commissioners Court, in the same manner as salaries of other County officers are paid. All provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporter shall be fixed and determined by the Commissioners Court of Hill County.

Sec. 5. The duties of the County Attorney of Hill County shall not be changed or affected by this Act, and the County Attorney shall perform the same duties as were performed prior to the passage of this Act.

[Acts 1947, 50th Leg., p. 470, ch. 271. Amended by Acts 1975, 64th Leg., p. 657, ch. 274, § 1, eff. May 20, 1975.]

Art. 1970-333a. Jurisdiction Restored; Jurisdiction of District Court

Sec. 1. There is hereby restored to the County Court of Hill County, original jurisdiction in matters of eminent domain which had been transferred to the District Court of Hill County by the provisions of House Bill No. 648, Acts of the 50th Legislature, Regular Session, 1947, Chapter 271 (codified in Vernon's Civil Statutes as Article 1970-333), and original jurisdiction in matters of eminent domain is

hereby transferred from the District Court of Hill County to the County Court of Hill County.

From and after the effective date of this Act, the County Court of Hill County shall have and exercise original jurisdiction in matters of eminent domain.

Sec. 2. The District Court of Hill County is hereby required within thirty days after this Act takes effect to file with the Clerk of the County Court of Hill County all original papers in cases or proceedings here transferred to the County Court of Hill County, and all dockets and certified copies of any interlocutory judgment or other order entered in the minutes of the District Court in said cases or proceedings so transferred, and the Clerk of the County Court shall immediately docket all such cases on the docket of the County Court of Hill County and all such cases or proceedings shall stand on the docket of said court in the same manner and place as each stands on the docket of the District Court. It shall not be necessary that the Clerk of the County Court refile any papers theretofore filed by the District Clerk, but papers in said case or proceeding bearing the file marks of the District Clerk prior to the time of such transfer shall be held to have been filed in the case or proceeding as of the date filed, without being refiled by the Clerk of the County Court. The District Clerk in cases or proceedings so transferred shall accompany the papers with the certified bill of costs, and against all costs deposits, if any, the District Clerk shall charge accrued fees to him and the remainder of the deposit he shall pay to the County Court as a deposit in the particular case for which the same was deposited. Credit shall be given litigants for all jury fees paid in the District Court.

Sec. 3. All writs and process relating to such cases or proceedings issued by or out of the District Court of Hill County are hereby made returnable to the next term of the County Court of Hill County after this Act takes effect. Any case or proceeding on appeal which has been transferred by this Act to the County Court, should a judgment be rendered by the Court of Civil Appeals or the Supreme Court remanding the case or proceeding for a new trial or for further proceedings, shall be remanded to the County Court of Hill County, and all jurisdiction in respect to said particular case or proceeding shall vest in the County Court of Hill County.

Sec. 4. This Act shall not be construed to in anywise or manner affect final judgments heretofore rendered by the District Court of Hill County pertaining to matters transferred by the provisions of this Act to the County Court, but the District Court shall retain jurisdiction to enforce said final judgments.

[Acts 1955, 54th Leg., p. 674, ch. 243.]

KENT COUNTY

Art. 1970-334. Kent County; Concurrent Jurisdiction of County Court with Justices' Courts

Sec. 1. The County Court of Kent County, shall have and exercise concurrent jurisdiction with the

Justices' Courts in all civil matters, which, by the General Laws of this State, is conferred upon Justices' Courts.

Sec. 2. Said County Court shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the General Laws of this State is conferred upon the County Court.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Court in civil cases of which said Court has appellate or original concurrent jurisdiction with the Justice Court where the amount in controversy does not exceed One Hundred Dollars (\$100) exclusive of interest and costs.

Sec. 4. This Act shall not be construed to deprive the Justice Courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to said County Court over such matters as are specified in Section 1 of this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court where the right of appeal now exists by law.

[Acts 1947, 50th Leg., p. 791, ch. 392.]

JOHNSON COUNTY

Art. 1970-335. Johnson County; Jurisdiction of County Court Diminished; Jurisdiction of District Court

Sec. 1. The County Court of Johnson County shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators, and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons pending in such Court; to conduct lunacy hearings; to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as now or may be provided for by General Law governing County Courts throughout the State; and in addition thereto, said County Court of Johnson County and the Judge thereof, subject to the conditions hereinafter stated, shall have jurisdiction over matters of eminent domain and other original civil jurisdiction, and original criminal jurisdiction and appellate civil jurisdiction and appellate criminal jurisdiction as are normally exercised by County Courts under the Constitution and General Laws of this State; provided, however, that all future Statutes pertaining to probate matters enacted by the Legislature of the State of Texas shall be operative in Johnson County as fully as though this Statute had not been enacted.

Sec. 2. The Judge of the District Court of Johnson County will be the presiding Judge, insofar as said District Court and said County Court are concerned, over original jurisdiction in matters of eminent domain, as well as original and appellate jurisdiction in all civil and criminal matters in causes over which by the laws of this State the County Court of Johnson County would have original or appellate jurisdiction; and all such causes will be filed with the District Clerk of Johnson County in said District Court. The Judge of the District Court of Johnson County may, in his discretion, assign to the County Court of Johnson County, for trial and disposition, cases, or portions thereof, of eminent domain as well as cases of original and appellate jurisdiction in civil and criminal matters and causes over which, by the General Laws of this State, the County Court of Johnson County would have original or appellate jurisdiction. Such assignments shall be made by docket notation. The purpose and intent of this Statute is to vest the District Court of Johnson County and the County Court of Johnson County with concurrent jurisdiction over matters of eminent domain as well as original and appellate jurisdiction in all civil and criminal matters over which, by the General Laws of this State, the County Court of Johnson County would have original or appellate jurisdiction, subject to the control over assignments of such cases, or parts thereof, by the said District Court, as hereinabove set out.

Sec. 3. The District Clerk of Johnson County shall continue to perform all the clerical functions of and for the County Court of Johnson County, insofar as all matters and causes over which the said District Court and County Court have concurrent jurisdiction, as hereinabove set out. Insofar as all cases over which the said District Court and County Court have concurrent jurisdiction, as hereinabove set out, said Clerk shall charge fees at the rate set by law for County Court cases.

Sec. 4. The duties of the County Attorney of Johnson County shall not be in any manner changed or affected by this Act; and said County Attorney shall have and perform the same duties as were had and performed prior to the passage of this Act.

[Acts 1949, 51st Leg., p. 185, ch. 102. Amended Acts 1971, 62nd Leg., p. 26, ch. 11, § 1, eff. March 4, 1971.]

COUNTIES OF 225,000 INHABITANTS.

Art. 1970-336. Salary of Judge in Counties Having Only One County Court at Law

Sec. 1. In all counties in this State having a population of not less than two hundred and twenty-five thousand (225,000) inhabitants according to the last preceding Federal Census and having within said county only one County Court at Law the salary of the Judge of said County Court at Law shall be Seven Thousand, Four Hundred Dollars (\$7,400) per annum. Said salary shall be paid out of the County General Fund in twelve (12) equal monthly installments. The Commissioners Court of the county out of whose funds said salary is paid

may, if it so elects, order such payments to be made out of the Jury Fund.

Sec. 2. The term "County Court at Law" as used in this Act shall mean and include County Courts at Law having jurisdiction over civil cases only or criminal cases only or both civil and criminal cases.

Sec. 3. If any section, sentence, clause, phrase or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 4. All laws or parts of laws fixing the salaries of Judges of County Courts at Law in any county having not less than two hundred and twenty-five thousand (225,000) population and having within said county only one County Court at Law as herein defined to the extent that they conflict with this Act are hereby repealed, but to the extent of the conflict only; it being intended that, and this Act shall control as to the amount of the salary in such counties over any classification by population of such counties heretofore made.

[Acts 1949, 51st Leg., p. 452, ch. 244.]

BLANCO COUNTY

Art. 1970-337. Jurisdiction Extended; Civil and Criminal; Concurrent with Justices Court

Sec. 1. Hereafter the County Court of Blanco County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which, by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Blanco County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Blanco County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in civil cases, of which Court has appellate, original or concurrent jurisdiction with the Justices Courts, where the amount in controver-

sy does not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said county court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Blanco County, Texas, within thirty (30) days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on first Monday in May and on the first Monday in August and the first Monday in November of each year and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners Court.

[Acts 1949, 51st Leg., p. 491, ch. 267.]

ELLIS COUNTY

Art. 1970-338. Repealed by Acts 1969, 61st Leg., p. 2135, ch. 739, § 7, eff. June 12, 1969

Art. 1970-338A. Original and Appellate Jurisdiction in Misdemeanor Cases

Sec. 1. The County Court of Ellis County, Texas, and the County Judge thereof shall have and exercise original and appellate jurisdiction in all misdemeanor cases over which the laws of this state has conferred jurisdiction in the County Court. All misdemeanor cases now pending in the District Court of Ellis County, Texas, and all writs and processes relating to such criminal cases issued by or out of said District Court of Ellis County are hereby made returnable to the next term of the County Court of Ellis County after this Act takes effect; provided further, however, that as to any misdemeanor case on appeal from said District Court should a judgment be entered by the Court of Criminal Appeals remanding the case for a new trial or for further proceedings, same shall be remanded to the County Court of Ellis County and all jurisdiction in and to said particular case shall thereafter rest in the County Court of Ellis County, Texas.

Sec. 2. The District Clerk of Ellis County be and he is hereby required, within thirty days after this Act takes effect, to file with the County Clerk of said county all original papers in misdemeanor cases here transferred to said County Court, together with all Judge's dockets and certified copies of any interlocutory judgment or other order entered in the minutes of the District Court in said misdemeanor cases so transferred, and the County Clerk shall immediately docket all such cases on the docket of said County Court of Ellis County, Texas, and all such misdemeanor cases shall stand on the docket of said County Court in the manner and place as each stands on the docket of the District Court. Providing further, that it shall not be necessary that the County Clerk re-file any papers theretofore filed by the District Clerk; but papers in said case bearing the file mark of the District Clerk prior to the time of the said transfer shall be held to have been filed in the case as of the date filed without being re-filed by the County Clerk. Said District Clerk in misdemeanor cases so transferred shall accompany the papers with a certified bill of costs.

Sec. 3. All unfinished business and all final judgments heretofore rendered by the District Court of Ellis County pertaining to misdemeanor cases shall likewise be transferred to said County Court and the County Clerk of said county shall issue all writs of process thereunder, and his act in doing so shall be valid and binding to all intents and purposes the same as if no change had been made in said criminal jurisdiction.

[Acts 1959, 56th Leg., p. 50, ch. 26.]

Art. 1970-338B. Jurisdiction of Courts; Transfer of Cases; Judgments

Sec. 1. That the County Court of Ellis County, Texas, from and after the effective date of this Act, shall have and exercise jurisdiction in all probate, civil, and criminal matters, as provided in the Constitution of the State of Texas and the general law governing county courts throughout the state.

Sec. 2. The District Court of Ellis County, Texas, shall have and exercise the general jurisdiction, both original and appellate, in all civil and criminal matters and causes, as provided in the Constitution of the State of Texas and in the general law governing the jurisdiction of district courts throughout the state.

Sec. 3. All causes pending in the County Court of Ellis County and in the District Court of Ellis County, the jurisdiction of which is changed by this Act, shall be and the same are hereby transferred in conformity with the provisions of this Act to the court having jurisdiction of such cause under the provisions hereof, and all writs and process relating to such causes which have been issued by or out of either of said courts shall be and the same are hereby made returnable to the next term of the court having jurisdiction of said cause under the provisions of this Act.

Sec. 4. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the District Court of Ellis County pertaining to matters and causes which by this Act are made returnable to the County Court of Ellis County, and the clerk of the district court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 5. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the County Court of Ellis County pertaining to matters and causes which by this Act are made returnable to the District Court of Ellis County, and the clerk of the county court of said county shall issue all executions and orders of sale and proceedings thereunder which shall be as valid and binding to all intents and purposes as though the change had not been made as directed by this Act.

Sec. 6. The clerks of the respective courts shall transfer the dockets of all cases the jurisdiction of which is changed by the provisions of this Act to the court having such jurisdiction after the effective date of this Act, and shall transfer all court papers and do such other things as may be necessary to fully transfer all said causes and matters to the court having jurisdiction of same under the provisions of this Act.

Sec. 7. Chapter 355, Acts of the 51st Legislature, Regular Session, 1949 (Article 1970-338, Vernon's Texas Civil Statutes), together with any and all other acts or laws and parts of acts or laws in conflict herewith are hereby expressly repealed.

[Acts 1969, 61st Leg., p. 2135, ch. 739, eff. June 12, 1969.]

Art. 1970-338C. County Court at Law of Ellis County

Creation

Sec. 1. The County Court at Law of Ellis County is created.

Jurisdiction

Sec. 2. (a) The court created by this Act has concurrent jurisdiction with the county court in all cases and proceedings, civil, criminal, original and appellate, prescribed by law for county courts.

(b) The court created by this Act has concurrent jurisdiction with the district court in eminent domain cases and in civil cases in which the amount in controversy exceeds \$500 and does not exceed \$20,000, excluding interest.

(c) The court created by this Act has concurrent jurisdiction with the district court in cases and proceedings involving family law matters, including adoptions, birth records, removal of disability of minority or coverture, change of name of persons, divorce and marriage annulment cases, including

the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, other matters incident to divorce or annulment proceedings, independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency, and independent actions involving controversies between parent and child and between husband and wife.

(d) The court created by this Act, the county court, and the district court have concurrent jurisdiction over juvenile matters and proceedings as provided by Chapter 178, Acts of the 66th Legislature, Regular Session, 1979 (Article 2338-1.1, Vernon's Texas Civil Statutes). Any of those courts may be designated a juvenile court.

(e) The court created by this Act does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business that is within the jurisdiction of the commissioners court or county court.

(f) The court created by this Act has the general jurisdiction of a probate court within Ellis County, and its jurisdiction is concurrent with the county court in probate, administrations, guardianship, and proceedings related to mental illness.

(g) This section does not diminish the jurisdiction of the district court.

Powers and Duties

Sec. 3. (a) The court created by this Act or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in the cases where the offense charged is within the jurisdiction of the court or of any other court in the county of inferior jurisdiction.

(b) The court and judge may punish for contempt as prescribed by law for county courts.

(c) The judge of the court created by this Act has all other powers, duties, immunities, and privileges provided by law for county court judges, except that the judge does not have any authority over the administrative business of the county that is performed by the county judge. The court created by this Act or its judge is a magistrate and conservator of the peace.

County Judge

Sec. 4. The county judge of Ellis County is the judge of the County Court of Ellis County. All ex officio duties of the county judge shall be exercised by the judge of the county court except for duties given by this Act to the judge of the court created by this Act.

Terms

Sec. 5. The terms of the court created by this Act begin on the first Mondays in March, June, September, and December of each year. Each term of court continues until the next term begins.

Judge

Sec. 6. (a) The judge of the court created by this Act must have been a duly licensed and practicing member of the State Bar of Texas for at least four years, must be well informed in the laws of this state, and must have resided and been actively engaged in the practice of law in the county for at least two years immediately preceding the election. Beginning at the general election for state and county officers in 1986 and every fourth year thereafter, the qualified voters of the county shall elect a judge who holds office for four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(b) The judge may not engage in the private practice of law while serving.

(c) The commissioners court shall appoint a person with the qualifications prescribed in Subsection (a) of this section to fill a vacancy in the office of the judge of the court created by this Act. The judge appointed serves until the next general election and until his successor is elected and has qualified.

(d) The judge shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(e) The commissioners court shall fix the salary of the judge at an amount that is not less than an amount equal to 90 percent of the annual salary of the district judge. The salary shall be paid by the county treasurer by order of the commissioners court in equal monthly installments. The judge is entitled to traveling expenses and necessary office expenses, including administrative and clerical personnel, in the same manner as is allowed the county judge.

Special Judge

Sec. 7. (a) A special judge of the court created by this Act may be appointed or elected as provided by law for county courts. A special judge is entitled to the same amount of compensation as the regular judge.

(b) If a judge of the court created by this Act is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the same amount of compensation as the regular judge.

Court Officials and Personnel

Sec. 8. The county attorney, county clerk, and sheriff serve as county attorney, clerk, and sheriff

of the court created by this Act, except that the district clerk serves as clerk of the county court at law in matters enumerated in Section 2(c) of this Act. The district clerk shall establish a separate docket for the court created by this Act. The commissioners court may employ the assistant district attorneys, deputy sheriffs, and bailiffs necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices in Ellis County.

Court Reporter

Sec. 9. The judge of the court created by this Act may appoint an official court reporter who serves at the pleasure of the judge. The court reporter is entitled to the compensation fixed by the commissioners court in an amount not less than the compensation paid to the court reporter of the district court. The official court reporter must have the qualifications prescribed by law for district court reporters.

Seal

Sec. 10. The seal of the court created by this Act is the same as that provided by law for county courts, except that the seal shall contain the words "County Court at Law of Ellis County."

Practice

Sec. 11. Practice in the court created by this Act shall conform to that prescribed by law for the county court, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction with the district court enumerated in Section 2(c) of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts. If a case within the district court's jurisdiction enumerated in Section 2(c) of this Act is tried before a jury, the jury shall be composed of 12 members, in all other cases the jury shall be composed of six members.

Transfer of Cases; Exchange of Benches

Sec. 12. (a) The judges of the county court and the court created by this Act may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed. Cases of concurrent jurisdiction between the district court and the court created by this Act, except those enumerated in Section 2(c) of this Act, may be instituted in either the district court or the court created by this Act. A case within the concurrent jurisdiction of the district court and the court created by this Act enumerated in Section 2(c) of this Act must be instituted in the district court and may be transferred between the district court and county court at law. A case may not be transferred from one court to the other without the consent of the

judge of the court to which it is transferred. A case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) The county judge and the judge of the court created by this Act may freely exchange benches and courtrooms so that if one is ill, disqualified, or absent, the other may hold court for him without the necessity of transferring the case or proceeding. Either judge may hear all or any part of a case or proceeding pending in the county court or the court created by this Act, and may rule or enter orders on and continue, determine, or render judgment on all or any part of the case or proceeding without the necessity of transferring it to his own docket. The judge of the court created by this Act may not sit or act in a case or proceeding over which exclusive jurisdiction is vested in the county court.

(c) In a case transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued or made in the case are returnable to and shall be filed in the court to which the transfer is made. All bonds executed and recognizances entered into in that case bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the case is transferred as are fixed by law. All processes issued or returned before transfer of a case and all bonds and recognizances before taken in a case are valid and binding as though originally issued out of the court to which the transfer is made.

Jurors

Sec. 13. (a) The jurisdiction and authority vested by law in the county clerk and the county judge for the drawing, selection, and service of jurors and talesmen shall be also exercised by the court created by this Act and its judge. Jurors and talesmen summoned for either court may by order of the judge of the court to which they are summoned be transferred to the other court for service. If the judge of the court created by this Act and the county judge agree, jurors may be summoned for service in both courts and used interchangeably.

(b) On request of either the county judge or the judge of the court created by this Act, jurors regularly impaneled for a week by the district court or courts may be made available and shall serve for the week in either the county court or the court created by this Act.

Initial Appointment of Judge

Sec. 14. As provided by Section 6(c) of this Act, the commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge.

Effective Date

Sec. 15. This Act takes effect September 1, 1983.

[Acts 1983, 68th Leg., p. 2502, ch. 439, eff. Sept. 1, 1983.]

NUECES COUNTY

Art. 1970-339. County Court at Law No. 1 of Nueces County

Sec. 1. There is hereby created a Court to be held in Corpus Christi, Nueces County, Texas, to be called the County Court at Law of Nueces County, Texas.

Sec. 2. The County Court at Law No. 1 of Nueces County, Texas, shall have and exercise concurrent jurisdiction with the County Court of Nueces County, Texas, in all matters and causes, civil and criminal, original and appellate, over which the County Court of Nueces County, Texas, would have jurisdiction under the general laws of Texas. Such jurisdiction shall extend to all matters of eminent domain of which jurisdiction has heretofore been vested in the County Court of Nueces County or in the County Judge; provided, however, that nothing herein shall affect the jurisdiction of the commissioners court or of the County Judge of Nueces County as the presiding officer of such commissioners court, as to roads, bridges, and public highways which are now within the jurisdiction of the commissioners court or the presiding judge thereof. Said court shall also have the general jurisdiction of a probate court within the limits of Nueces County, Texas, concurrent with jurisdiction of the County Court in such matters and proceedings. County Court at Law No. 1 of Nueces County, Texas, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, and transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and the conduct of lunacy proceedings.

Sec. 3. The County Court at Law of Nueces County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State are conferred upon Justice Courts.

Sec. 3a. The County Court at Law No. 1 of Nueces County has jurisdiction concurrent with the district courts in eminent domain cases, as provided by general law, and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest. The County Court at Law No. 1 may be designated a juvenile court, as provided by Chapter 178, Acts of the 66th Legislature, Regular Session, 1979 (Article 2338—1.1, Vernon's Texas Civil Statutes).

Sec. 4. The County Court of Nueces County shall have and retain concurrently with the County Court at Law No. 1 of Nueces County the general jurisdiction of a Probate Court with jurisdiction now conferred or which may be conferred by law in the future over probate matters, but shall have no other jurisdiction, civil or criminal, original or appellate.

All ex officio duties of the County Judge shall be exercised and retained by the Judge of the County Court of Nueces County, except insofar as same shall by this Act be committed to the County Court at Law No. 1 of Nueces County.

Sec. 5. The County Court at Law No. 1 of Nueces County shall hold four (4) terms of Court each year in the Courthouse of Nueces County, said terms to be as follows: One term beginning on the first Monday in January, one term beginning on the first Monday in April, one term beginning on the first Monday in July, and one term beginning on the first Monday in October; and each of said terms shall continue until and including the Sunday next before the first Monday of the term immediately following.

Sec. 6. There shall be elected in Nueces County by the qualified voters thereof a Judge of the County Court at Law No. 1 of Nueces County, who shall be a qualified voter in said county, a resident of said county, a regularly licensed attorney at law in this State, and who shall have been actively engaged in the practice of law for a period of not less than five (5) years next preceding the election to select such Judge. The Judge of the County Court at Law No. 1 shall hold his office for a term of four years, and until his successor shall have been duly elected and qualified. The present Judge of the County Court at Law No. 1 having been elected in 1966, he shall continue in such capacity for the full term of four years to which he was elected, and his successor shall be elected in the general election to be held in 1970 for the term of four years, and a like election shall be held every four years thereafter.

Sec. 7. The Judge of the County Court at Law of Nueces County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A special judge of the County Court at Law No. 1 of Nueces County may be appointed or elected as provided by law relating to County Courts and to the judges thereof, who shall receive the sum of Twenty-five Dollars (\$25) per day for each day he so actually serves, to be paid out of the General Fund of the County by the Commissioners Court.

Sec. 9. As soon as this Act becomes effective, the Commissioners Court of Nueces County shall appoint a Judge to the County Court at Law of Nueces County, who shall hold his office as Judge of the County Court at Law of Nueces County until the next general election and until his successor is elected and qualified. Any subsequent vacancies in the office of the Judge of the County Court at Law of Nueces County shall be filled by appointment by the Commissioners Court of Nueces County and when so filled, the Judge of the County Court at Law shall hold office until the next general election and until his successor is elected and qualified.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law of Nueces County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law of Nueces County is disqualified.

Sec. 11. The Judge of the County Court at Law of Nueces County may be removed from office in the same manner and for the same causes as any other County Judge may be removed under the laws of this State.

Sec. 12. The Judge of the County Court at Law is authorized to appoint an official shorthand reporter for such County Court at Law; such official shorthand reporter shall receive the same compensation as provided in Article 2326, Revised Civil Statutes of Texas; the Judge of the County Court at Law of Nueces County shall have the authority to terminate the employment of such official shorthand reporter at any time.

Sec. 13. The County Court at Law of Nueces County, and the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said county of inferior jurisdiction to said County Court at Law of Nueces County.

Sec. 14. All cases appealed from the Justice Courts and other inferior Courts in Nueces County, Texas, shall be made direct to the County Court at Law of Nueces County, under the provisions heretofore governing such appeals.

Sec. 15. The County Clerk of Nueces County, Texas shall be the Clerk of the County Court at Law No. 1 of Nueces County, Texas. The Seal of said Court shall be the same as that provided by law for County Courts, except the Seal shall contain the words "County Court at Law No. 1 of Nueces County." The Sheriff of Nueces County shall in person or by deputy attend the said Court when required by the Judge thereof. The County Attorney of Nueces County shall represent the State in all prosecutions pending in said County Court at Law No. 1 of Nueces County, and he shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Nueces County, for the drawing, selection, and service of jurors, shall be exercised by said Court; but juries summoned for either of said Courts may by order of the Judge of the Court in which they are summoned be transferred to the other Court for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Sec. 17. (a) The Judge of the County Court at Law No. 1 of Nueces County may receive an annual salary in an amount equal to \$1,000 less than the salary paid by the State of Texas to a District Judge exercising jurisdiction in Nueces County.

(b) The salary shall be paid in the same manner and from the same fund as prescribed by law for payment of the salary of the County Judge of Nueces County.

(c) The Judge of the County Court at Law No. 1 of Nueces County shall assess the fees prescribed by law for County Judges, which shall be collected by the Clerk of the Court and paid into the County Treasury and which may not be paid to the Judge.

[Acts 1949, 51st Leg., p. 692, ch. 362. Amended by Acts 1951, 52nd Leg., p. 542, ch. 318, § 1; Acts 1953, 53rd Leg., p. 791, ch. 320, § 1; Acts 1954, 53rd Leg., 1st C.S., p. 42, ch. 14, §§ 25, 26; Acts 1955, 54th Leg., p. 5, ch. 5, §§ 1, 2; Acts 1967, 60th Leg., pp. 435, 436, ch. 200, §§ 1 to 4, eff. May 15, 1967; Acts 1971, 62nd Leg., p. 3053, ch. 1014, § 2, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 1337, ch. 503, § 10, eff. Aug. 27, 1973; Acts 1975, 64th Leg., p. 1940, ch. 636, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1611, ch. 629, § 1, eff. June 15, 1977; Acts 1981, 67th Leg., p. 620, ch. 244, § 1, eff. May 28, 1981; Acts 1981, 67th Leg., p. 625, ch. 247, § 1, eff. May 28, 1981.]

Acts 1967, 60th Leg., p. 435, ch. 200, §§ 1 to 4 amended sections 2, 4, 6 and 17 of this article; sections 5 to 8 of the act of 1967 amended sections 4, 6, 10 and 18 of article 1970-339A; sections 9 to 15 of the act of 1967 amended sections 2, 3, 6, 8, 13, 14 and 18 of article 2338-10, and sections 16 to 18 of the act of 1967 provided:

"Sec. 16. The division of functions, responsibilities, and jurisdiction between the Court of Domestic Relations and the County Court at Law No. II of Nueces County, Texas, as achieved in the foregoing sections of this Act, shall come into legal existence on July 1, 1967, and the present consolidated court shall maintain its present legal status, perform its present legal duties, and shall receive its present compensation until on and after said date. The present Judge now holding the consolidated position as Judge of both of said courts shall continue thereafter as Judge of the Domestic Relations Court of Nueces County, serving in that capacity for the full term of years to which he was elected in 1966. A Judge for the County Court at Law No. II of Nueces County shall be appointed by the commissioners court of Nueces County as soon as practicable after the effective date of this Act, and the person so appointed shall qualify for such office on July 1, 1967, or as soon thereafter as practicable, and shall hold office until December 31, 1968. Candidates for the position of Judge of the County Court at Law No. II shall be nominated by the respective political parties of Texas in the political primaries to be held in May and June of 1968 in the same manner and under the same legal provisions as govern the holding of all other primary elections, and the selection of a Judge for the full term of four years shall occur in the general election to be held in 1968, and every four years thereafter.

"Sec. 17. The provisions of this Act shall be severable. Should any section, paragraph, sentence, clause, or other part hereof, be declared for any reason unconstitutional or void, such declaration shall not affect or impair the remaining provisions hereof, and the Legislature specifically declares that it would have passed this Act notwithstanding the absence of such portion as may be declared unconstitutional or void.

"Sec. 18. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

Sections 5 and 6 of the 1977 Act provide as follows:

"Sec. 5. The provisions of this Act shall be severable. Should any section, paragraph, sentence, clause, or other part hereof, be declared for any reason unconstitutional or void, such declaration shall not affect or impair the remaining provisions hereof, and the legislature specifically declares that it would have passed this Act

notwithstanding the absence of such portion as may be declared unconstitutional or void."

"Sec. 6. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

Art. 1970-339A. County Court at Law No. 2 of Nueces County

Sec. 1. There is hereby created a Court to be held in Corpus Christi, Nueces County, Texas, to be called the County Court at Law No. 2 of Nueces County, Texas.

Sec. 2. The name of the County Court at Law of Nueces County, created by Acts, 1949, Fifty-first Legislature, Page 692, Chapter 362, known and cited as Article 1970-339, Vernon's Annotated Civil Statutes of the State of Texas, is hereby changed to County Court at Law No. 1 of Nueces County, Texas, and all laws heretofore or hereafter enacted by the Legislature applicable or relating to the County Court at Law of Nueces County shall hereafter be applicable and shall relate to the County Court at Law No. 1 of Nueces County.

Sec. 3. The County Court at Law No. 2 of Nueces County shall have and exercise jurisdiction in the matters and causes, civil and criminal, original and appellate, over which the County Court at Law No. 1 of Nueces County has jurisdiction according to the provisions of Sections 2 and 3 of Acts, 1949, Fifty-first Legislature, page 692, Chapter 362, known and cited as Article 1970-339, Vernon's Annotated Civil Statutes of the State of Texas. Its jurisdiction shall be concurrent with that of the County Court at Law No. 1 of Nueces County, except that each Court shall give priority to cases according to the provisions contained in this Act.

Sec. 3a. The County Court at Law No. 2 of Nueces County has jurisdiction concurrent with the district courts in eminent domain cases, as provided by general law, and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest. The County Court at Law No. 2 may be designated a juvenile court, as provided by Chapter 178, Acts of the 66th Legislature, Regular Session, 1979 (Article 2338-1.1, Vernon's Texas Civil Statutes).

Sec. 4. The County Court of Nueces County shall have and retain concurrently with the County Court at Law No. 2 of Nueces County the general jurisdiction of a Probate Court with jurisdiction now conferred or which may be conferred by law in the future over probate matters, but shall have no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the County Judge shall be exercised and retained by the Judge of the County Court of Nueces County, except insofar as same shall by this Act be committed to the County Court at Law No. 2 of Nueces County.

Sec. 5. The County Court at Law No. 2 of Nueces County shall hold four (4) terms of Court each year in the Courthouse of Nueces County, said terms to be as follows: One term beginning on the

first Monday in January, one term beginning on the first Monday in April, one term beginning on the first Monday in July, and one term beginning on the first Monday in October; and each of said terms shall continue until and including the Sunday next before the first Monday of the term immediately following.

Sec. 6. There shall be elected in Nueces County by the qualified voters thereof a Judge of the County Court at Law No. 2 of Nueces County, who shall be a qualified voter in said county, a resident of said County, a regularly licensed attorney at law in this State, and who shall have been actively engaged in the practice of law for a period of not less than five (5) years next preceding the election to select such Judge. The Judge of the County Court at Law No. 2 of Nueces County shall hold his office for a term of four years, and until his successor shall have been duly elected and qualified. As soon as practicable after the effective date of this Act, the commissioners court of Nueces County shall appoint a suitable person to be Judge of the County Court at Law No. 2, who shall take office on July 1, 1967 and shall hold office until December 31, 1968 and until his successor has been duly elected and qualified. His successor shall be elected in the general election to be held in 1968, for the term of four years, and a like election shall be held every four years thereafter.

Sec. 7. The Judge of the County Court at Law No. 2 of Nueces County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A special Judge of the County Court at Law No. 2 of Nueces County may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall receive the sum of Twenty-five Dollars (\$25) per day for each day he so actually serves, to be paid out of the General Fund of the County by the Commissioners Court.

Sec. 9. The County Court at Law No. 2 of Nueces County, Texas, as herein created, shall come into legal existence on January 1, 1955, and said Court shall have no legal status, shall perform no duties, and shall receive no compensation until on or after said date. The first Judge of the County Court at Law No. 2 of Nueces County shall be elected by the qualified voters of Nueces County at the General Election to be held in November, 1954, and the person so elected shall qualify for such office on January 1, 1955, or as soon thereafter as practicable. Candidates for the position of Judge of the County Court at Law No. 2 shall be nominated by the respective political parties of Texas in the primaries to be held in July and August of 1954 in the same manner and under the same legal provisions as govern the holding of all other primary elections.

Sec. 10. Any vacancy in the office of the Judge of the County Court at Law No. 2 of Nueces County shall be filled by appointment by the commissioners

court of Nueces County, and the Judge so appointed shall hold office until the next general election and until his successor is duly elected and qualified.

Sec. 11. In the event that the Judge of the County Court at Law No. 2 of Nueces County is disqualified for any reason to try any case pending in his Court, the parties or their attorneys may agree upon the selection of a special Judge to try such case or cases in the same manner and under the same provisions of law as govern the selection of Special Judges for County Courts of the State of Texas.

Sec. 12. The Judge of the County Court at Law No. 2 of Nueces County may be removed from office in the same manner and for the same causes as any other County Judge may be removed under the laws of this State.

Sec. 13. The Judge of the County Court at Law No. 2 is authorized to appoint an official shorthand reporter for such County Court at Law. Such official shorthand reporter shall receive the same compensation provided for in Article 2326, Revised Civil Statutes of Texas. The Judge of the County Court at Law No. 2 of Nueces County shall have the authority to terminate the employment of such official shorthand reporter at any time.

Sec. 14. The County Court at Law No. 2 of Nueces County, and the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law No. 2 of Nueces County.

Sec. 15. All cases appealed from the Justice Courts and other inferior Courts in Nueces County, Texas, shall be made direct to the County Courts at Law of Nueces County, Texas, under the provisions heretofore governing such appeals; provided, however, that such appeals shall be assigned to the proper Court and shall be docketed and heard in accordance with the provisions of this Act.

Sec. 16. The County Clerk of Nueces County, Texas, shall be the Clerk of the County Court at Law No. 2 of Nueces County, Texas. The Seal of said Court shall be the same as that provided by law for County Courts, except the Seal shall contain the words "County Court at Law No. 2 of Nueces County." The Sheriff of Nueces County shall in person or by deputy attend the said Court when required by the Judge thereof. The County Attorney of Nueces County shall represent the State in all prosecutions pending in said County Court at Law No. 2 of Nueces County, and he shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 17. The jurisdiction and authority now vested by law in the County Court of Nueces County and the County Court at Law No. 1 of Nueces County, for the drawing, selection, and service of jurors, shall be exercised by said Court; but juries summoned for any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to either of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Sec. 18. (a) The Judge of the County Court at Law No. 2 of Nueces County may receive an annual salary in an amount equal to \$1,000 less than the salary paid by the State of Texas to a District Judge exercising jurisdiction in Nueces County.

(b) The salary shall be paid in the same manner and from the same fund as prescribed by law for payment of the salary of the County Judge of Nueces County.

(c) The Judge of the County Court at Law No. 2 of Nueces County shall assess the fees prescribed by law for County Judges, which shall be collected by the Clerk of the Court and paid into the County Treasurer and which may not be paid to the Judge.

Sec. 19. On or before January 1, 1955, the County Clerk of Nueces County shall establish a separate docket for County Court at Law No. 1 and a separate docket for County Court at Law No. 2. The present docket of the County Court at Law shall become the docket of the County Court at Law No. 1. All criminal cases on which original jurisdiction is vested by law at the County Court level shall be retained by the Clerk on the docket of the County Court at Law No. 1. All civil cases, plus all criminal cases which have been appealed to the County Court level from inferior Courts, shall be transferred by the County Clerk to the docket of the County Court at Law No. 2. Thereafter, as new cases are filed with the County Clerk, he shall docket said cases as follows: All criminal cases on which original jurisdiction is vested by law at the County Court level shall be docketed in the County Court at Law No. 1; and all civil cases, plus all criminal cases appealed from Courts of inferior jurisdiction, shall be docketed in the County Court at Law No. 2. Each of said Courts shall give preference to the cases which are originally docketed in their Court.

Sec. 20. Each of the judges of said County Courts at Law may, with the consent of the Judge of the Court to which transfer is to be made, transfer any case, action or proceeding from his Court to the other Court by the entry of an order to that effect upon the docket, and the Court to which such case, action or proceeding is transferred shall have full power and authority to hear and determine same in the same manner and with the same legal effect as if said case had been originally docketed in his Court.

Sec. 21. The Judges of said County Courts at Law may exchange benches from time to time and hear and determine any case, action or proceeding pending in the other Court in the same manner and with the same legal effect as if said case were originally docketed in the Court of the Judge hearing same. The Judge of either of said Courts may issue restraining orders, injunctions, and other extraordinary writs returnable to the other Judge or Court, and either of said Judges may hear and determine preliminary matters with respect to cases, actions or proceedings pending in the other Court; provided, however, that every judgment and order shall be entered in the minutes of the Court in which the case is pending.

Sec. 22. The practice of said County Courts at Law, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now or may hereafter be prescribed for County Courts.

Sec. 23. All process issued out of the County Court at Law of Nueces County, Texas, prior to the time when the County Clerk shall transfer cases from the present docket to the docket of the County Court at Law No. 2, as provided in Section 19 of this Act shall be returned to and filed in the appropriate County Court at Law as herein provided for; and such process shall be equally as valid and binding upon the parties as though such process had originally been issued out of the County Court at Law to which it is returned. Likewise, in cases hereafter transferred from one of the County Courts at Law to the other by order of the judge of one of said Courts as provided for in Section 20 of this Act, all process extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made, and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made.

Secs. 24 to 26. [Amend. art. 1970-339, §§ 5, 8, 15]

Sec. 27. Acts 1949, Fifty-first Legislature, Page 692, Chapter 362, known and cited as Article 1970-339, Vernon's Annotated Civil Statutes of the State of Texas, as amended, creating the County Court at Law of Nueces County shall be liberally construed in order that the provisions of same will be harmonized and made consistent with the provisions of this Act.

[Acts 1954, 53rd Leg., 1st C.S., p. 42, ch. 14. Amended by Acts 1955, 54th Leg., p. 5, ch. 5, §§ 3, 4; Acts 1967, 60th Leg., p. 437, ch. 200, §§ 5, 6, 7, 8, eff. May 15, 1967; Acts 1971, 62nd Leg., p. 3054, ch. 1014, § 3, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 1337, ch. 503, § 11, eff. Aug. 27, 1973; Acts 1975, 64th Leg., p. 1940, ch. 636, § 2, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1611, ch. 629, § 2, eff. June 15, 1977; Acts 1981, 67th Leg., p. 620, ch. 244, § 2, eff. May 28, 1981; Acts 1981, 67th Leg., p. 625, ch. 247, § 2, eff. May 28, 1981.]

Art. 1970-339B. County Courts at Law Nos. 1 and 2 of Nueces County; Eminent Domain Jurisdiction Concurrent with County Court

The Judge of the County Court of Nueces County, Texas, shall have concurrent jurisdiction with the Judges of County Court at Law No. 1 of Nueces County, Texas, and County Court at Law No. 2 of Nueces County, Texas, to file the statement in eminent domain proceedings and to appoint Special Commissioners, and, where no objections are filed to the award, to cause the decision of the Commissioners to be recorded in the Minutes of the County Court, to make same the judgment of the Court, and to issue necessary process to enforce the same. In all such proceedings where objections to the decision of the Commissioners are filed, the proceedings shall be filed in the County Court at Law No. 1 of Nueces County, Texas, or County Court at Law No. 2 of Nueces County, Texas.

[Acts 1971, 62nd Leg., p. 3053, ch. 1014, § 1, eff. June 15, 1971.]

Art. 1970-339C. County Court at Law No. 3 of Nueces County

Creation and Jurisdiction

Sec. 1. (a) On January 1, 1975, the County Court at Law No. 3 of Nueces County is created.

(b) The Court created by this Act has the same jurisdiction over all causes and proceedings, civil, criminal and probate, original and appellate, including eminent domain proceedings, prescribed by law for either the County Court at Law No. 1 of Nueces County or the County Court at Law No. 2 of Nueces County.

(c) The judge of the court created by this Act may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, super-sedeas, and all writs necessary for the enforcement of the jurisdiction of the court. The judge of the court may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county.

(d) The County Court at Law No. 3 of Nueces County has jurisdiction concurrent with the district courts in eminent domain cases, as provided by general law, and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest. The County Court at Law No. 3 may be designated a juvenile court, as provided by Chapter 178, Acts of the 66th Legislature, Regular Session, 1979 (Article 2338—1.1, Vernon's Texas Civil Statutes).

County Court

Sec. 2. The County Court of Nueces County shall have and retain concurrently with the court created by this Act and the other county courts at law in Nueces County the general jurisdiction of a

probate court. The county court shall have no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the county judge shall be exercised and retained by the judge of the County Court of Nueces County, except as provided by this Act or otherwise provided by law.

Terms of Court

Sec. 3. The terms of the court created by this Act are the same as those of the County Court at Law No. 1 and County Court at Law No. 2 of Nueces County.

Judge

Sec. 4. (a) The judge of the court created by this Act shall be a resident of and qualified voter in Nueces County. He shall be a licensed attorney in this State, who has been actively engaged in the practice of law for a period of not less than five years next preceding his election.

(b) At the general election in 1974, there shall be elected a judge of the court created by this Act for a four-year term beginning on January 1, 1975. Every four years thereafter, this officer shall be elected for a regular four-year term as provided in Section 30, Article V, and Section 65, Article XVI, Constitution of Texas.

(c) Any vacancy occurring in the office of the judge of County Court at Law No. 3 shall be filled by the commissioners court of Nueces County, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

(d) The judge of the County Court at Law No. 3 shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(e) The judge of the County Court at Law No. 3 may receive an annual salary in an amount equal to \$1,000 less than the salary paid by the state to a district judge exercising jurisdiction in Nueces County. The salary shall be paid in the same manner and from the same fund as prescribed by law for payment of the salary of the county judge of Nueces County. The judge of the County Court at Law No. 3 shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury and which may not be paid to the judge.

(f) A special judge of County Court at Law No. 3 may be selected in the manner provided by law for selection of a special county judge. A special judge is entitled to compensation at a rate of \$25 for each day he actually serves, to be paid out of the general fund of the county by the commissioners court.

Court Officials and Personnel

Sec. 5. (a) The county attorney, county clerk, and sheriff of Nueces County shall serve as county

attorney, clerk, and sheriff, respectively, for the court created by this Act. The Nueces County commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court. Those serving shall perform the duties and are entitled to the compensation, fees, and allowances prescribed for their respective offices in Nueces County.

(b) The judge of County Court at Law No. 3 may appoint an official shorthand reporter. The reporter serves at the pleasure of the judge and is entitled to the compensation fixed for the shorthand reporters for the other county courts at law in Nueces County.

Transfer of Cases; Exchange of Benches

Sec. 6. (a) As soon as practicable following the date specified in Section 1(a) of this Act, the Nueces County Clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the other county courts at law in the county and shall transfer those matters to the docket of the court created by this Act. Thereafter, as new cases are filed with the County Clerk, he shall equalize the dockets of the three county courts at law, consistent with the docketing preferences assigned by law for the County Court at Law No. 1 and County Court at Law No. 2.

(b) With the consent of the judge of the court to which transfer is to be made, any of the judges of the county courts at law in Nueces County may transfer any case, action, or proceeding from his court to either of the other courts by the entry of an order to that effect upon the docket. The court to which the case, action, or proceeding is transferred shall have full power and authority to hear and determine the matter in the same manner and with the same legal effect as if the case had been originally docketed in his court.

(c) In cases transferred under authority of Subsections (a) or (b) of this section, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

(d) The judges of the county courts at law in Nueces County may exchange benches from time to time and hear and determine any case, action, or proceeding in any of the other county courts at law in the county in the same manner and with the same legal effect as if the matter were originally docketed in the court of the judge hearing it. The judge

of any of the courts may issue restraining orders, injunctions, and other extraordinary writs returnable to any other of the judges or courts. Any of the judges may hear and determine preliminary matters with respect to cases, actions, or proceedings pending in the other courts. Every judgment and order shall be entered in the minutes of the court in which the case is pending.

Practice; Juries

Sec. 7. (a) Practice in County Court at Law No. 3 shall conform to that prescribed by general law for county courts.

(b) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the court created by this Act. Juries summoned for the County Court of Nueces County or any of the county courts at law in that county, by order of the judge of the court in which they are summoned, may be transferred to any of the other courts for service therein and may be used therein as if summoned for the court to which they are transferred.

Facilities

Sec. 8. The commissioners court of Nueces County shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 9. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 3 of Nueces County."

[Acts 1973, 63rd Leg., p. 1334, ch. 503, §§ 1 to 9, eff. Aug. 27, 1973. Amended by Acts 1975, 64th Leg., p. 1941, ch. 636, § 3, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1611, ch. 629, § 3, eff. June 15, 1977; Acts 1981, 67th Leg., p. 621, ch. 244, § 3, eff. May 28, 1981; Acts 1981, 67th Leg., p. 625, ch. 247, § 3, eff. May 28, 1981.]

Section 10 of the 1973 Act amended art. 1970-339, § 17; § 11 thereof amended art. 1970-339A, § 10; § 12 amended art. 2338-10, § 2; and §§ 13, 14 provided:

"Sec. 13. The provisions of this Act shall be severable. Should any section, paragraph, sentence, clause, or other part hereof, be declared for any reason unconstitutional or void, such declaration shall not affect or impair the remaining provisions hereof, and the Legislature specifically declares that it would have passed this Act notwithstanding the absence of such portion as may be declared unconstitutional or void.

"Sec. 14. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

Art. 1970-339D. County Court at Law No. 4 of Nueces County

Creation

Sec. 1. The County Court at Law No. 4 of Nueces County is created on the date determined under Section 11 of this Act.

Jurisdiction

Sec. 2. (a) The court created by this Act has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate,

including eminent domain proceedings, prescribed by law for the County Courts at Law Nos. 1, 2, and 3 of Nueces County.

(b) The judge of the court created by this Act may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. The judge of the court may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county.

(c) The County Court at Law No. 4 of Nueces County has concurrent jurisdiction with the district courts in eminent domain cases, as provided by general law, and in civil cases in which the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

County Court

Sec. 3. The county court has concurrently with the court created by this Act and the other county courts at law in Nueces County the general jurisdiction of a probate court. The county court has no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the county judge shall be exercised and retained by the judge of the county court, except as provided by this Act or otherwise provided by law.

Terms

Sec. 4. The terms of the court created by this Act are the same as those of the other county courts at law of Nueces County.

Judge

Sec. 5. (a) The judge of the court created by this Act must be a resident of and qualified voter in Nueces County. He must be a licensed attorney in this state, who has been actively engaged in the practice of law for at least five years immediately preceding his election or appointment.

(b) At the first general election at which county court at law judges are regularly elected after creation of the court, the qualified voters of the county shall elect a judge of the court created by this Act for a four-year term. Every four years thereafter, the judge shall be elected for a regular four-year term as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) The commissioners court shall appoint a person to fill a vacancy occurring in the office of the judge of the County Court at Law No. 4. The appointee holds office until the next general election and until his successor is elected and has qualified.

(d) The judge of County Court at Law No. 4 shall execute a bond and take the oath of office prescribed by law for county judges. He may be

removed from office in the same manner and for the same causes as a county judge.

(e) The judge of the County Court at Law No. 4 is entitled to receive an annual salary in an amount equal to \$1,000 less than the salary paid by the state to a district judge exercising jurisdiction in Nueces County. The salary shall be paid in the same manner and from the same fund as prescribed by law for payment of the salary of the county judge. The judge of the County Court at Law No. 4 shall assess the fees prescribed by law for county judges. The clerk of the court shall collect the fees and pay them into the county treasury. Fees may not be paid to the judge.

(f) If the regular judge of County Court at Law No. 4 is absent or is from any cause disabled or disqualified from presiding, a special judge may be appointed by the commissioners court. The person appointed must be recommended by the regular judge of the county court at law, or, if the judge is unable for any reason to recommend a person, by the board of directors of the Nueces County Bar Association. A special judge is entitled to the same rate of compensation as the regular judge. A special judge has all the powers, duties, and immunities of the regular judge.

Court Officials and Personnel

Sec. 6. (a) The county attorney, county clerk, and sheriff of Nueces County shall serve as county attorney, clerk, and sheriff, respectively, for the court created by this Act. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court. Those officials serving shall perform the duties and are entitled to the compensation, fees, and allowances prescribed for their respective offices in Nueces County.

(b) The judge of County Court at Law No. 4 may appoint an official shorthand reporter. The reporter serves at the pleasure of the judge and is entitled to the compensation fixed for the shorthand reporters for the other county courts at law in Nueces County.

Transfer of Cases; Exchange of Benches

Sec. 7. (a) With the consent of the judge of the court to which transfer is to be made, the judge of any of the county courts at law in Nueces County may transfer any case, action, or proceeding from his court to either of the other courts by the entry of an order to that effect upon the docket. The court to which the case, action, or proceeding is transferred has full power and authority to hear and determine the matter in the same manner and with the same legal effect as if the case had been originally docketed in his court.

(b) In cases transferred as provided by this section, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recogni-

zances entered into in those cases bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases and all bonds and recognizances before taken in the cases are valid and binding as though originally issued out of the court to which the transfer is made.

(c) The judges of the county courts at law in Nueces County may exchange benches from time to time and hear and determine any case, action, or proceeding in any of the other county courts at law in the county in the same manner and with the same legal effect as if the matter were originally docketed in the court of the judge hearing it. The judge of any of the courts may issue restraining orders, injunctions, and other extraordinary writs returnable to any other of the judges or courts. Any of the judges may hear and determine preliminary matters with respect to cases, actions, or proceedings pending in the other courts. Every judgment and order shall be entered in the minutes of the court in which the case is pending.

Practice; Juries

Sec. 8. (a) Practice in County Court at Law No. 4 shall conform to that prescribed by general law for county courts.

(b) The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the court created by this Act. Juries summoned for the county court or any of the county courts at law in Nueces County, by order of the judge of the court in which they are summoned, may be transferred to any of the other courts for service in that court and may be used as if summoned for the court to which they are transferred.

Facilities

Sec. 9. The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 10. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 4 of Nueces County."

Date of Creation

Sec. 11. The county Court at Law No. 4 of Nueces County is created on January 1, 1986, or on an earlier date determined by the commissioners court by an order entered in its minutes.

Initial Appointment of Judge

Sec. 12. The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge as provided by Subsection (c) of

Section 5 of this Act. The appointee must have the qualifications required of the regular judge.

Initial Transfer of Cases

Sec. 13. As soon as practicable following creation of the court, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the other county courts at law in the county and shall transfer those matters to the docket of the court created by this Act. Thereafter, as new cases are filed with the county clerk, the clerk shall equalize the dockets of the county courts at law, consistent with the docketing preferences assigned by law for the other county courts at law.

Creation of Court in Uniform Act

Sec. 14. If H.B. 36 or S.B. 457, Acts of the 68th Legislature, Regular Session, 1983 (enacting a uniform statutory court act), becomes law and creates the Circuit Court No. 4 of Nueces County, the uniform act governs that court, and this Act has no effect.¹

¹ Neither H.B. 36 nor S.B. 457 became law.

Effective Date

Sec. 15. This Act takes effect September 1, 1983.

[Acts 1983, 68th Leg., p. 4336, ch. 694, eff. Sept. 1, 1983.]

LUBBOCK COUNTY

Art. 1970-340. County Court at Law No. 1 of Lubbock County

Sec. 1. There is hereby created a Court to be held in Lubbock, Lubbock County, Texas, which shall be known as the County Court of Lubbock County at Law.

Sec. 1a. The name and designation of the court created by this Act is hereby changed to the "County Court at Law No. 1 of Lubbock County" and wherever the name "County Court at Law of Lubbock County" shall appear in this Act it shall be deemed to refer to the "County Court at Law No. 1 of Lubbock County."

Sec. 2. The County Court at Law No. 1 of Lubbock County, Texas, shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of said County would have jurisdiction, and the County Court at Law No. 1 shall have and exercise jurisdiction as to all probate matters concurrently with the County Court and any other numbered County Court at Law of Lubbock County. The County Court at Law No. 1 has jurisdiction concurrently with the district court in eminent domain cases, as provided by general law; but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Lubbock County as the presiding officers of such Commissioners Court, as to roads, bridges, and public highways, and matters of emi-

ment domain which are now in the jurisdiction of the Commissioners Court or the Judge thereof.

Sec. 2a. In addition to the jurisdiction now conferred upon the County Court at Law No. 1 of Lubbock County, by the Constitution and Laws of the State of Texas, said court shall hereinafter have and exercise concurrent civil jurisdiction with the district courts in Lubbock County, in suits, causes, and matters involving adoptions, removal of disability of minority and coverture, and all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child support and custody of minors, and change of name of persons. This court and the judges thereof shall have the power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 2b. In addition to the jurisdiction now conferred upon the County Court at Law No. 1 of Lubbock County by the Constitution and Laws of the State of Texas said court shall hereinafter have and exercise concurrent civil jurisdiction with the district courts in Lubbock County in all civil cases and matters when the matter in controversy shall exceed Five Hundred Dollars (\$500) and not exceed Ten Thousand Dollars (\$10,000), exclusive of interest.

Sec. 2c. After the effective date of this amendment all cases of concurrent jurisdiction enumerated or included in Section 2a of this Act may be instituted in or transferred between the district courts of Lubbock County and the County Court at Law No. 1 of Lubbock County. The District Clerk of Lubbock County shall be the clerk of the County Court at Law No. 1 in all those cases enumerated in Section 2a.

Sec. 2d. Practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in this court involving those matters of concurrent jurisdiction enumerated in Section 2a of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. In cases in which this court has concurrent jurisdiction with the district courts as herein provided, juries shall be composed of 12 members. Nothing in this Act shall diminish the jurisdiction of the several district courts in Lubbock County and the county court of Lubbock County, and such courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law, and the jurisdiction given herein is concurrent with the jurisdiction of said courts.

Sec. 2e. The County Court at Law No. 1 in only those cases of concurrent jurisdiction enumerated in Section 2a of this Act, shall have the same terms of court as those district courts sitting only in Lubbock

County as are presently established or as they may hereinafter be changed. In all cases, other than those of concurrent jurisdiction enumerated in Section 2a of this Act, the terms of this court shall be unchanged.

Sec. 2f. Article 1951, Revised Statutes, does not apply to the County Court at Law No. 1 of Lubbock County. Neither Article 1951 nor Section 4, Chapter 832, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3266a, Vernon's Texas Civil Statutes), affects or diminishes the jurisdiction of the County Court at Law No. 1 of Lubbock County.

Sec. 3. The County Court at Law of Lubbock County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State is conferred upon Justice Courts.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Court of Lubbock County at Law in civil cases of which said Court had appellate or original concurrent jurisdiction with the Justice Court, where the judgment or amount in controversy would not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to said County Court of Lubbock County at Law over such matters as are specified in this Act, nor shall this Act be construed to deny the return of an appeal to the County Court of Lubbock County at Law from the Justice Court, where the return of appeals to the County Court now exists by law.

Sec. 6. The County Court of Lubbock County shall have and retain the general jurisdiction of the Probate Court concurrently with the County Courts at Law of Lubbock County; but the County Court now existing shall have no jurisdiction over other matters, civil or criminal. The County Judge of Lubbock County shall be the Judge of the County Court of said County, and all ex-officio duties of the County Judge shall be exercised by said Judge of the County Court of Lubbock County, except in so far as the same shall by this Act be committed to the County Court at Law No. 1 of Lubbock County.

Sec. 7. The jurisdiction and authority now vested by law in the Court of Lubbock County for drawing, selection and service of jurors shall be exercised by said Court by jury summons for either the County Court of Lubbock County or the County Court at Law of Lubbock County may, by the Judge of the Court in which they are summoned, be transferred to the other County Court for service therein and may be used in such other Court as if summoned for jury service for the Court to which they may be thus transferred.

Sec. 8. The terms of the County Court at Law No. 1 of Lubbock County begin on the first Monday

in January and the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Sec. 9. There shall be elected in Lubbock County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of Lubbock County, who shall be a regularly licensed attorney at law in this State. No person shall be elected or appointed Judge of said Court who has not been a resident citizen of said Lubbock County for the immediate preceding two years and a practicing attorney of the State of Texas for at least five years immediately prior to his appointment or election. The person elected such Judge shall hold his office for two years, and until his successor shall have been duly elected and qualified.

Sec. 10. The County Attorney of Lubbock County shall represent the State in all prosecutions in said County Court at Law of Lubbock County, as provided by law for such prosecutions in County Courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 11. As soon as this Act becomes effective the Commissioners Court of Lubbock County shall appoint a Judge of the County Court at Law of Lubbock County, who shall hold his office until the next general election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said Court.

Sec. 12. The Judge of the County Court at Law of Lubbock County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

Sec. 13. The Judge of the County Court at Law of Lubbock County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 14. A special Judge of the County Court at Law of Lubbock County may be appointed or elected as provided by law relating to County Courts and to the Judge thereof, who shall receive the sum of Fifteen Dollars (\$15) per day for each day he so actually served, to be paid out of the general fund of the County by the Commissioners Court.

Sec. 15. In the case of the disqualification of the Judge of the County Court at Law of Lubbock County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a special Judge to try such case or cases where the Judge of the County Court at Law of Lubbock County is disqualified. In case of the selection of such special Judge by agreement of the parties or their attorneys, such special Judge shall draw the same compensation as that provided in Section 14 of this Act.

Sec. 16. The County Court at Law of Lubbock County, or the Judge thereof, shall have the power

to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law.

Sec. 17. The County Clerk of Lubbock County shall be the Clerk of the County Court at Law of Lubbock County, and the seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Lubbock County."

Sec. 18. The Sheriff of Lubbock County shall in person or by deputy attend the said Court when required by the Judge thereof.

Sec. 19. The jurisdiction of authority now vested by law in the County Court for the selection and service of jurors shall be exercised by the County Court at Law of Lubbock County. All petit jurors summoned for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said Courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the Court for which they were originally drawn.

Sec. 20. Any vacancy in the office of the Judge of the County Court at Law of Lubbock County shall be filled by the Commissioners Court, and when so filled the Judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 21. After the effective date of this amendment, the Judge of the County Court at Law No. 1 of Lubbock County shall receive an annual salary in an amount not less than three-fourths ($\frac{3}{4}$) of the total annual salary paid to the Judge of the 99th Judicial District of Texas by the State of Texas. This sum shall be paid in equal monthly installments out of the General Fund of Lubbock County on orders from the Commissioners Court.

Sec. 22. The Judge of the County Court at Law of Lubbock County shall assess the same fees as are now prescribed by law relating to the County Judge's fees, all of which shall be collected by the clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Act.

Sec. 23. The Judge of the County Court at Law of Lubbock County, Texas, shall appoint an official shorthand reporter for such Court who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official Court Reporters and shall re-

ceive a salary as set by the Commissioners Court of Lubbock County, Texas, of not less than Three Thousand Dollars (\$3,000) per annum, to be paid out of the County Treasury of Lubbock County, Texas, as other County officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended and all other provisions of the law relating to official Court Reporters shall be and is hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 24. The laws of Texas and the rules of procedure and rules of evidence governing trials in and appeals from all proceedings in County Courts shall be applicable to, govern and control proceedings in and appeals from the County Court at Law of Lubbock County.

Sec. 25. All cases appealed from the Justice Court and other inferior Courts of Lubbock County, Texas, shall be made direct to the County Court at Law of Lubbock County, under the provisions governing appeals to County Courts.

Sec. 26. The Judge of the County Court at Law of Lubbock County is authorized to appoint an official interpreter for such County Court at Law. And the County Commissioners shall by resolution fix the compensation of said official interpreter and provide for the payment of such compensation and shall prescribe the duties of such official interpreter. The Judge of the County Court at Law of Lubbock County shall have authority to terminate the employment of such interpreter at any time. The official interpreter so appointed by the Judge of the said County Court at Law shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony given in the County Court at Law, and which oaths shall qualify him for service as official interpreter of such Court in all cases before such Court during his term of office.

Sec. 27. If any part, section, paragraph, sentence, or clause contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of this Act, and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity.

[Acts 1950, 51st Leg., 1st C.S., p. 74, ch. 16. Amended by Acts 1962, 57th Leg., 3rd C.S., p. 169, ch. 62, § 1; Acts 1973, 63rd Leg., p. 1381, ch. 532, § 1, eff. June 14, 1973; Acts 1977, 65th Leg., p. 1276, ch. 498, § 1, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 1561, ch. 301, §§ 1, 2, eff. Aug. 29, 1983.]

Art. 1970-340.1. County Court at Law No. 2 of Lubbock County

Sec. 1. There is hereby created a Court to be held in Lubbock, Lubbock County, Texas, which

shall be known as the County Court at Law No. 2 of Lubbock County, Texas.

Sec. 2. The County Court at Law No. 2 of Lubbock County, Texas, shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of said County would have jurisdiction, and the County Court at Law No. 2 shall have and exercise jurisdiction as to all probate matters concurrently with the County Court and any other numbered County Court at Law of Lubbock County. The County Court at Law No. 2 has jurisdiction concurrently with the district court in eminent domain cases, as provided by general law; but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Lubbock County as the presiding officers of such Commissioners Court, as to roads, bridges, and public highways, and matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge thereof.

Sec. 2a. In addition to the jurisdiction now conferred upon the County Court at Law No. 2 of Lubbock County, by the Constitution and Laws of the State of Texas, said court shall hereinafter have and exercise concurrent civil jurisdiction with the district courts in Lubbock County, in suits, causes, and matters involving adoptions, removal of disability of minority and coverture, and all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child support and custody of minors, and change of name of persons. This court and the judges thereof shall have the power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 2b. In addition to the jurisdiction now conferred upon the County Court at Law No. 2 of Lubbock County by the Constitution and Laws of the State of Texas said court shall hereinafter have and exercise concurrent civil jurisdiction with the district courts in Lubbock County in all civil cases and matters when the matter in controversy shall exceed Five Hundred Dollars (\$500) and not exceed Ten Thousand Dollars (\$10,000), exclusive of interest.

Sec. 2c. After the effective date of this amendment all cases of concurrent jurisdiction enumerated or included in Section 2a of this Act may be instituted in or transferred between the district courts of Lubbock County and the County Court at Law No. 2 of Lubbock County. The District Clerk of Lubbock County shall be the clerk of the County Court at Law No. 2 in all those cases enumerated in Section 2a.

Sec. 2d. Practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hear-

ings in this court involving those matters of concurrent jurisdiction enumerated in Section 2a of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. In cases in which this court has concurrent jurisdiction with the district courts as herein provided, juries shall be composed of 12 members. Nothing in this Act shall diminish the jurisdiction of the several district courts in Lubbock County and the county court of Lubbock County, and such courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law, and the jurisdiction given herein is concurrent with the jurisdiction of said courts.

Sec. 2e. The County Court at Law No. 2 in only those cases of concurrent jurisdiction enumerated in Section 2a of this Act, shall have the same terms of court as those district courts sitting only in Lubbock County as are presently established or as they may hereinafter be changed. In all cases, other than those of concurrent jurisdiction enumerated in Section 2a of this Act, the terms of this court shall be unchanged.

Sec. 2f. Article 1951, Revised Statutes, does not apply to the County Court at Law No. 2 of Lubbock County. Neither Article 1951 nor Section 4, Chapter 832, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3266a, Vernon's Texas Civil Statutes), affects or diminishes the jurisdiction of the County Court at Law No. 2 of Lubbock County.

Sec. 3. The County Court at Law No. 2 of Lubbock County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State is conferred upon Justice Courts.

Sec. 4. The County Court at Law No. 2 of Lubbock County shall have concurrent original jurisdiction with the County Court at Law No. 1 of Lubbock County. The Judges in either County Court at Law may try cases in the other County Court at Law and cases may be transferred by the respective Judges from one (1) Court to the other County Court at Law.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Court at Law No. 2 of Lubbock County in civil cases of which said Court had appellate or original concurrent jurisdiction with the Justice Court, where the judgment or amount in controversy would not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to said County Courts at Law of Lubbock County over such matters as are specified in this Act, nor shall this Act be construed to deny the return of an appeal to the County Courts at Law of Lubbock County from the Justice Court, where the return of appeals to the County

Court at Law or the County Court now exists by law.

Sec. 7. The County Court of Lubbock County shall have and retain the general jurisdiction of the Probate Court concurrently with the County Courts at Law of Lubbock County; but the County Court now existing shall have no jurisdiction over other matters, civil or criminal. The County Judge of Lubbock County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Lubbock County, except in so far as the same shall by this Act be committed to the County Court at Law No. 2 of Lubbock County.

Sec. 8. The jurisdiction and authority now vested by law in the County Court of Lubbock County and the County Court at Law No. 1 of Lubbock County, for the drawing, selection, and service of jurors, shall be exercised by said Court; but juries summoned for any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to either of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Sec. 9. The terms of the County Court at Law No. 2 of Lubbock County begin on the first Monday in January and the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Sec. 10. There shall be elected in Lubbock County by the qualified voters thereof, at each general election, a Judge for the County Court at Law No. 2 of Lubbock County, who shall be a regularly licensed attorney at law in this State. No person shall be elected or appointed Judge of said Court who has not been a resident citizen of said Lubbock County for the immediate preceding two (2) years and a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. The person elected as such Judge shall hold his office for four (4) years and until his successor shall have been duly elected and qualified.

Sec. 11. The County Attorney of Lubbock County shall represent the State in all prosecutions in said County Court at Law No. 2 of Lubbock County, as provided by law for such prosecutions in County Courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 12. As soon as this Act becomes effective the Commissioners Court of Lubbock County shall appoint a Judge of the County Court at Law No. 2 of Lubbock County, who shall hold his office until the next general election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said Court.

Sec. 13. The Judge of the County Court at Law No. 2 of Lubbock County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

Sec. 14. The Judge of the County Court at Law No. 2 of Lubbock County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 15. A special Judge of the County Court at Law No. 2 of Lubbock County may be appointed or elected as provided by law relating to County Courts and to the Judge thereof, who shall receive the sum of Fifteen Dollars (\$15) per day for each day he so actually served, to be paid out of the general fund of the County by the Commissioners Court.

Sec. 16. In the case of the disqualification of the Judge of the County Court at Law No. 2 of Lubbock County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a special Judge to try such case or cases where the Judge of the County Court at Law No. 2 of Lubbock County is disqualified. In case of the selection of such special Judge by agreement of the parties or their attorneys, such special Judge shall draw the same compensation as that provided in Section 15 of this Act.

Sec. 17. The County Court at Law No. 2 of Lubbock County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law No. 2.

Sec. 18. The County Clerk of Lubbock County shall be the Clerk of the County Court at Law No. 2 of Lubbock County, and the seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Lubbock County."

Sec. 19. The Sheriff of Lubbock County shall in person or by deputy attend the said Court when required by the Judge thereof.

Sec. 20. The jurisdiction and authority now vested by law in the County Court and in the County Court at Law No. 1, of Lubbock County for the selection and service of jurors shall also be exercised by the County Court at Law No. 2 of Lubbock County. All petit jurors summoned for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said Courts as fixed by this Act, and their acts as jurors shall be as valid as if

they had been selected as jurors in the Court for which they were originally drawn.

Sec. 21. Any vacancy in the office of the Judge of the County Court at Law No. 2 of Lubbock County shall be filled by the Commissioners Court, and when so filled the Judge shall hold office until the next General Election and until his successor is elected and qualified.

Sec. 22. After the effective date of this amendment, the Judge of the County Court of Lubbock County and the Judge of the County Court at Law No. 2 of Lubbock County shall receive an annual salary in an amount not less than three-fourths ($\frac{3}{4}$) of the total annual salary paid to the Judge of the 99th Judicial District of Texas by the State of Texas. This sum shall be paid in equal monthly installments out of the General Fund of Lubbock County on orders from the Commissioners Court.

Sec. 23. The Judge of the County Court at Law No. 2 of Lubbock County shall assess the same fees as are now prescribed by law relating to the County Judge's fees, all of which shall be collected by the clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Act.

Sec. 24. The Judge of the County Court at Law No. 2 of Lubbock County, Texas, shall appoint an official shorthand reporter for such Court who shall be well-skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official Court Reporters and shall receive a salary as set by the Commissioners Court of Lubbock County, Texas, of not less than Three Thousand Dollars (\$3,000) per annum, to be paid out of the County Treasury of Lubbock County, Texas, as other County officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended and all other provisions of the law relating to official Court Reporters shall be and are hereby made to apply in all their provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 25. The laws of Texas and the rules of procedure and rules of evidence governing trials in and appeals from all proceedings in County Courts shall be applicable to, govern and control proceedings in and appeals from the County Court at Law No. 2 of Lubbock County.

Sec. 26. All cases appealed from the Justice Court and other inferior Courts of Lubbock County, Texas, shall be made direct to the County Court at Law No. 1 or No. 2 of Lubbock County, under the provisions governing appeals to County Courts.

Sec. 27. The Judge of the County Court at Law No. 2 of Lubbock County is authorized to appoint an

official interpreter for such County Court at Law. And the County Commissioners shall by resolution fix the compensation and shall prescribe the duties of such official interpreter. The Judge of the County Court at Law No. 2 of Lubbock County shall have authority to terminate the employment of such interpreter at any time. The official interpreter so appointed by the Judge of the said County Court at Law shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony given in the County Court at Law No. 2 and which oaths shall qualify him for service as official interpreter of such Court in all cases before such Court during his term of office.

[Acts 1957, 55th Leg., p. 227, ch. 109. Amended by Acts 1973, 63rd Leg., p. 1382, ch. 532, § 2, eff. June 14, 1973; Acts 1977, 65th Leg., p. 1276, ch. 498, § 2, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1317, ch. 522, § 1, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 1562, ch. 301, §§ 3, 4, eff. Aug. 29, 1983.]

HIDALGO COUNTY

Art. 1970-341. County Court at Law of Hidalgo County

Sec. 1. There is hereby created a Court to be held in and for Hidalgo County, Texas, which shall be known as the County Court at Law of Hidalgo County, Texas, and which shall be a court of record.

Sec. 2. Said County Court at Law of Hidalgo County, Texas, shall have and exercise jurisdiction in all matters and causes civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of Hidalgo County, Texas, would have jurisdiction; and all cases pending in the County Court of said County, except as hereafter provided, shall be and the same are hereby transferred to the County Court at Law of Hidalgo County, and all writs and process, civil and criminal, heretofore issued by or out of the County Court of Hidalgo County except those pertaining to matters as hereafter provided to remain in the County Court of Hidalgo County, shall be and the same are hereby made returnable to the County Court at Law of Hidalgo County; and all cases pending in the District Court of the 92nd Judicial District which cases involve matters over which, by General Law, the County Court of Hidalgo County would have exclusive original jurisdiction, shall be and the same are hereby transferred to the County Court at Law of Hidalgo County, and all writs and processes heretofore issued by or out of the said District Court of the 92nd Judicial District pertaining to such cases shall be and the same are made returnable to the County Court at Law of Hidalgo County.

The jurisdiction of the County Court at Law of Hidalgo County and of the Judge thereof shall extend to all matters of eminent domain of which jurisdiction has heretofore been vested in the County Court of Hidalgo County or in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of

Hidalgo County as the presiding officer of said Commissioners Court as to roads, bridges, and public highways and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the presiding Judge thereof.

Sec. 2A. The County Court at Law of Hidalgo County has concurrent civil jurisdiction with the district court in cases in which the matter in controversy exceeds \$500 and does not exceed \$20,000, excluding interest.

Sec. 3. The County Court at Law of Hidalgo County shall also have the general jurisdiction of a probate court within the limits of Hidalgo County, concurrent with jurisdiction of the County Court of Hidalgo County in such matters and proceedings. Such County Court at Law of Hidalgo County shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings.

As soon as may be practical but not later than one month after the effective date of this Act, there shall be transferred to the probate docket of the County Court at Law of Hidalgo County, under the direction of the County Judge and by order entered on the minutes of the County Court of Hidalgo County, such number of such probate proceedings and matters pending on the effective date of this Act in the County Court of Hidalgo County as shall be, as near as may be, one half (½) in number of the total of all of same then pending, and all writs and processes theretofore issued by or out of said County Court in Hidalgo County in such matters or proceedings shall be returnable to the County Court at Law of Hidalgo County as though originally issued therefrom. All such new probate matters and proceedings filed after the effective date of this Act with the County Clerk of Hidalgo County irrespective of the Court or Judge to which the matter or proceeding is addressed shall be filed by said Clerk alternately in said respective courts in the order in which same are deposited with him for filing, beginning first with the County Court of Hidalgo County. The County Judge of Hidalgo County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Hidalgo County transfer to the County Court at Law of Hidalgo County any such probate matter or proceeding then pending in the County Court of Hidalgo County, and all processes extant at the time of such transfer shall be returned to and filed in the County Court at Law of Hidalgo County, and shall be as valid and binding as though originally issued out of said County Court at Law of Hidalgo County.

Sec. 4. The County Court of Hidalgo County shall have and retain concurrently with the County Court at Law of Hidalgo County the general jurisdiction of a probate court and of jurisdiction now conferred or which may be conferred by law over probate matters, but shall have no other jurisdiction criminal or civil, original or appellate. The District Court of the 92nd Judicial District shall have and retain all jurisdictions conferred by Acts, 1931, Forty-second Legislature, Page 876, Chapter 370, (Article 199, Section 92, Vernon's Annotated Civil Statutes of Texas, 1925), save and except jurisdiction over all civil matters which, by general law the County Court of Hidalgo County would have exclusive original jurisdiction and said jurisdiction over all civil matters which by general law, the County Court of Hidalgo County would have exclusive original jurisdiction is hereby transferred from said District Court of the 92nd Judicial District to the County Court at Law of Hidalgo County. The County Judge of Hidalgo County shall be the Judge of the County Court of Hidalgo County and all ex-officio, executive, ministerial and administrative duties of the County Judge of Hidalgo County, as they now exist, shall continue to be exercised by the County Judge of Hidalgo County. Administrative, executive, ministerial and ex-officio duties of the County Judge shall include the duty of the County Judge to preside over and be a member of the Commissioners Court of Hidalgo County, to receive and hear applications for license as a dealer in beer or wine, to process applications to State Tuberculosis Sanatoriums, and the like; this listing of duties shall not be construed or deemed to be exclusive but is given to be illustrative only of administrative, executive, ministerial and ex-officio duties to be exercised by the County Judge of Hidalgo County, the only limitation being that he shall no longer act in any proceeding of a judicial nature save in probate matters.

Sec. 5. The County Court at Law of Hidalgo County shall sit in the County seat of Hidalgo County and shall hold continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins. The practice in said Court, and appeals and writs of error thereto and therefrom, shall be as prescribed by the laws and rules relating to County Courts.

Sec. 6. There shall be elected in Hidalgo County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of Hidalgo County who shall be a regularly licensed attorney at law in this State, and who shall be a resident citizen of Hidalgo County, and shall have been actively engaged in the practice of law in this State for a period of not less than four (4) years next preceding such general election, who shall hold his office for two (2) years and until his successor shall have been duly elected and qualified. As soon as this Act becomes effective, the Commissioners

Court of Hidalgo County shall appoint a Judge to the County Court at Law of Hidalgo County who shall hold this office as such Judge until the next general election and until his successor is elected and qualified; any subsequent vacancies in the office of the Judge of the County Court at Law of Hidalgo County shall be filled by appointment of the Commissioners Court of Hidalgo County and when so filled, the said Judge shall hold his office until the next general election and until his successor is elected and qualified.

Sec. 7. The Judge of the County Court at Law shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A Special Judge of the County Court at Law of Hidalgo County may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall be compensated in the same manner as provided for special judges of the County Courts. In probate matters, in the absence, disqualification or incapacity of the Judge of the County Court at Law of Hidalgo County, the County Judge of Hidalgo County may sit and act as Judge of the County Court at Law, and may hear and determine, either in his own courtroom or in the courtroom of the County Court at Law any matter or proceedings there pending, and enter any orders in such matters or proceedings as the Judge of the County Court at Law may enter if personally presiding therein. Likewise, in probate matters, the Judge of the County Court at Law, may, in the absence, disqualification or incapacity of the County Judge, sit and act as Judge of the County Court, and may hear and determine, either in his own courtroom or in the courtroom of the County Court, any matter or proceeding there pending and enter any orders in such matters or proceedings as the County Judge may enter if personally presiding therein. The signature of either Judge on an order shall be conclusive that all conditions have been met or complied with to qualify him to act for the other in such probate matters.

Sec. 9. The Judge of the County Court at Law of Hidalgo County may be removed from office in the same manner and for the same causes as provided by law for County Judges.

Sec. 10. The Judge of the County Court at Law shall appoint an official shorthand reporter for such Court who shall be well skilled in his profession, shall be a sworn officer of the Court and shall hold office at the pleasure of said Judge. The duties of such reporter shall be the same as provided by general law for reporters of the District Courts and the salary of the reporter shall be set by the Judge as provided by general law for reporters of District Courts and paid monthly by the Commissioners Court out of any funds available for the purpose. The clerk of the Court shall tax as costs in each case, civil, criminal and probate where a record or any part thereof is made of the evidence in said case by the reporter, a stenographer's fee of Three Dol-

lars (\$3). Said fee shall be paid as other costs in the case and paid by the clerk, when collected, into the general fund of the County.

Sec. 11. (a) The Judge of the County Court at Law of Hidalgo County is entitled to receive an annual salary, the amount of which shall be fixed by the Commissioners Court of Hidalgo County. The salary shall be paid in the same manner and from the same fund as prescribed by law for payment of the salary of the County Judge of Hidalgo County.

(b) The judge of the county court at law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

Sec. 12. The official interpreter of the District Courts of Hidalgo County shall serve as official interpreter of the County Court at Law of Hidalgo County, Texas, but if such official interpreter be not available when needed for service in said County Court at Law, the Judge of said Court is authorized to appoint an interpreter who shall serve only temporarily and who shall be paid not to exceed Five Dollars (\$5) per day out of the general fund of the County on certificate of said Judge. Upon concurrence of the County Commissioners Court, the Judge of the County Court at Law may appoint an official interpreter for such Court as provided by general law.

Sec. 13. The County Court at Law of Hidalgo County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseadeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law, and to punish for contempt under such provisions as are or may be provided by general laws governing County Courts, and said Judge shall have all other powers, duties, immunities and privileges as are or may be provided by general law for Judges of Courts of Record and for Judges of County Courts at Law, and he shall be a magistrate and a conservator of the peace.

Sec. 14. The County Clerk of Hidalgo County shall be the Clerk of the County Court at Law of Hidalgo County, and as clerk of such Court he shall have the same powers, duties, privileges and immunities as provided by law for County Clerks and the seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Hidalgo County, Texas."

Sec. 15. The sheriff of Hidalgo County shall in person or by deputy attend the said County Court at Law when required by the Judge thereof.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Hidalgo County and the Judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law and the Judge thereof; but jurors and talesmen summoned for either of said Courts may by order of the Judge of the Court in which they are summoned, be transferred to the other Court for service therein and may be used therein as if summoned for the Court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law and the County Judge, jurors may be summoned for service in both Courts and shall be used interchangeably in both such Courts.

Jurors regularly impaneled for the week by the District Court or Courts may on request of either the County Judge or the Judge of the County Court at Law, be made available by the District Judge or Judges in such numbers as may be requested, for service for the week in either or both the County Court or the County Court at Law and such jurors shall serve in the County Court and County Court at Law the same as if they had been drawn and selected as is otherwise provided by law.

Sec. 17. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative.

Sec. 18. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such invalid part or parts thereof would be so declared unconstitutional.

[Acts 1951, 52nd Leg., p. 33, ch. 25. Amended by Acts 1965, 59th Leg., p. 844, ch. 406, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1847, ch. 619, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 908, ch. 133, § 1, eff. May 10, 1971; Acts 1973, 63rd Leg., p. 723, ch. 313, § 2, eff. June 22, 1973; Acts 1975, 64th Leg., p. 1018, ch. 387, § 1, eff. June 19, 1975; Acts 1977, 65th Leg., p. 227, ch. 110, § 1, eff. May 4, 1977; Acts 1983, 68th Leg., p. 5703, ch. 1084, § 1, eff. Aug. 29, 1983.]

Section 3 of the 1983 amendatory act provided:

"If a uniform statutory court act repealing the law governing the county courts at law in Hidalgo County and renaming those courts as circuit courts is enacted by the 68th Legislature, Regular Session, and becomes law, this Act has no effect, and those courts are governed by the uniform act."

The 68th Legislature did not enact a uniform statutory court act.

Art. 1970-341a. County Court at Law No. 2 of Hidalgo County

Sec. 1. There is created a court to be held in and for Hidalgo County, which shall be known as the County Court at Law No. 2 of Hidalgo County, and which shall be a court of record.

Sec. 2. (a) The County Court at Law No. 2 of Hidalgo County shall have and exercise jurisdiction in all matters and causes civil and criminal, original and appellate, over which by the general laws of the

state, the county courts have jurisdiction, and shall have jurisdiction concurrent with the County Court at Law of Hidalgo County in matters and cases, civil and criminal, original and appellate. The county court at law does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways or the general administration of county business which is within the jurisdiction of the commissioners court or the presiding judge of the commissioners court.

(b) The County Court at Law No. 2 of Hidalgo County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest, as provided by general law.

Sec. 3. The County Court at Law No. 2 of Hidalgo County shall also have the general jurisdiction of a probate court within the limits of Hidalgo County, concurrent with jurisdiction of the County Court of Hidalgo County and the County Court at Law of Hidalgo County in such matters and proceedings. The County Court at Law No. 2 of Hidalgo County shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings.

Sec. 4. The County Court of Hidalgo County shall have and retain concurrently with the County Court at Law of Hidalgo County and the County Court at Law No. 2 of Hidalgo County the general jurisdiction of a probate court and of jurisdiction now conferred or which may be conferred by law over probate matters but shall have no other jurisdiction criminal or civil, original or appellate. The County Judge of Hidalgo County shall be the judge of the County Court of Hidalgo County and all ex officio, executive, ministerial, and administrative duties of the County Judge of Hidalgo County shall continue to be exercised by the County Judge of Hidalgo County, but he shall not act in any proceeding of a judicial nature save in probate matters.

Sec. 5. The County Court at Law No. 2 of Hidalgo County shall sit in the county seat of Hidalgo County and shall hold continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins. The practice in the court and appeals and writs of error to and from the court shall be as prescribed by the laws and rules relating to county courts.

Sec. 6. There shall be elected in Hidalgo County, by the qualified voters of the county, a judge of the County Court at Law No. 2, who shall be a regular-

ly licensed attorney at law in this state, and who shall be a resident citizen of Hidalgo County, and who shall have been actively engaged in the practice of law in this state for a period of not less than four years next preceding his election, and who shall hold his office for four years and until his successor shall have been duly elected and qualified. As soon as this Act becomes effective, the Commissioners Court of Hidalgo County shall appoint a judge to the County Court at Law No. 2 of Hidalgo County, who shall hold this office as judge until the next general election and until his successor is elected and qualified. Beginning at the general election in 1978 and every fourth year thereafter, there shall be elected a judge of the County Court at Law No. 2 for a regular term of four years as provided in Article V, Section 30 and Article XVI, Section 65 of the Texas Constitution. A vacancy in the office of the judge of the County Court at Law No. 2 of Hidalgo County, shall be filled by appointment of the Commissioners Court of Hidalgo County, and when so filled, the judge shall hold his office until the next general election and until his successor is elected and qualified.

Sec. 7. The judge of the County Court at Law No. 2 shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 8. (a) A special judge of the County Court at Law No. 2 of Hidalgo County may be appointed or elected as provided by law relating to county courts and to the judges thereof, who shall be compensated in the same manner as provided for special judges of the county courts.

(b) The judges of the county court and the county courts at law may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred. In cases transferred to either of the courts by order of the judge of one of the other courts, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before the transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(c) The county judge and the judges of the county courts at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case in-

volved. Any judge may hear all or any part of a case pending in the county court or a county court at law, but only in matters within his jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of any court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. This provision providing for the exchange of benches by and between the judge of the county court and the judges of the county courts at law is cumulative of and in addition to the provisions herein provided for the selection and appointment of a special judge of the county court at law.

Sec. 9. The judge of the County Court at Law No. 2 of Hidalgo County may be removed from office in the same manner and for the same causes as provided by law for county judges.

Sec. 10. The judge of the County Court at Law No. 2 shall appoint an official shorthand reporter for the court who shall be well skilled in his profession, shall be a sworn officer of the court, and shall hold office at the pleasure of the judge. The duties of the reporter shall be the same as provided by general law for reporters of the district courts, and the salary of the reporter shall be set by the judge as provided by general law for reporters of district courts and paid monthly by the commissioners court out of any funds available for the purpose. The clerk of the court shall tax as costs in each case, civil, criminal, and probate where a record or any part thereof is made of the evidence in said case by the reporter, a stenographer's fee of \$3. The fee shall be paid as other costs in the case and paid by the clerk, when collected, into the general fund of the county.

Sec. 11. (a) The judge of the County Court at Law No. 2 of Hidalgo County may receive an annual salary, the amount of which shall be fixed by the Commissioners Court of Hidalgo County. The salary shall be paid in the same manner and from the same fund as prescribed by law for payment of the salary of the County Judge of Hidalgo County.

(b) The judge of the County Court at Law No. 2 shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury and which may not be paid to the judge.

Sec. 12. The official interpreter of the district courts of Hidalgo County shall serve as official interpreter of the County Court at Law No. 2 of Hidalgo County, but if the official interpreter is not available when needed for service in the County Court at Law No. 2, the judge of that court is authorized to appoint an interpreter who shall serve only temporarily and who shall be paid not to exceed \$5 per day out of the general fund of the county on certificate of the judge. On concurrence

of the county commissioners court, the judge of the County Court at Law No. 2 may appoint an official interpreter for the court as provided by general law.

Sec. 13. The County Court at Law No. 2 of Hidalgo County, or the judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of the court or of any other court in the county of inferior jurisdiction to the County Court at Law No. 2, and to punish for contempt under such provisions as are or may be provided by general laws governing county courts. The judge shall have all other powers, duties, immunities, and privileges as are or may be provided by general law for judges of courts of record and for judges of county courts at law, and he shall be a magistrate and a conservator of the peace.

Sec. 14. The county clerk of Hidalgo County shall be the clerk of the County Court at Law No. 2 of Hidalgo County, and as clerk of the court, he shall have the same powers, duties, privileges, and immunities as provided by law for county clerks. The seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 2 of Hidalgo County, Texas."

Sec. 15. The sheriff of Hidalgo County shall in person or by deputy attend the County Court at Law No. 2 when required by the judge.

Sec. 16. The jurisdiction and authority now vested by law in the County Court at Hidalgo County and the judge thereof for the drawing, selection, and service of jurors and talesmen shall also be exercised by the County Court at Law No. 2 and the judge thereof; but jurors and talesmen summoned for either of the county courts at law or the county court may by order of the judge of the court in which they are summoned be transferred to either of the other courts for service therein and may be used therein as if summoned for the court to which they may thus be transferred. Upon concurrence of the judges of the county courts at law and the county judge, jurors may be summoned for service in all of those courts and shall be used interchangeably in all of those courts.

Jurors regularly impaneled for the week by the district court or courts may on request of either the county judge or the judge of either of the county courts at law be made available by the district judge or judges in such numbers as may be requested for service for the week in either or all of the county courts at law or the county court, and such jurors shall serve in the county court and county court at law the same as if they had been drawn and selected as is otherwise provided by law.

[Acts 1977, 65th Leg., p. 259, ch. 123, eff. May 10, 1977. Amended by Acts 1983, 68th Leg., p. 5704, ch. 1084, § 2, eff. Aug. 29, 1983.]

Section 3 of the 1983 amendatory act provided:

"If a uniform statutory court act repealing the law governing the county courts at law in Hidalgo County and renaming those courts as circuit courts is enacted by the 68th Legislature, Regular Session, and becomes law, this Act has no effect, and those courts are governed by the uniform act."

The 68th Legislature did not enact a uniform statutory court act.

Art. 1970-341b. County Court at Law No. 3 of Hidalgo County

Creation

Sec. 1. The County Court at Law No. 3 of Hidalgo County is created. It is a court of record.

Jurisdiction

Sec. 2. (a) The County Court at Law No. 3 of Hidalgo County shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the general laws of the state the county courts have jurisdiction and shall have jurisdiction concurrent with the County Court at Law of Hidalgo County and the County Court at Law No. 2 of Hidalgo County in matters and cases, civil and criminal, original and appellate. The county court at law does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways or the general administration of county business which is within the jurisdiction of the commissioners court or the presiding judge of the commissioners court.

(b) The County Court at Law No. 3 of Hidalgo County shall also have the general jurisdiction of a probate court within the limits of Hidalgo County, concurrent with jurisdiction of the County Court of Hidalgo County, the County Court at Law of Hidalgo County, and the County Court at Law No. 2 of Hidalgo County in such matters and proceedings. The County Court at Law No. 3 of Hidalgo County shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct mental health proceedings.

(c) The County Court at Law No. 3 of Hidalgo County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest, as provided by general law.

(d) The County Court of Hidalgo County shall have and retain concurrently with the County Court at Law of Hidalgo County and the County Courts at Law Nos. 2 and 3 of Hidalgo County the general jurisdiction of a probate court and of jurisdiction conferred by law over probate matters but shall have no other jurisdiction, criminal or civil, original

or appellate. The county judge of Hidalgo County shall be the judge of the County Court of Hidalgo County and all ex officio, executive, ministerial, and administrative duties of the county judge of Hidalgo County shall continue to be exercised by the county judge of Hidalgo County, but he or she shall not act in any proceeding of a judicial nature, except in probate matters.

Writ Power

Sec. 3. The County Court at Law No. 3 of Hidalgo County or the judge thereof shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseas, and all writs necessary to the enforcement of jurisdiction of the court and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of the court or of any other court in the county of inferior jurisdiction to the County Court at Law No. 3 and to punish for contempt under such provisions as are provided by general laws governing county courts. The judge shall have all other powers, duties, immunities, and privileges as are provided by general law for judges of courts of record and for judges of county courts at law, and he or she shall be a magistrate and a conservator of the peace.

Terms

Sec. 4. The County Court at Law No. 3 of Hidalgo County shall sit in the county seat of Hidalgo County and shall hold continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins. The practice in the court and appeals and writs of error to and from the court shall be as prescribed by the laws and rules relating to county courts.

Judge

Sec. 5. (a) There shall be elected in Hidalgo County by the qualified voters of the county a judge of the County Court at Law No. 3, who shall be a regularly licensed attorney at law in this state and who shall be a resident citizen of Hidalgo County and who shall have been actively engaged in the practice of law in this state for a period of not less than four years next preceding his or her election and who shall hold the office for four years and until his or her successor is elected and has qualified. As soon as this court is created, the Commissioners Court of Hidalgo County shall appoint a judge to the County Court at Law No. 3 of Hidalgo County, who shall hold the office as judge until the next general election and until his or her successor is elected and has qualified. Beginning at the general election in 1982 and every fourth year thereafter, there shall be elected a judge of the County Court at Law No. 3 for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. A va-

cancy in the office of the judge of the County Court at Law No. 3 of Hidalgo County shall be filled by appointment of the Commissioners Court of Hidalgo County, and when so filled, the judge shall hold the office until the next general election and until his or her successor is elected and has qualified.

(b) The judge of the County Court at Law No. 3 shall execute a bond and take the oath of office as required by law relating to county judges.

(c) The judge of the County Court at Law No. 3 of Hidalgo County may be removed from office in the same manner and for the same causes as provided by law for county judges.

(d) A special judge of the County Court at Law No. 3 of Hidalgo County may be appointed or elected as provided by law relating to county courts and to the judges thereof, who shall be compensated in the same manner as provided for special judges of the county courts.

Compensation

Sec. 6. (a) The judge of the County Court at Law No. 3 of Hidalgo County may receive an annual salary, the amount of which shall be fixed by the Commissioners Court of Hidalgo County. The salary shall be paid in the same manner and from the same fund as prescribed by law for payment of the salary of the county judge of Hidalgo County. The amount paid shall not exceed 90 percent of the amount paid a district court judge having jurisdiction in Hidalgo County.

(b) The judge of the County Court at Law No. 3 shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury and which may not be paid to the judge.

Personnel

Sec. 7. (a) The county clerk of Hidalgo County shall be the clerk of the County Court at Law No. 3 of Hidalgo County and as clerk of the court shall have the same powers, duties, privileges, and immunities as provided by law for county clerks.

(b) The criminal district attorney and sheriff of Hidalgo County shall serve as district attorney and sheriff, respectively, for the county court at law. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their offices and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices.

(c) The judge of the County Court at Law No. 3 shall appoint an official shorthand reporter for the court who shall have the qualifications provided by law for official court reporters, shall be a sworn officer of the court, and shall hold office at the pleasure of the judge. The duties of the reporter shall be the same as provided by general law for reporters of the district courts, and the salary of the reporter shall be set by the judge as provided by

general law for reporters of district courts and paid monthly by the commissioners court out of any funds available for the purpose. The clerk of the court shall tax as costs in each case, civil, criminal, and probate where a record or any part of a record is made of the evidence in the case by the reporter a stenographer's fee of \$3. The fee shall be paid as other costs in the case and paid by the clerk, when collected, into the general fund of the county.

(d) The official interpreter of the district courts of Hidalgo County shall serve as official interpreter of the County Court at Law No. 3 of Hidalgo County, but if the official interpreter is not available when needed for service in the County Court at Law No. 3, the judge of that court is authorized to appoint an interpreter who shall serve only temporarily and who shall be paid not to exceed \$5 per day out of the general fund of the county on certificate of the judge. On concurrence of the county commissioners court, the judge of the County Court at Law No. 3 may appoint an official interpreter for the court as provided by general law.

Jurors

Sec. 8. (a) The jurisdiction and authority now vested by law in the County Court at Hidalgo County and the judge thereof for the drawing, selection, and service of jurors shall also be exercised by the County Court at Law No. 3 and the judge thereof. Jurors summoned for any of the county courts at law or the county court may by order of the judge of the court in which they are summoned be transferred to any of the other courts for service and may be used as if summoned for the court to which they may be transferred. Upon concurrence of the judges of the county courts at law and the county judge, jurors may be summoned for service in all of those courts and shall be used interchangeably in all of those courts.

(b) Jurors regularly impaneled for the week by the district court or courts may, on request of either the county judge or the judge of any of the county courts at law, be made available by the district judge or judges in such numbers as may be requested for service for the week in either or all of the county courts at law or the county court, and such jurors shall serve in the county court and county court at law the same as if they had been drawn and selected as is otherwise provided by law.

Transfer of Cases; Exchange of Benches

Sec. 9. (a) The judges of the county court and the county courts at law may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred. In cases transferred to any of the courts by order of the judge of one of the other courts, all processes, writs, bonds, recognizances, or other obligations issued or made

in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before the transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(b) The county judge and the judges of the county courts at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him or her without the necessity of transferring the case involved. Any judge may hear all or any part of a case pending in the county court or a county court at law, but only in matters within his or her jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his or her own docket. However, the judge of any court may not sit or act in a case unless it is within the jurisdiction of his or her court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. This provision providing for the exchange of benches by and between the judge of the county court and the judges of the county courts at law is cumulative of and in addition to the provisions in this Act for the selection and appointment of a special judge of the county court at law.

Seal

Sec. 10. The seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 3 of Hidalgo County, Texas."

Date Created

Sec. 11. The County Court at Law No. 3 of Hidalgo County is created on January 1, 1980, or on a date determined by the commissioners court by an order entered in its minutes, whichever date is earlier.

[Acts 1979, 66th Leg., p. 736, ch. 328, eff. Aug. 27, 1979.]

GALVESTON COUNTY

Art. 1970-342. Probate and County Court of Galveston County

Sec. 1. The Probate Court of Galveston County provided by Section 1, Chapter 187, Acts of the 53rd Legislature, Regular Session, 1953, shall hereafter be known as the "County Court No. 2 of Galveston County." The court shall have, in addition to its present jurisdiction, civil and criminal jurisdiction as provided by the Constitution and General Laws for county courts and as provided herein.

Sec. 1a. The County Court No. 2 of Galveston County shall be known hereafter as the "Probate Court at Galveston County," and the seal of the court shall be the same as now provided by law except that the seal shall contain the words "Probate Court of Galveston County, Texas." Wherever the name "County Court No. 2 of Galveston County" appears in this Act, it shall hereafter be understood to mean "Probate Court of Galveston County."

Sec. 1b. (a) The name of the Probate Court of Galveston County is changed to the "Probate and County Court of Galveston County," and the seal of the court shall contain the words "Probate and County Court of Galveston County."

(b) In addition to all other jurisdiction granted by law to the Probate and County Court of Galveston County, the court has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

(c) The judge of the Probate and County Court of Galveston County shall appoint an official shorthand reporter for the Probate and County Court, who shall be well-skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. All of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and all other applicable provisions of the law relating to "official court reporters" shall apply to the official shorthand reporter herein authorized to be appointed. The official shorthand reporter shall be entitled to the same compensation, to be paid in the same manner, as provided for the official shorthand reporters of the district courts of Galveston County. The court reporter shall be required primarily to report cases in the Probate and County Court of Galveston County but may be made available, when not engaged in a jury trial in that court, to report jury trials in the County Court of Galveston County and to the district attorney for examining trials in justice courts.

Text of subsec. (d) as added by Acts 1979, 66th Leg., p. 783, ch. 345, § 5

(d) In addition to all other jurisdiction granted by law to the probate and county court, the court has concurrent jurisdiction with the district courts and the County Courts Nos. 1 and 2 of Galveston County in juvenile matters and proceedings, and notwithstanding any other provision of the law relating to the designation of juvenile courts, each of these courts may serve as a juvenile court. All juvenile matters and proceedings shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall act as clerk in all juvenile proceedings, shall maintain all records, and upon order of the judge of the 306th District Court shall transfer juvenile matters and

proceedings to the docket of the court designated therein.

Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition.

Text of subsec. (d) as added by Acts 1979, 66th Leg., p. 1641, ch. 686, § 10

(d) In addition to all other jurisdiction granted by law to the probate and county court, the court has concurrent jurisdiction with the district courts and the County Courts Nos. 1 and 2 of Galveston County in juvenile matters and proceedings, and notwithstanding any other provision of the law relating to the designation of juvenile courts, each of these courts may serve as a juvenile court. All juvenile matters and proceedings shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall act as clerk in all juvenile proceedings, shall maintain all records, and shall transfer juvenile matters and proceedings to the other courts so that the County Courts Nos. 1 and 2, the Probate and County Court, and the 306th District Court will rotate trying all juvenile cases and holding detention hearings and other associated matters during a three-month period of each year, beginning with the County Court No. 1 during the first quarter of each year, the County Court No. 2 during the second quarter, the Probate and County Court during the third quarter, and the 306th District Court during the fourth quarter, except that the judge of the 306th District Court upon his own order may retain jurisdiction of or transfer to one of the other courts, that is, County Courts Nos. 1 and 2 and the Probate and County Court, any such case as the judge of the 306th District Court may determine serves the needs of justice.

Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition.

Sec. 2. The county clerk of Galveston County shall be the clerk of the County Court No. 2 of Galveston County. The court shall have a seal consisting of a star of five (5) points with the words "County Court No. 2, Galveston County, Texas" engraved thereon. The sheriff of Galveston County may appoint a deputy to attend the court when required by the judge thereof.

Sec. 3. All cases over which County Court No. 2 has jurisdiction may be instituted in or transferred to the County Court No. 2. The county judge and the district judges of Galveston County may transfer to County Court No. 2 all cases pending in their respective courts of which the court has jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases, with the consent of the Judge of the County Court No. 2.

All cases and matters over which the County Court No. 2 is given jurisdiction may be transferred by the Judge thereof to the county or district courts

having jurisdiction under the laws of this state, with the consent of the judge of the court concerned. All cases and matters over which the County Court No. 2 and the County Court of Galveston County have concurrent jurisdiction and over which the district courts also have jurisdiction may be transferred to one of the district courts of Galveston County with the consent of the judge thereof.

Provided that the Judge of the County Court and the Judge of County Court No. 2 shall have authority to transfer any case pending for trial from the docket of such court to the docket of such other court, and during the absence, illness, or inability of either judge to preside in his own court the judge of the other court shall be and is hereby authorized to act for such judge absent for any of the above reasons in the trial or other disposition of cases on the docket of such other court.

All writs or process issued by a court prior to the time any case is transferred shall be returned and filed in the court to which the case is transferred and shall be as valid and binding upon the parties to such transferred case as though such writ or process had been issued out of the court to which transferred, and all waivers of process and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Sec. 4. In the event of a vacancy in this office the Governor shall appoint some suitable person who is a resident citizen of Galveston County as Judge of the County Court No. 2 of Galveston County as herein constituted, who shall hold such office until the next general election after his appointment, and until his successor shall have been elected and qualified, and all vacancies in said office shall also be filled by appointment by the Governor until the next applicable general election thereafter. At the first general election in said county and at each applicable general election thereafter there shall be elected by the qualified voters a Judge of the County Court No. 2 of Galveston County who shall be well informed in the laws of this state, who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified; provided that no person shall be eligible for Judge of the County Court No. 2 of Galveston County by election, unless he shall be a citizen of the United States and of this state; who shall have been a practicing lawyer of this state or a judge of a court in this state for at least four (4) years next preceding his election, and who shall have resided in the County of Galveston for two (2) years next preceding his election.

Sec. 4a. Any vacancy occurring in the office of Judge of the County Court at Law No. 2 of Galveston County shall be filled by the Commissioners Court of Galveston County, Texas, and the appointee shall hold office until the next succeeding general election, and until his successor shall be duly elected and qualified.

Sec. 5. The Judge of the County Court No. 2 of Galveston County shall execute a bond and take the

oath of office as required by law relating to county judges.

Sec. 6. A special judge of the County Court No. 2 of Galveston County may be appointed or elected as provided by laws relating to county courts and the judges thereof.

Sec. 7. The terms of the County Court No. 2 of Galveston County and the practice therein and appeals and writs of error therefrom shall be, as prescribed by law relating to county courts. The County Court No. 2 of Galveston County shall hold at least four (4) terms for both civil and criminal business annually, and such other terms each year as may be fixed by the Commissioners Court. After having fixed the times and number of terms of the County Court No. 2 of Galveston County, the Commissioners Court shall not change the same until the expiration of one (1) year. Until otherwise provided by the Commissioners Court, the term of the County Court No. 2 of Galveston County shall be held on the first Monday in March, June, September and December.

Sec. 8. Both the said County Court of Galveston County, and the County Court No. 2 of Galveston County or either of the judges thereof shall have the power to issue writs of injunction, sequestration, attachments, garnishment, certiorari, superseas and all other writs necessary to the enforcement of the jurisdiction of said courts; and also power to punish for contempt under such provisions as are, or may be provided by the General Laws governing county courts throughout the state, and to issue writs of habeas corpus, in cases where the offense charged is within the jurisdiction of said courts or of any court or tribunal inferior to said courts.

Sec. 9. The Commissioners Court of Galveston County shall fix the yearly salary of the Judge of the Probate Court of Galveston County at a sum not less than 90 percent of the total salary, including supplements, paid any District Judge sitting in Galveston County. The salary shall be paid out of the general fund of the County in equal monthly installments by warrants drawn upon the County Treasury upon orders of the Commissioners Court of Galveston County, Texas.

Sec. 10. The Judge of the County Court No. 2 of Galveston County may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

[Acts 1953, 53rd Leg., p. 521, ch. 187. Amended by Acts 1962, 57th Leg., 3rd C.S., p. 148, ch. 50, § 2; Acts 1965, 59th Leg., p. 286, ch. 123, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., 2nd C.S., p. 133, ch. 31, § 1, eff. Dec. 9, 1969; Acts 1969, 61st Leg., p. 2131, ch. 755, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 2845, ch. 932, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 751, ch. 326, § 1, eff. June 12, 1973; Acts 1973, 63rd Leg., p. 1347, ch. 512, § 1, eff. June 14, 1973; Acts 1975, 64th Leg., p. 1332, ch. 496, § 2, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 277, ch. 133, § 16, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 783, ch. 345, § 5, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1641, ch. 686, § 10, eff. Aug. 27, 1979.]

Art. 1970-342a. County Court No. 1 of Galveston County

Sec. 1. There is hereby created on the effective date of this Act, a Court to be held in Galveston County, Texas, to be known and designated as the "County Court No. 1 of Galveston County."

Sec. 2. (a) The County Court No. 1 of Galveston County shall have, and it is hereby granted, the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions, matters, and proceedings under the constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Galveston County, Texas, and the judge of said court shall have the same powers, rights, and privileges as to criminal matters as are now or may be vested in the judges of county courts having criminal jurisdiction.

(b) The County Court No. 1 of Galveston County shall have, and it is hereby granted, the same jurisdiction and powers in civil actions, matters, and proceedings that are now or may be conferred by law upon and vested in the County Court of Galveston County, Texas, and in the County Court No. 2 of Galveston County, and the judges thereof. Provided, however, that the jurisdiction of said County Court of Galveston County, Texas, the jurisdiction of said County Court No. 2 of Galveston County, and the jurisdiction of the County Court No. 1 of Galveston County, over all such actions, matters, and proceedings, civil and criminal, within Galveston County, shall be concurrent.

(c) In addition to the other jurisdiction granted in this section, the County Court No. 1 of Galveston County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

Text of subsec. (d) as added by Acts 1979, 66th Leg., p. 783, ch. 345, § 6

(d) In addition to all other jurisdiction granted by law to the County Court No. 1, the court has concurrent jurisdiction with the district courts, the probate and county court, and the County Court No. 2 of Galveston County in juvenile matters and proceedings, and notwithstanding any other provision of the law relating to the designation of juvenile courts, each of these courts may serve as a juvenile court. All juvenile matters and proceedings shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall act as clerk in all juvenile proceedings, shall maintain all records, and upon order of the judge of the 306th District Court shall transfer juvenile matters and proceedings to the docket of the court designated therein.

Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition.

Text of subsec. (d) as added by Acts 1979, 66th Leg., p. 1641, ch. 686, § 12

(d) In addition to all other jurisdiction granted by law to the County Court No. 1, the court has concurrent jurisdiction with the district courts, the probate and county court, and the County Court No. 2 of Galveston County in juvenile matters and proceedings, and notwithstanding any other provision of the law relating to the designation of juvenile courts, each of these courts may serve as a juvenile court. All juvenile matters and proceedings shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall act as clerk in all juvenile proceedings, shall maintain all records, and shall transfer juvenile matters and proceedings to the other courts so that the County Courts Nos. 1 and 2, the Probate and County Court, and the 306th District Court will rotate trying all juvenile cases and holding detention hearings and other associated matters during a three-month period of each year, beginning with the County Court No. 1 during the first quarter of each year, the County Court No. 2 during the second quarter, the Probate and County Court during the third quarter and the 306th District Court during the fourth quarter, except that the judge of the 306th District Court upon his own order may retain jurisdiction of or transfer to one of the other courts, that is, County Courts Nos. 1 and 2 and the Probate and County Court, any such case as the judge of the 306th District Court may determine serves the needs of justice.

Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition.

Sec. 3. (a) Upon the effective date of this Act, the pending civil and criminal cases on the docket of the County Court of Galveston County and the County Court No. 2 of Galveston County, save and except probate matters, mental illness cases, condemnation cases and alcoholic hearings, shall be automatically transferred to the County Court No. 1 of Galveston County. Thereafter, civil and criminal cases, except matters described in Subsection (b) of this Section, shall be filed and docketed in the County Court No. 1 of Galveston County.

(b) Probate matters, mental illness cases, and alcoholic hearings shall continue to be filed and docketed in the County Court of Galveston County and the County Court No. 2 of Galveston County in the same manner as they have been heretofore filed and docketed. Condemnation cases may be filed and docketed in the County Court of Galveston County, the Probate and County Court of Galveston County, County Court No. 1 of Galveston County, or County Court No. 2 of Galveston County.

Sec. 4. The clerk of the County Court No. 1 of Galveston County shall keep a separate docket for the court, in the same manner as now or may be provided by law for the keeping of dockets for the County Court of Galveston County, Texas, and the

County Court No. 2 of Galveston County. He shall tax the official court reporter's fee as costs in civil actions in said County Court No. 1 of Galveston County in like manner as the fee is taxed in civil cases in the district courts of this state. The Judge of the County Court of Galveston County, Texas, the Judge of the County Court No. 1 of Galveston County, and the Judge of the County Court No. 2 of Galveston County may, with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions, matters, and proceedings from his respective court to any one of the other courts by entry of an order to that effect upon the docket of his court; and the judge of the court to which any such action, matter, or proceeding, civil or criminal, shall have been transferred, shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees and judgments therein, and in the same manner and with the same force and effect as if such case, action, matter, or proceeding had been originally filed in the court to which transferred. Provided, however, that no cause, action, matter, case, or proceeding shall be transferred without the consent of the judge of the court to which transferred.

Sec. 5. The Judge of the County Court No. 1 of Galveston County, together with the Judges of the County Court of Galveston County, Texas, and the County Court No. 2 of Galveston County, may, at any time, exchange benches and may, at any time, sit and act for and with each other in any civil or criminal case, matter, or proceeding now, or hereafter, pending in their courts; and any and all such acts thus performed by any of said judges shall be valid and binding upon all parties to such cases, matters, and proceedings.

Sec. 6. The practice in said County Court No. 1 of Galveston County shall be the same as prescribed by law relating to county courts and county courts at law. Appeals and writs of error may be taken from judgments and orders of said County Court No. 1 of Galveston County, and from judgments and orders of the judge thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by law relating to such appeals and writs of error. Appeals may also be taken from interlocutory orders of said County Court No. 1 of Galveston County, appointing a receiver, or from orders overruling a motion to vacate or appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the district courts throughout this state.

Sec. 7. The judge of the County Court No. 1 of Galveston County shall appoint an official shorthand reporter for the County Court No. 1, who shall be well-skilled in his profession and shall be a sworn officer of the court, and shall hold his office at the pleasure of the court. All of the provisions of

Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and all other applicable provisions of the law relating to "official court reporters" shall apply to the official shorthand reporter herein authorized to be appointed. Such official shorthand reporter shall be entitled to the same compensation, to be paid in the same manner, as provided for the official shorthand reporters of the district courts of Galveston County, Texas. Said court reporter shall be required primarily to report cases in the County Court No. 1 of Galveston County, but may be made available, when not engaged in a jury trial in said court, to report jury trials in the Probate and County Court of Galveston County.

Sec. 8. The County Clerk of Galveston County shall be the Clerk of the County Court No. 1 of Galveston County. The court shall have a seal consisting of a star of five points with the words "County Court No. 1 of Galveston County" engraved thereon. The Sheriff of Galveston County shall appoint a deputy to attend the court when required by the judge thereof.

Sec. 9. The Criminal District Attorney of Galveston County, Texas, shall represent the state in all prosecutions in the County Court No. 1 of Galveston County as provided by law for prosecutions in county courts, and shall be entitled to the same fees as in other cases.

Sec. 10. At the next general election after the effective date of this Act, there shall be elected a Judge of the County Court No. 1 of Galveston County, who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five years; who shall be well-versed in the laws of the state; who shall have resided in and been actively engaged in the practice of law in Galveston County, Texas, for a period of not less than four years prior to such general election; and who shall hold his office for four years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Governor shall appoint a Judge of the County Court No. 1 of Galveston County, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of the County Court at Law No. 1 of Galveston County shall be filled by the Commissioners Court of Galveston County, Texas, and the appointee shall hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

Sec. 11. (a) The Judge of the County Court No. 1 of Galveston County shall take the oath of office prescribed by the Constitution, but no bond shall be required of him.

(b) The Commissioners Court of Galveston County shall fix the yearly salary of the Judge of the County Court No. 1 of Galveston County at a sum not less than 90 percent of the total salary, includ-

ing supplements, paid any District Judge in and for Galveston County. The salary shall be paid to each Judge in equal monthly installments out of the General Fund of Galveston County, Texas, by warrants drawn upon the County Treasury upon orders of the Commissioners Court of Galveston County, Texas.

Sec. 12. A special judge may be appointed or elected for the County Court No. 1 of Galveston County in the same manner as may now or hereafter be provided by the General Laws of this state relating to the appointment and election of special judges. Every such special judge thus appointed or elected for said court shall receive for the services he may actually perform the same amount of pay which the regular judge of said court would be entitled to receive for such services.

Sec. 13. The County Court No. 1 of Galveston County, or the judge thereof, shall have power to grant all writs necessary to the enforcement of the jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of the court, or of any other court in Galveston County of inferior jurisdiction to the County Court No. 1 of Galveston County.

Sec. 14. The County Court No. 1 of Galveston County shall hold six terms of court, commencing on the first Monday in January, March, May, July, September, and November of each year, and each term shall continue until the business of the court is disposed of; provided, however, that no term of the court shall extend beyond the date fixed for the commencement of the succeeding term except pursuant to an order entered upon the minutes during the term to be extended.

[Acts 1965, 59th Leg., p. 523, ch. 269, eff. May 28, 1965. Amended by Acts 1969, 61st Leg., p. 2130, ch. 734, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 2844, ch. 931, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1346, ch. 511, § 1, eff. June 14, 1973; Acts 1975, 64th Leg., p. 1332, ch. 496, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 278, ch. 133, §§ 17, 18, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 783, ch. 345, § 6, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1641, ch. 686, §§ 11, 12, eff. Aug. 27, 1979.]

Art. 1970-342b. County Court No. 2 of Galveston County

Sec. 1. There is created on the effective date of this Act a court to be held in Galveston County to be known as the "County Court No. 2 of Galveston County."

Sec. 2. (a) The County Court No. 2 of Galveston County shall have the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions, matters, and proceedings under the constitution and laws of Texas and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and municipal courts within Galveston County. The judge of the court shall have the same powers, rights, and privileges as to criminal matters as are

now or may be vested in the judges of county courts having criminal jurisdiction.

(b) The County Court No. 2 of Galveston County shall have the same jurisdiction and powers in civil actions, matters, and proceedings that are now or may be conferred by law upon and vested in the County Court of Galveston County, the County Court No. 1, the Probate and County Court of Galveston County, and the judges thereof. The jurisdiction of the County Court of Galveston County, the Probate and County Court, and the County Courts Nos. 1 and 2 of Galveston County over all such actions, matters, and proceedings, civil and criminal, within Galveston County shall be concurrent.

(c) In addition to the other jurisdiction granted in this section, the County Court No. 2 of Galveston County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

Text of subsec. (d) as added by Acts 1979, 66th Leg., p. 783, ch. 345, § 7

(d) In addition to all other jurisdiction granted by law to the County Court No. 2, the court has concurrent jurisdiction with the district courts, the probate and county court, and the County Court No. 1 of Galveston County in juvenile matters and proceedings, and notwithstanding any other provision of the law relating to the designation of juvenile courts, each of these courts may serve as a juvenile court. All juvenile matters and proceedings shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall act as clerk in all juvenile proceedings, shall maintain all records, and upon order of the judge of the 306th District Court shall transfer juvenile matters and proceedings to the docket of the court designated therein.

Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition.

Text of subsec. (d) as added by Acts 1979, 66th Leg., p. 1643, ch. 686, § 14

(d) In addition to all other jurisdiction granted by law to the County Court No. 2, the court has concurrent jurisdiction with the district courts, the probate and county court, and the County Court No. 1 of Galveston County in juvenile matters and proceedings, notwithstanding any other provision of the law relating to the designation of juvenile courts, each of these courts may serve as a juvenile court. All juvenile matters and proceedings shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall act as clerk in all juvenile proceedings, shall maintain all records, and shall transfer juvenile matters and proceedings to the other courts so that the County Courts Nos. 1 and 2, the Probate and County Court, and the 306th District Court will rotate trying all

juvenile cases and holding detention hearings and other associated matters during a three-month period of each year, beginning with the County Court No. 1 during the first quarter of each year, the County Court No. 2 during the second quarter, the Probate and County Court during the third quarter, and the 306th District Court during the fourth quarter, except that the judge of the 306th District Court upon his own order may retain jurisdiction of or transfer to one of the other courts, that is, County Courts Nos. 1 and 2 and the Probate and County Court, any such case as the judge of the 306th District Court may determine serves the needs of justice.

Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition.

Sec. 3. (a) Criminal cases shall be filed and docketed sequentially in the County Court No. 1 of Galveston County and the County Court No. 2 of Galveston County. Civil cases shall be filed and docketed sequentially in the County Court No. 1, the County Court No. 2, and the Probate and County Court of Galveston County. Upon the effective date of this Act, the civil cases now filed and docketed in County Court No. 1 shall be refiled in an equal and proportionate manner among the County Court No. 1, the County Court No. 2, and the Probate and County Court of Galveston County. The criminal cases now filed and docketed in County Court No. 1 shall be refiled in an equal and proportionate manner between County Court No. 1 and County Court No. 2.

(b) Probate matters, mental illness cases, and alcoholism hearings, shall continue to be filed and docketed in the County Court of Galveston County and the Probate and County Court of Galveston County in the same manner as they have been heretofore filed and docketed, except as may otherwise be agreed upon by consent of all judges of the county courts of Galveston County and the county probate court. Condemnation cases may be filed and docketed in the County Court of Galveston County, the Probate and County Court of Galveston County, County Court No. 1 of Galveston County, or County Court No. 2 of Galveston County.

Sec. 4. The clerk of the County Court No. 2 of Galveston County shall keep a separate docket for the court in the same manner as now or may be provided by law for the keeping of dockets for the County Court of Galveston County and the County Court No. 1 and the Probate and County Court of Galveston County. He shall tax the official court reporter's fee as costs in civil actions in the County Court No. 2 of Galveston County in like manner as the fee is taxed in civil cases in the district courts of this state. The judge of the County Court of Galveston County and the judges of the Probate and County Court and the County Courts Nos. 1 and 2 of Galveston County may, with the consent of the judge of the court to which transfer is to be made,

transfer civil or criminal actions, matters, and proceedings from his respective court to any one of the other courts by entry of an order to that effect upon the docket of his court. The judge of the court to which any such action, matter, or proceeding, civil or criminal, shall have been transferred shall have jurisdiction to hear and determine the matter or matters and render and enter the necessary and proper orders, decrees, and judgments therein, and in the same manner and with the same force and effect as if the case, action, matter, or proceeding had been originally filed in the court to which transferred. However, no cause, action, matter, case, or proceeding shall be transferred without the consent of the judge of the court to which it is transferred.

Sec. 5. The judge of the County Court No. 2 of Galveston County, together with the judges of the County Court of Galveston County, the County Court No. 1, and the Probate and County Court of Galveston County, may at any time exchange benches and may at any time sit and act for and with each other in any civil or criminal case, matter, or proceeding now or hereafter pending in their courts, and all such acts thus performed by any of the judges shall be valid and binding on all parties to such cases, matters, and proceedings.

Sec. 6. The practice in the County Court No. 2 of Galveston County shall be the same as prescribed by law relating to county courts and county courts at law. Appeals and writs of error may be taken from judgments and orders of the County Court No. 2 of Galveston County, and from judgments and orders of the judge thereof, in civil and criminal cases and in the same manner as now is or may hereafter be prescribed by law relating to such appeals and writs of error. Appeals may also be taken from interlocutory orders of the County Court No. 2 of Galveston County appointing a receiver or from orders overruling a motion to vacate or appointing a receiver. The procedure and manner in which the appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the district courts throughout this state.

Sec. 7. The judge of the County Court No. 2 of Galveston County shall appoint an official shorthand reporter for the County Court No. 2, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. All of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and all other applicable provisions of the law relating to "official court reporters" shall apply to the official shorthand reporter herein authorized to be appointed. The official shorthand reporter shall be entitled to the same compensation, to be paid in the same manner, as provided for the official shorthand reporters of the district courts of Galveston County. The official shorthand reporter shall be required primarily to report cases in the County Court No. 2 of Galveston

County but may be made available, when not engaged in a jury trial in that court, to report jury trials in the Probate and County Court of Galveston County.

Sec. 8. The county clerk of Galveston County shall be the clerk of the County Court No. 2 of Galveston County. The court shall have a seal consisting of a star of five points with the words "County Court No. 2 of Galveston County" engraved thereon. The sheriff of Galveston County shall appoint a deputy to attend the court when required by the judge.

Sec. 9. The criminal district attorney of Galveston County shall represent the state in all prosecutions in the County Court No. 2 of Galveston County as provided by law for prosecutions in county courts and shall be entitled to the same fees as in other cases.

Sec. 10. There shall be elected a judge of the County Court No. 2 of Galveston County, who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five years, who shall be well versed in the laws of the state and who shall have resided in and been actively engaged in the practice of law in Galveston County for a period of not less than four years prior to his election. When this Act becomes effective, the commissioners court shall appoint a judge of the County Court No. 2 of Galveston County, who shall have the qualifications prescribed in this section and who shall serve until the next general election and until his successor shall have been duly elected and have qualified. Beginning at the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of the county a judge of the County Court No. 2 for a regular term of four years as provided by the Texas Constitution. A vacancy thereafter occurring in the office of the judge of the County Court at Law No. 2 of Galveston County shall be filled by the Commissioners Court of Galveston County, and the appointee shall hold office until the next succeeding general election and until his successor shall be duly elected and have qualified.

Sec. 11. (a) The judge of the County Court No. 2 of Galveston County shall take the oath of office prescribed by the constitution, but no bond shall be required of him.

(b) The Commissioners Court of Galveston County may fix the yearly salary of the judge of the County Court No. 2 of Galveston County at the same salary paid all judges of other county courts and the Probate and County Court of Galveston County. The salary shall be paid to each judge in equal monthly installments out of the General Fund of Galveston County by warrants drawn on the county treasury on orders of the Commissioners Court of Galveston County.

Sec. 12. A special judge may be appointed or elected for the County Court No. 2 of Galveston County in the same manner as may now or hereaf-

ter be provided by the general laws of this state relating to the appointment and election of special judges. Every special judge appointed or elected for the court shall receive for the services he may actually perform the same amount of pay which the regular judge of the court would be entitled to receive for such services.

Sec. 13. The County Court No. 2 of Galveston County, or the judge thereof, shall have power to grant all writs necessary to the enforcement of the jurisdiction of the court and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court in Galveston County of inferior jurisdiction to the County Court No. 2 of Galveston County.

Sec. 14. The County Court No. 2 of Galveston County shall hold six terms of court commencing on the first Monday in January, March, May, July, September, and November of each year, and each term shall continue until the business of the court is disposed of. No term of the court shall extend beyond the date fixed for the commencement of the succeeding term, except pursuant to an order entered on the minutes during the term to be extended.

Sec. 15. The judge of the County Court No. 2 shall be a member of the Juvenile Board of Galveston County and shall have the same jurisdiction over juvenile proceedings as the judges of the County Court No. 1, the Probate and County Court, and the Court of Domestic Relations for Galveston County, with juvenile proceedings filed sequentially in the County Court No. 1, the Probate and County Court, the County Court No. 2, and the Court of Domestic Relations.

[Acts 1977, 65th Leg., p. 274, ch. 133, §§ 1 to 15, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 783, ch. 345, § 7, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1642, ch. 686, §§ 13, 14, eff. Aug. 27, 1979.]

TAYLOR COUNTY

Art. 1970-343. County Court at Law of Taylor County

Sec. 1. There is hereby created a court in and for Taylor County, to be called the County Court at Law of Taylor County. It is expressly provided that the provisions of this Act shall not become effective until the Commissioners Court of Taylor County enters an order adopting the same.

Sec. 2. The County Court at Law of Taylor County shall have jurisdiction in all matters and causes, civil and criminal, original and appellate, over which, by the general laws of the State, the County Court of said county would have jurisdiction except as provided in Section 3 of this Act; and all cases now pending in the County Court of said county, other than probate matters and such as are provided in Section 3 of this Act, are hereby transferred to the County Court at Law of Taylor County, and all writs and process, civil and criminal, heretofore issued by or out of the County Court of said county, other than pertaining to matters over

which, by Section 3 of this Act, jurisdiction remains in the County Court of Taylor County, are hereby made returnable to the County Court at Law of Taylor County. The jurisdiction of the County Court at Law of Taylor County and the Judge thereof shall extend to all matters of eminent domain of which jurisdiction has been heretofore vested in the County Court or in the County Judge, but this provision shall not affect the jurisdiction of the Commissioners Court, or of the County Judge of Taylor County as the presiding officer of such Commissioners Court as to roads, bridges, and public highways, and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the Judge thereof. The County Court at Law of Taylor County shall be the Juvenile Court of Taylor County and shall exercise the jurisdiction conferred on juvenile courts by Chapter 204, Acts of the Forty-eighth Legislature,¹ as heretofore or hereafter amended. All cases pending in the Juvenile Court of Taylor County on the effective date of this Act, along with all the books and records thereof, shall be transferred to the County Court at Law of Taylor County. The County Court at Law of Taylor County and the Judge thereof shall have concurrent jurisdiction with the County Court of Taylor County and the Judge thereof in the trial of insanity cases and the restoration thereof, approval of applications for admission to State Hospitals and Special Schools where admissions are by application, and the power to punish for contempt.

Sec. 3. The County Court of Taylor County shall retain, as heretofore, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors as provided by law; and the said Court and the Judge thereof shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said Court, and also to punish contempts under such provisions as are or may be provided by law governing County Courts throughout the State; but said County Court of Taylor County shall have no other jurisdiction, civil or criminal. The County Judge of Taylor County shall be the Judge of the County Court of Taylor County. All ex-officio duties of the County Judge shall be exercised by the said Judge of the County Court of Taylor County, except in so far as the same shall by this Act be committed to the Judge of the County Court at Law of Taylor County.

Sec. 4. The terms of the County Court at Law of Taylor County shall be held as follows:

On the third Mondays in February, April, June, August, October, and December in each year, and

each term of said Court shall continue in session until and including the Saturday next preceding the beginning of the next succeeding term thereof. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to county courts.

Sec. 5. There shall be elected in Taylor County by the qualified voters thereof, at a general election, a Judge of the County Court at Law of Taylor County, who shall be a qualified voter in said county and who shall be a regularly licensed attorney in this State, well informed in the laws of this State, and who shall have resided in and been actively engaged in the practice of law in this State or as the Judge of a Court for a period of not less than three (3) years next preceding such general election, who shall hold his office for four (4) years, and until his successor shall have been duly qualified. Any vacancy in the office of the Judge of the Court created by this Act shall be filled by the Commissioners Court of Taylor County until the next general election. The Commissioners Court of Taylor County shall, upon the adoption of this Act, appoint a Judge of the County Court at Law of Taylor County, who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 5a. When the Judge of the County Court at Law is ill, disqualified, or otherwise absent, a County Judge of Taylor County with the qualifications required of the Judge of the County Court at Law of Taylor County may, at the request of the Judge of the County Court at Law, sit and hold court in the County Court at Law. When the Judge of the County Court is ill, disqualified, or otherwise absent, the Judge of the County Court at Law may, at the request of the County Judge, sit in the County Court to hear and determine any probate matter pending in the County Court. If either of the Judges is incapable of requesting the services of the other Judge, either the Judge of the County Court or of the County Court at Law may hold court for the other Judge without the Judge's request. The provisions of this section are cumulative of and in addition to the provisions provided in this Act for the election and appointment of a Special Judge of the County Court at Law.

Sec. 6. The Judge of the County Court at Law of Taylor County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 7. A Special Judge of the County Court at Law of Taylor County may be appointed or elected when and under such circumstances as are provided by law relating to County Courts and to the Judges thereof, who shall receive a reasonable fee as determined by the Commissioners Court for each day he so actually serves, to be paid out of the General Fund of the county by the Commissioners Court.

Sec. 8. The Court created by this Act and the Judges thereof shall have power to issue writs of injunction, mandamus, sequestration, attachment,

garnishment, certiorari, and supersedeas, and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said Court or of any other Court or tribunal inferior to said Court.

Sec. 9. The clerk of the County Court of Taylor County shall be the clerk of the County Court at Law of Taylor County. The seal of said Court shall be the same as that provided by law for county courts except that the seal shall contain the words "Clerk of the County Court at Law of Taylor County." The sheriff of Taylor County shall in person or by deputy² attend the said Court when required by the Judge thereof.

Sec. 10. Upon authorization by the Commissioners Court, the Judge of the County Court at Law of Taylor County may appoint a secretary for such County Court at Law. Such secretary shall receive the same compensation as is now allowed to the secretary of the Judge of the County Court, to be paid out of the treasury of Taylor County as other county officials are paid, in equal monthly installments. The Judge of the County Court at Law of Taylor County shall have the authority to terminate the employment of said secretary at any time.

Sec. 11. Upon authorization by the Commissioners Court, the Judge of the County Court at Law of Taylor County may appoint an official shorthand reporter for such court, who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Taylor County, to be paid out of the county treasury of Taylor County as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as they may hereafter be amended, and all other provisions of the law relating to official court reporters shall apply in so far as they may be made applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 12. The Judge of the County Court at Law of Taylor County shall assess the same fees as are or may be established by law relating to County Judges, all of which shall be collected by the clerk of said court and be by him paid monthly into the county treasury. The Judge of said County Court at Law shall receive an annual salary which shall be fixed by the Commissioners Court of Taylor County at an amount not less than the salary paid to the County Judge of Taylor County, and which shall be payable monthly, out of the county treasury of Taylor County.

[Acts 1955, 54th Leg., p. 556, ch. 177. Amended by Acts 1971, 62nd Leg., p. 1140, ch. 255, § 1, eff. May 17, 1971; Acts 1979, 66th Leg., p. 196, ch. 106, § 1, eff. Aug. 27, 1979.]

¹ Article 2338-1.

² So in enrolled bill. Probably should be "deputy."

Art. 1970-343a. County Court at Law No. 2 of Taylor County**Creation**

Sec. 1. The County Court at Law No. 2 of Taylor County is created on the date determined under Section 16 of this Act.

Jurisdiction

Sec. 2. (a) The county court at Law No. 2 of Taylor County has jurisdiction concurrent with County Court at Law No. 1 of Taylor County in eminent domain and in all matters and causes, civil and criminal, original and appellate, provided by law for county courts other than the probate jurisdiction reserved to the county court by Chapter 177, Acts of the 54th Legislature, Regular Session, 1955 (Article 1970-343, Vernon's Texas Civil Statutes).

(b) This act does not affect the jurisdiction of the commissioners court or of the county judge as the presiding officer of the commissioners court as to roads, bridges, and public highways and matters of eminent domain that are now in the jurisdiction of the commissioners court or the judge.

(c) The County Court at Law No. 2 of Taylor County and the judge have concurrent jurisdiction with the county court and the County Court at Law of Taylor County in the trial of cases involving insanity, approval of applications for admission to state hospitals and special schools if admissions are by application, and the power to punish for contempt.

Terms

Sec. 3. The terms of the County Court of Law No. 2 of Taylor County begin on the third Mondays in February, April, June, August, October, and December in each year, and each term continues until and including the Saturday next preceding the beginning of the next term. The practice in the court and appeals and writs of error from the court are as prescribed by the laws relating to county courts.

Judge

Sec. 4. (a) Beginning at the next general election at which county court at law judges are regularly elected after creation of the court, the qualified voters in Taylor County shall elect the judge of the County Court at Law No. 2 of Taylor County. The judge must be a qualified voter in the county, be a regularly licensed attorney in the state, be well informed in the laws of the state, and have resided in and been actively engaged in the practice of law in the state or as the judge of a court for at least three years immediately preceding his general election. The judge serves a term of four years and until his successor is duly qualified.

(b) A vacancy in the office of the judge of the court created by this Act shall be filled by the Commissioners Court of Taylor County until the next general election.

(c) On creation of the court, the Commissioners Court of Taylor County shall appoint a judge of the County Court at Law No. 2 of Taylor County who shall serve until the next general election and until his successor is duly elected and qualified.

Bond; Oath

Sec. 5. The judge of the County Court at Law No. 2 of Taylor County shall execute a bond and take the oath of office as required by law relating to county judges.

Special Judge

Sec. 6. A special judge of the County Court at Law No. 2 of Taylor County may be appointed or elected as provided by law for appointment or election of special judges for county courts. The special judge is entitled to a reasonable fee as determined by the commissioners court for each day served, to be paid out of the general fund of the county by the commissioners court.

Exchange of Benches

Sec. 7. When the judge of the County Court at Law No. 2 of Taylor County is ill, disqualified, or absent, a county judge of Taylor County or a judge of a county court at law in Taylor County with the qualifications required of the judge of the County Court at Law No. 2 of Taylor County may, at the request of the judge of the County Court at Law No. 2 of Taylor County, sit and hold court in the County Court at Law No. 2 of Taylor County. If the judge of the county court is ill, disqualified, or absent, the judge of the County Court at Law No. 2 of Taylor County may, at the request of the county judge, sit in the county court to hear and determine any probate matter pending in the county court. If one of the judges is incapable of requesting the services of another judge, the judge of the county court or of the county court at law may hold court for the other judge without the judge's request. The provisions of this section are cumulative of and in addition to the provisions provided in this Act for the election and appointment of a special judge of the County Court at Law No. 2 of Taylor County.

Writ Power

Sec. 8. The court created by this Act and the judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, and supersedeas and other writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases in which the offense charged is in the jurisdiction of the court, the County Court at Law of Taylor County, or of any court of inferior jurisdiction in the county.

Clerk

Sec. 9. The clerk of the County Court of Taylor County shall be the clerk of the County Court at Law No. 2 of Taylor County.

Seal

Sec. 10. The seal of the court shall be the same as that provided by law for county courts except the seal shall contain the words "County Court at Law No. 2 of Taylor County."

Sheriff

Sec. 11. The sheriff of Taylor County shall in person or by deputy attend the court if required to attend by the judge.

Secretary

Sec. 12. On authorization by the commissioners court, the judge of the County Court at Law No. 2 of Taylor County may appoint a secretary for the court. The secretary receives the same compensation as is now allowed to the secretary of the judge of the county court, to be paid out of the treasury of Taylor County as other county officials are paid in equal monthly installments. The judge of the County Court at Law No. 2 of Taylor County may terminate the employment of the secretary at any time.

Court Reporter

Sec. 13. On authorization by the commissioners court, the judge of the County Court at Law No. 2 of Taylor County may appoint an official shorthand reporter for the court. The reporter must be well skilled in his profession and shall be a sworn officer of the court. The reporter holds office at the pleasure of the court. The reporter shall take the oath required of official court reporters and shall receive a salary set by the commissioners court, to be paid out of the treasury of Taylor County as other county officials are paid in equal monthly installments. The court reporter must have the qualifications prescribed by law for that office, and all other provisions of the law relating to official court reporters, not inconsistent with this Act, apply to the official reporter.

Fees

Sec. 14. The judge of the County Court at Law No. 2 of Taylor County shall assess the same fees as a county judge may assess. The clerk of the court shall collect the fees and pay them monthly into the county treasury.

Salary

Sec. 15. The Commissioners Court of Taylor County shall fix the annual salary of the judge of the court created by this Act at an amount not less than the salary paid to the County Judge of Taylor County. The salary is payable monthly out of the county treasury.

Date of Creation

Sec. 16. The County Court at Law No. 2 of Taylor County is created on January 1, 1988, or on

an earlier date determined by the commissioners court by an order entered on its minutes.

[Acts 1983, 68th Leg., p. 3852, ch. 606, eff. Aug. 29, 1983.]

HUNT COUNTY

Art. 1970-344. Expired

TARRANT COUNTY

Art. 1970-345. Probate Court No. 1 of Tarrant County

Sec. 1. There is hereby created in and for Tarrant County, Texas, effective September 1, 1957, a county court to be called Probate Court of Tarrant County.

Sec. 1a. The name of the Probate Court of Tarrant County is changed to the "Probate Court No. 1 of Tarrant County," and the seal of the court shall contain the words "Probate Court No. 1 of Tarrant County." Wherever the name "Probate Court of Tarrant County" appears in the statutes, it shall mean "Probate Court No. 1 of Tarrant County."

Sec. 2. The Probate Court of Tarrant County shall have the general jurisdiction of a Probate Court within the limits of Tarrant County, concurrent with the jurisdiction of the County Court of Tarrant County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and habitual drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and habitual drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. On the first day of the initial term of said Probate Court of Tarrant County there shall be transferred to the docket of said court, under the direction of the county judge and by order entered on the minutes of the County Court of Tarrant County, such number of such proceedings and matters then pending in the County Court of Tarrant County as shall be, as near as may be, one-half in number of the total of all of the same then pending, and all writs and processes theretofore issued by or out of said County Court of Tarrant County in such matters or proceedings shall be returnable to the Probate Court of Tarrant County as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed with the County Clerk of Tarrant County, irrespective of the court or judge to which the matter or proceeding is addressed, shall be filed by said clerk alternately in said respective courts in the order in which the same are deposited with him for filing, beginning first with the County Court of Tarrant County. No proceeding had in either of said courts, nor any order entered therein, shall be invalid because of any failure of said clerk to file new matters and proceedings alternately as above provided. The judge of either of said courts, in his discretion, may, by an order entered upon the minutes, on or after

the first day of the initial term of said Probate Court of Tarrant County, transfer from either of said courts to the other, any such matter or proceeding then or thereafter pending therein, and all processes extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made and shall be as valid and binding as though originally issued out of the court to which such transfer may be made. No application, pleading, motion, order, judgment, oath, bond, citation, return of citation, or any other matter or proceeding shall be invalid because of any reference therein to either of said courts by the name of the other, and any reference therein to either of said courts by the name of the other of said courts shall be legally sufficient for every purpose.

Sec. 4. The County Court of Tarrant County shall retain, as heretofore, the powers and jurisdiction of said Court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature other than those provided in Section 3 of this Act to be transferred to and filed in the Probate Court of Tarrant County. The County Judge of Tarrant County shall be the Judge of the County Court of Tarrant County, and all ex officio duties of the County Judge of Tarrant County, as they now exist, shall be exercised by the County Judge of Tarrant County, except in so far as the same shall by this Act expressly be committed to the Judge of the Probate Court of Tarrant County. Nothing in this Act contained shall be construed as in anywise impairing or affecting the jurisdiction of the County Court at Law of Tarrant County.

Sec. 5. The practice and procedure in the Probate Court of Tarrant County shall be the same as that provided by law generally for the county courts of this State; and all Statutes and Laws of the State, as well as all rules of court relating to proceedings in the County Courts of this State, or to the review thereof or appeals therefrom, shall, as to all matters within the jurisdiction of said Court, apply equally thereto.

Sec. 6. The Probate Court of Tarrant County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said Court, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing County Courts throughout the State.

Sec. 7. There shall be two (2) terms of said Probate Court of Tarrant County in each year, and the first of such terms shall be known as the January-June Term; it shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and includ-

ing Sunday next before the first Monday in the following January. The initial term of said Court shall begin on the first Monday after the effective date of this Act.

Sec. 8. There shall be elected in said County by the qualified voters thereof, at the General Election, for a term of four (4) years and until his successor shall have been duly qualified, a Judge of the Probate Court of Tarrant County, who shall be well informed in the laws of the State, and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years prior to his election. A judge of said Court shall be appointed by the Commissioners Court of Tarrant County as soon as may be after the passage of this Act, who shall hold office from the date of his appointment until the next General Election, and until his successor shall be duly elected and qualified.

Sec. 9. The Judge of the Probate Court of Tarrant County shall execute a bond and take the oath of office as required by the laws relating to the County Judges.

Sec. 10. Any vacancy in the office of the Judge of the Probate Court of Tarrant County may be filled by the Commissioners Court of Tarrant County by the appointment of a Judge of said Court, who shall serve until the next General Election, and until his successor shall be duly elected and qualified.

Sec. 11. In case of the absence, disqualification or incapacity of either the Judge of the Probate Court of Tarrant County, or the County Judge of Tarrant County, or in the discretion of either of them for any other reason, the County Judge of Tarrant County may sit and act as Judge of the Probate Court of Tarrant County, and the Judge of the Probate Court of Tarrant County may sit and act as Judge of the County Court of Tarrant County, with respect to any matters referred to in Section 2 of this Act, and either of said judges may hear and determine, either in his own courtroom or, with the consent of the judge thereof, in the courtroom of the other of said courts, any matter or proceeding pending in either of said courts, and may enter any orders in such matters or proceedings as the judge of said other court might enter if personally presiding therein.

Sec. 12. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Tarrant County and the County Judge of Tarrant County, a Special Judge of the Probate Court of Tarrant County may be appointed or elected, as provided by the general laws relating to the County Courts and to the Judges thereof.

Sec. 13. The County Clerk of Tarrant County shall be the Clerk of the Probate Court of Tarrant County. The seal of the Court shall be the same as that provided by law for County Courts, except that the seal shall contain the words "Probate Court of Tarrant County." The sheriff of Tarrant County

shall, in person or by deputy, attend the said Court when required by the Judge thereof.

Sec. 14. The Judge of the Probate Court of Tarrant County shall collect the same fees as are now or hereafter may be established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected, and from and after the effective date of this Act, the Judge of said Court shall receive, upon qualifying, an annual salary to be fixed by order of the Commissioners Court of Tarrant County, of not less than Sixteen Thousand Dollars (\$16,000), payable out of the County Treasury by the Commissioners Court.

Sec. 15. The Commissioners Court of Tarrant County shall provide the following employees for the Judge of the County Probate Court of Tarrant County: (a) a secretary to be paid not less than Four Thousand, One Hundred and Forty Dollars (\$4,140) per annum, and (b) a chief clerk to be paid not less than Six Thousand Dollars (\$6,000) per annum, at salaries to be fixed by the Commissioners Court but not less than the figures indicated, which salaries shall be paid monthly out of the County Treasury by the Commissioners Court from any funds available for this purpose, provided, however, that the Judge of the County Probate Court of Tarrant County is hereby authorized to employ, supervise, and terminate each and every one of said employees. The Commissioners Court of Tarrant County may also provide such other and additional clerical assistance as may be required to properly carry on the business of said Court at salaries to be fixed by the Commissioners Court.

Sec. 15a. No action taken, nor any order made or entered, nor any application, pleading, motion, bond, citation, return of citation filed, nor any other proceeding had in the County Court of Tarrant County or in the Probate Court of Tarrant County, heretofore or hereafter, shall ever be held invalid because done in either of said courts when it should have been done in the other of said courts, or because of erroneous reference therein to either of said courts by the name of the other of said courts, and as against any complaint or charge of such nature, all of the same heretofore done are hereby validated for every purpose.

Sec. 16. The Commissioners Court of Tarrant County is hereby authorized to amend the county budget for the fiscal year of 1957, if necessary, from and at the effective date of this Act for the balance of said fiscal year, in order to provide for the salaries of the Judge of the Probate Court and employees authorized in this Act.

[Acts 1957, 55th Leg., p. 1204, ch. 400. Amended by Acts 1959, 56th Leg., p. 739, ch. 334, §§ 1, 2, 3; Acts 1961, 57th Leg., p. 1083, ch. 485, § 1; Acts 1967, 60th Leg., p. 2093, ch. 782, § 1, eff. Aug. 28, 1967; Acts 1981, 67th Leg., p. 2101, ch. 485, § 14, eff. Sept. 1, 1981.]

Art. 1970-345a. Probate Court No. 2 of Tarrant County

Creation

Sec. 1. The Probate Court No. 2 of Tarrant County is created.

Jurisdiction

Sec. 2. (a) The Probate Court No. 2 of Tarrant County has the general jurisdiction of a probate court within the limits of Tarrant County, and its jurisdiction is concurrent with the jurisdiction of the County Court of Tarrant County and the Probate Court of Tarrant County in such matters and proceedings.

(b) The County Court of Tarrant County shall retain the powers and jurisdiction of that court existing on the effective date of this Act. The county judge of Tarrant County shall be the judge of the County Court of Tarrant County, and all ex officio duties of the county judge of Tarrant County shall be exercised by the county judge of Tarrant County.

Writ Power

Sec. 3. The Probate Court No. 2 of Tarrant County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of the court, and also the power to punish for contempt under the provisions provided by the general laws governing county courts throughout the state.

Terms

Sec. 4. There shall be two terms of the Probate Court No. 2 of Tarrant County in each year. The first term shall be known as the January-June term and shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July. The second term shall be known as the July-December term and shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January. The initial term of the court shall begin on the first Monday after the effective date of this Act.

Judge

Sec. 5. (a) The judge of the Probate Court No. 2 of Tarrant County shall be well informed in the laws of the state and shall have been a duly licensed and practicing member of the bar of this state for not less than five consecutive years prior to his election or appointment.

(b) When the court is created, a judge of the court shall be appointed by the Commissioners Court of Tarrant County, who shall hold office from the date of his appointment until the next general election and until his successor is elected and has qualified. Beginning at the general election in 1982

and every fourth year thereafter, there shall be elected by the qualified voters of the county, for a term of four years and until his successor is elected and has qualified, a judge of the Probate Court No. 2 of Tarrant County, as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) After the initial appointment, a vacancy in the office of the judge of the Probate Court No. 2 of Tarrant County may be filled by the Commissioners Court of Tarrant County by the appointment of a judge who shall serve until the next general election and until his successor is elected and has qualified.

(d) The judge of the Probate Court No. 2 of Tarrant County shall execute a bond and take the oath of office as required by the laws relating to the county judges.

(e) In case of the absence, disqualification, or incapacity of the judge of the Probate Court No. 2 of Tarrant County, a special judge of the Probate Court No. 2 of Tarrant County may be appointed or elected, as provided by the general laws relating to the county courts and to the judges thereof.

(f) The judge of the Probate Court No. 2 of Tarrant County shall collect the fees that are established by law relating to county judges as to matters within the jurisdiction of the court, all of which shall be paid by him into the county treasury as collected. The judge shall receive an annual salary to be fixed by order of the Commissioners Court of Tarrant County in an amount equal to the annual salary of the judge of the Probate Court of Tarrant County and payable out of the county treasury by the commissioners court.

Personnel

Sec. 6. (a) The county clerk of Tarrant County shall be the clerk of the Probate Court No. 2 of Tarrant County. The sheriff of Tarrant County shall, in person or by deputy, attend the court when required by the judge.

(b) The Commissioners Court of Tarrant County shall provide a secretary and a chief clerk for the judge of the Probate Court No. 2 of Tarrant County, at salaries to be fixed by the commissioners court, which salaries shall be paid monthly out of the county treasury by the commissioners court from any funds available for this purpose. The judge of the Probate Court No. 2 of Tarrant County is authorized to employ, supervise, and terminate each of the employees. The Commissioners Court of Tarrant County may also provide such other and additional clerical assistance as may be required to properly carry on the business of the court at salaries to be fixed by the commissioners court.

Transfer of Cases and Judges

Sec. 7. (a) The judge of the county court and each of the judges of the Probate Court of Tarrant County and the Probate Court No. 2 of Tarrant County may transfer cases to and from the dockets

of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. However, no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred. In cases transferred to any of those courts by order of the judge of another court, all processes, writs, bonds, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All processes issued or returned before transfer of the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

(b) The county judge and the judges of the Probate Court of Tarrant County and the Probate Court No. 2 of Tarrant County may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, another may hold court for him without the necessity of transferring the case involved. Any of the judges may hear all or any part of a case pending in the county court, the Probate Court of Tarrant County, or the Probate Court No. 2 of Tarrant County, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of and in addition to the provisions provided for the selection and appointment of a special judge of the probate courts.

Practice and Procedure

Sec. 8. (a) The practice and procedure in the Probate Court No. 2 of Tarrant County shall be the same as that provided by law generally for the county courts of this state. All statutes and laws of the state, as well as all rules of court relating to proceedings in the county courts of this state, or to the review thereof or appeals therefrom, shall, as to all matters within the jurisdiction of the court, apply equally thereto.

(b) The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the Probate Court No. 2 of Tarrant County.

(c) All new probate matters and proceedings filed on or after the effective date of this Act with the county clerk of Tarrant County, irrespective of the court or judge to which the matter or proceeding is addressed, shall be filed by the clerk alternately in the county court, the Probate Court of Tarrant County, and the Probate Court No. 2 of Tarrant County in the order in which the same are deposited

with him for filing. No proceeding had in any of those courts, nor any order entered therein, shall be invalid because of any failure of the clerk to file new matters and proceedings alternately.

Seal

Sec. 9. The seal of the court shall be the same as that provided by law for county courts, except that the seal shall contain the words "Probate Court No. 2 of Tarrant County."

[Acts 1981, 67th Leg., p. 2096, ch. 485, §§ 1 to 9, eff. Sept. 1, 1981.]

ECTOR COUNTY

Art. 1970-346. County Court at Law of Ector County

Sec. 1. There is hereby created a court to be held in Odessa, Ector County, Texas, which shall be known as the County Court at Law of Ector County, and which shall be a court of record.

Sec. 2. The County Court at Law of Ector County shall have original and concurrent jurisdiction with the County Court of Ector County in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of this state, county courts have jurisdiction, except as provided in Section 5 of this Act; but this provision shall not affect jurisdiction of the Commissioners Court or the county judge of Ector County, as the presiding officer of the Commissioners Court as to roads, bridges and public highways, and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the presiding judge thereof.

Sec. 2a. The County Court at Law of Ector County shall have jurisdiction concurrent with that of the district court in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

Sec. 3. The County Court at Law of Ector County has concurrent civil jurisdiction with the district court in cases in which the matter in controversy exceeds \$500 and does not exceed \$50,000, excluding interest, in appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy, in eminent domain cases and proceedings as provided by general law and in cases and proceedings involving family law matters, including adoption; birth records; removal of disability of minority or coverture; change of names of persons; divorce and marriage annulment, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; paternity; termination of parental rights; independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parents, between parent and child, and between spouses.

Sec. 4. The County Court at Law of Ector County shall also have the general jurisdiction of a probate court within the limits of Ector County, concurrent with jurisdiction of the County Court of Ector County in such matters and proceedings. Such County Court at Law of Ector County shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings.

The County Court at Law of Ector County shall have the jurisdiction conferred upon probate courts specially created by the Legislature in Article 1970a-1, Revised Civil Statutes of Texas, as the same now stands or may hereafter be amended, and all other provisions of the law relating to probate courts, whether specially created by the Legislature or otherwise, shall be and are hereby made to apply in all their provisions insofar as they are applicable to the County Court at Law of Ector County and insofar as they are not inconsistent with this Act.

Sec. 5. The County Judge of Ector County shall be the judge of the county court of Ector County. All ex-officio duties of the county judge shall be exercised by the judge of the County Court of Ector County except insofar as the same shall, by this Act, be committed to the judge of the County Court at Law of Ector County.

Sec. 6. (a) The respective judges of the County Court of Ector County and of the County Court at Law of Ector County shall, from time to time as occasion may require, transfer cases from one of such courts to the other of such courts in order that the business may be equally distributed among them, that the judges thereof may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the judge in whose court it is pending; provided, however, that no case shall be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and provided further, that no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) On motion of a party, on agreement of the parties, or on their own motion, the judges of the County Court at Law of Ector County and the district courts in Ector County may transfer civil cases and proceedings to and from the dockets of their respective courts, except that a case or proceeding may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the

court to which it is transferred. If a judge is disqualified in a case or proceeding, he shall transfer the case or proceeding from his court to another of the courts.

(c) When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which the case is transferred as if originally issued out of the court to which the transfer is made.

Sec. 7. In probate matters, in the absence, disqualification or incapacity of the judge of the County Court at Law of Ector County the County Judge of Ector County may sit and act as judge of the County Court at Law, and may hear and determine, either in his own courtroom or in the courtroom of the County Court at Law any matter or proceedings there pending, and enter any orders in such matters or proceedings as the judge of the County Court at Law may enter if personally presiding therein. Likewise, in probate matters, the judge of the County Court at Law may, in the absence, disqualification or incapacity of the county judge sit and act as judge of the county court, and may hear and determine, either in his own courtroom or in the courtroom of the county court, any matter or proceeding there pending and enter any orders in such matters or proceedings as the county judge may enter if personally presiding therein. The signature of either judge on any order shall be conclusive that all conditions have been met or complied with to qualify him to act for the other in such probate matters.

Sec. 8. The judge of the County Court at Law of Ector County and the judge of the County Court of Ector County may, at any time, exchange benches, and may, at any time, sit and act for and with each other in any civil or criminal case, matter or proceeding of which the said courts have concurrent jurisdiction, pending now, or hereafter, in either the County Court at Law of Ector County or the County Court of Ector County; and any and all such acts thus performed by the judge of the County Court of Ector County or the judge of the County Court at Law of Ector County shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 9. The terms of the County Court at Law of Ector County shall be as prescribed by the laws relating to the county courts. The terms of the County Court at Law of Ector County shall be held as now established for the terms of the County Court of Ector County and the same may be changed in accordance with the laws governing the

change in the terms of the County Court of Ector County.

Sec. 10. At the next general election after the effective date of this Act there shall be elected a judge of the County Court at Law of Ector County who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five (5) years, well informed in the laws of the state, who shall have resided in and been actively engaged in the practice of law in Ector County, Texas, for a period of not less than two (2) years prior to such general election, and who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Commissioners Court of Ector County, Texas, shall appoint a judge of said County at Law of Ector County, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Court at Law of Ector County shall in like manner, as hereinabove provided, be filled by said Commissioners Court of Ector County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

Sec. 11. The county attorney of Ector County shall represent the state in all prosecutions in the County Court at Law of Ector County, as provided by law for such prosecutions in county courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the county courts.

Sec. 12. The judge of the County Court at Law of Ector County may be removed from office in the same manner and for the same causes as any county judge may be removed under the laws of this state.

Sec. 13. The judge of the County Court at Law of Ector County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 14. A special judge of the County Court at Law of Ector County may be appointed or elected as provided by law relating to county courts and to the judge thereof. He shall receive the sum of Thirty Dollars (\$30.00) per day for each day he so actually serves, to be paid out of the general fund of the county by the Commissioners Court.

Sec. 15. In the case of the disqualification of the judge of the County Court at Law of Ector County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge of the County Court at Law to try such case or cases where the judge of the County Court at Law of Ector County is disqualified. In case of the selection of such special judge by agreement of the parties or their attorneys, such special judge shall draw the same compensation as that provided in Section 14 of this Act.

Sec. 16. The County Court at Law of Ector County, or the judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court or of any other court in said county of inferior jurisdiction to the County Court at Law, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing county courts throughout the state, and said judge shall have all other powers, duties, immunities and privileges as are or may be provided by general law for judges of courts of record and for judges of County Courts at Law, and he shall be a magistrate and a conservator of the peace.

Sec. 17. (a) The county clerk of Ector County shall be the clerk of the County Court at Law of Ector County, except that, in matters within the concurrent jurisdiction of the county court at law and the district courts, the district clerk serves as clerk of the court. In matters within their concurrent jurisdiction, the judges of the county courts at law and the district courts may adopt the rules governing the filing and numbering of cases, the assignment of cases for trial, and the distribution of the work of those courts that they consider necessary or desirable for the orderly dispatch of the business of those courts.

(b) The seal of the county court at law shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Ector County."

Sec. 18. The sheriff of Ector County shall in person or by deputy attend the County Court at Law of Ector County when required by the judge thereof.

Sec. 19. The jurisdiction and authority now vested by law in the county clerk of Ector County and the judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law and the judge thereof; but jurors and talesmen summoned for either of said courts may by order of the judge of the court in which they are summoned, be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred. Upon concurrence of the judge of the County Court at Law and the county judge, jurors may be summoned for service in both courts and shall be used interchangeably in both such courts.

Sec. 20. Jurors regularly impaneled for the week by the district court or courts, if there be more than one, may on request of either the judge of the county court or the judge of the County Court at Law, be made available by the district judge or judges in such numbers as may be requested, for service for the week in either or both the

county court or the County Court at Law and such jurors shall serve in the county court and County Court at Law the same as they had been drawn and selected as is otherwise provided by law.

Sec. 21. The judge of the County Court at Law of Ector County shall appoint an official shorthand reporter for such court who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. Such reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Ector County to be paid out of the county treasury of Ector County, as other county officials are paid in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and are hereby made to apply in all their provisions insofar as they are applicable to the official shorthand reporter herein authorized to be appointed and insofar as they are not inconsistent with this Act.

Sec. 22. The judge of the County Court at Law of Ector County shall receive the same salary and be paid from the same fund and the same manner as is not prescribed or may be established by law for the county judge of Ector County, to be paid out of the county treasury of Ector County, Texas, on the order of the Commissioners Court of said county, and said salary shall be paid monthly in equal installments.

Sec. 23. The judge of the County Court at Law of Ector County shall assess the same fees as are prescribed by law relating to the county judge's fees, all of which will be collected by the clerk of the court and shall be paid into the county treasury on collection, no part of which shall be paid to the judge, but he shall draw the salary as above specified in this Act.

Sec. 24. (a) The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Ector County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law of Ector County. Practice in the county court at law shall conform to that prescribed by law and the rules for county courts, except that procedure, evidence, issuance of process and writs, juries, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction with the district courts shall be governed by the law and rules pertaining to district courts.

(b) This Act does not diminish the jurisdiction of the district courts or the county court, and those courts retain and continue to exercise the jurisdiction that is conferred by law on district courts and county courts, respectively. The jurisdiction con-

ferred by this Act is concurrent with the jurisdiction of those courts.

[Acts 1959, 56th Leg., p. 6, ch. 4. Amended by Acts 1981, 67th Leg., p. 2428, ch. 620, § 1, eff. June 15, 1981; Acts 1983, 68th Leg., p. 5534, ch. 1044, § 10, eff. Aug. 29, 1983.]

Art. 1970-346a. County Court at Law No. 2 of Ector County

Creation

Sec. 1. The County Court at Law No. 2 of Ector County is created as provided by this Act.

Jurisdiction

Sec. 2. (a) The County Court at Law No. 2 has the same civil, criminal, and probate jurisdiction, original and appellate, over all causes and proceedings that is prescribed by law for county courts, and that jurisdiction is concurrent with the jurisdiction of the County Court of Ector County and the County Court at Law of Ector County.

(b) The district courts, county court, and county courts at law in Ector County have jurisdiction over juvenile matters as provided by general law, and each court may be designated a juvenile court.

(c) The County Court at Law No. 2 has jurisdiction concurrent with the district court in eminent domain proceedings as provided by general law and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$50,000, excluding interest. The County Court at Law No. 2 has concurrent civil jurisdiction with the district court in suits and proceedings involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; paternity; termination of parental rights; independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parents, between parent and child, and between spouses. The County Court at Law No. 2 has concurrent civil jurisdiction with the district court in appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy.

(d) This Act does not diminish the jurisdiction of the district court or the county court in Ector County, and those courts retain and continue to exercise the jurisdiction that is conferred by law on district courts and county courts, respectively. The jurisdiction conferred by this Act is concurrent with the jurisdiction of those courts.

(e) This Act does not affect the jurisdiction of the commissioners court or of the county judge as the presiding officer of the commissioners court as to roads, bridges, public highways, and the general

administration of county business that is within the jurisdiction of the commissioners court. The county judge of Ector County is the judge of the County Court of Ector County and retains and shall perform all ex officio duties and executive and administrative functions of the county judge.

Writ Power

Sec. 3. The County Court at Law No. 2 or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and the judge may punish for contempt as prescribed by general law.

Terms

Sec. 4. The County Court at Law No. 2 has the same terms of Court as the terms of the County Court in Ector County.

Judge

Sec. 5. (a) The judge of the County Court at Law No. 2 must have resided and practiced law in Ector County for at least two years prior to the judge's appointment or election, and must be a licensed attorney in this state who has been actively engaged in the practice of law for at least five years prior to the judge's appointment or election.

(b) The commissioners court shall appoint a judge to fill the initial vacancy in the office of the judge of the County Court at Law No. 2 when the court is created and shall fill a subsequent vacancy in the office of the judge in the same manner. The appointee to fill either the initial or a subsequent vacancy holds office until the next general election after the appointment and until his successor is elected and qualified.

(c) Beginning at the general election in 1986, the judge of the County Court at Law No. 2 is elected by the qualified voters of Ector County for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. The judge shall continue to perform the duties of the office until his successor is elected and qualified.

(d) The judge of the County Court at Law No. 2 shall take the oath of office prescribed by the constitution of this state and shall execute a bond as required by the law relating to county judges.

(e) The judge of the County Court at Law No. 2 may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the County Court at Law No. 2 shall receive the same salary as the county judge, which shall be paid from the same fund and in the same manner as the salary of the county judge.

The salary shall be paid monthly in equal installments. The judge of the County Court at Law No. 2 is entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner that is allowed the county judge. The judge of the County Court at Law No. 2 shall assess the same fees that are prescribed by law relating to the county judge's fees. The fees shall be collected by the clerk of the court and paid into the county treasury on collection. The fees may not be paid to the judge.

(g) A special judge of the County Court at Law No. 2 may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. A special judge of a county court at law in Ector County must have the same qualifications and is entitled to the same rate of compensation as the regular judge.

Court Officials and Personnel

Sec. 6. (a) The county attorney, county clerk, and sheriff of Ector County shall serve as county attorney, clerk, and sheriff, respectively, for the County Court at Law No. 2, except that the district clerk of Ector County shall serve as clerk of the county court at law in cases where that court has concurrent jurisdiction with the district court. In matters within their concurrent jurisdiction, the judges of the county courts at law and the district courts may adopt the rules governing the filing and numbering of cases, the assignment of cases for trial, and the distribution of the work of those courts that they consider necessary or desirable for the orderly dispatch of the business of those courts.

(b) The judge of the County Court at Law No. 2 shall appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be as provided by law for official court reporters. The official court reporter is entitled to the compensation fixed by the commissioners court.

Practice and Procedure

Sec. 7. (a) Practice in the County Court at Law No. 2 shall conform to that prescribed by law and the rules for county courts, except that procedure, evidence, issuance of process and writs, juries, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving matters of concurrent jurisdiction with the district court shall be governed by the law and rules pertaining to district courts.

(b) The judges of the county court and the county courts at law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. On motion of a party, on agreement of the parties, or on their own motion, the judges of the county courts at law in Ector County and the district courts in Ector County may transfer civil cases and proceedings to and from the dockets of their respective

courts, except that a case or proceeding may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. If a judge is disqualified in a case or proceeding, he shall transfer the case or proceeding from his court to another of the courts. When a case is transferred from one court to another as provided by this subsection, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which the case is transferred as if originally issued out of the court to which the transfer is made.

(c) The county judge and the judges of the county courts at law may exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, another may hold court for him without the necessity of transferring the case involved. Any of those judges may hear all or any part of a case pending in the county court or a county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring the case to his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of the provisions for the election and appointment of a special judge.

(d) The laws that govern the drawing, selection, and service of jurors for county courts apply to the County Court at Law No. 2, including the provisions for interchangeable juries applicable in counties with at least three district courts and the provisions applicable in counties with at least two county courts at law. Jurors regularly impaneled for the week by the district court of Ector County may, at the request of either the judge of the county court or the judge of a county court at law, be made available by the district judge in the numbers requested and shall serve for the week in the county court or the county court at law.

Facilities

Sec. 8. (a) The County Court at Law No. 2 shall sit in Odessa. The commissioners court shall furnish and equip a suitable courtroom and office space for the county court at law.

(b) The seal of the County Court at Law No. 2 shall be the same as that provided by law for county

courts, except the seal shall contain the words "County Court at Law No. 2 of Ector County."

Date of Creation

Sec. 9. The County Court at Law No. 2 of Ector County is created on January 1, 1986, or on a date determined by the commissioners court by an order entered on its minutes, whichever date is earlier.

[Acts 1983, 68th Leg., p. 5528, ch. 1044, §§ 1 to 9, eff. Aug. 29, 1983.]

NOLAN COUNTY

Art. 1970-347. County Court at Law of Nolan County

Sec. 1. There is hereby created a Court to be held in Sweetwater, Nolan County, Texas, which shall be known as the County Court at Law of Nolan County; providing, however, that the provisions of this Act shall not become operative until the Commissioners Court of Nolan County enters an order adopting same.

Sec. 2. (a) The County Court at Law of Nolan County shall have original and concurrent jurisdiction with the County Court of Nolan County, in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of this State, County Courts have jurisdiction, except as provided in Section 6 of this Act; but this provision shall not affect jurisdiction of the Commissioners Court or the County Judge of Nolan County, Texas, as the presiding officer of the Commissioners Court as to roads, bridges and public highways, and matters of eminent domain, which are now within the jurisdiction of the Commissioners Court or the Judge of Nolan County.

(b) With the consent of the other, the Judge of either of such Courts shall have the power to transfer to the other Court any case over which the Courts have concurrent jurisdiction pending upon the docket of his Court except in cases where the writ of certiorari has been granted.

Sec. 3. The County Court at Law of Nolan County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil matters which by the General Laws of this State is conferred upon Justice Courts. Neither the County Court at Law of Nolan County nor the Judge thereof shall have jurisdiction to act as a Coroner nor to preside at inquests, nor have jurisdiction of claims which come within the jurisdiction of the Small Claims Court as prescribed by Article 2460a of the Revised Civil Statutes of Texas.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of the County Court at Law of Nolan County in civil cases of which said court had appellate or original concurrent jurisdiction with the Justice Court where the judgment or amount in controversy would not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the County Court at Law of Nolan County over such matters as are specified in this Act; nor shall this Act be construed to deny the right of an appeal to the County Court of Law of Nolan County from the Justice Court, where the right of appeal to the County Court now exists by law.

Sec. 6. The County Court of Nolan County shall retain, as heretofore, the general jurisdiction of a Probate Court; it shall probate wills; appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by law; and the said Court, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said Court; and also to punish contempts under such provisions as are or may be provided by General Law governing County Courts throughout the State. The County Judge of Nolan County shall be the Judge of the County Court of Nolan County. All ex-officio duties of the County Judge shall be exercised by the Judge of the County Court of Nolan County except in so far as the same shall, by this Act, be committed to the Judge of the County Court at Law of Nolan County.

Sec. 7. The terms of the County Court at Law of Nolan County shall be as prescribed by the laws relating to the County Courts. The terms of the County Court at Law of Nolan County shall be held as now established for the terms of the County Court of Nolan County and the same may be changed in accordance with the laws governing the change in the terms of the County Court of Nolan County.

Sec. 8. There shall be elected in Nolan County by the qualified voters thereof, at each General Election, a Judge of the County Court at Law of Nolan County. No person shall be elected or appointed Judge of the Court who is not a resident citizen of Nolan County. He shall also be a licensed Attorney of the State of Texas and shall have been a licensed Attorney of the State of Texas for at least two (2) years immediately prior to his appointment or election. The person elected such Judge shall hold his office for four (4) years and until his successor shall have been duly elected and qualified.

Sec. 9. The County Attorney of Nolan County shall represent the State in all prosecutions in the County Court at Law of Nolan County, as provided by law for such prosecutions in County Courts, and

shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 10. As soon as this Act becomes effective the Commissioners Court of Nolan County shall appoint a Judge of the County Court at Law of Nolan County, who shall hold his office until the next General Election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said court.

Sec. 11. The Judge of the County Court at Law of Nolan County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

Sec. 12. The Judge of the County Court at Law of Nolan County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 13. A special Judge of the County Court at Law of Nolan County may be appointed or elected as provided by law relating to County Courts and to the Judge thereof. He shall receive the sum of Thirty Dollars (\$30) per day for each day he so actually serves, to be paid out of the general fund of the county by the Commissioners Court.

Sec. 14. In the case of the disqualification of the Judge of the County Court at Law of Nolan County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law of Nolan County is disqualified. In case of the selection of such Special Judge by agreement of the parties or their Attorneys, such Special Judge shall draw the same compensation as that provided in Section 13 of this Act.

Sec. 15. The County Court at Law of Nolan County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseades, and all writs necessary to the enforcement of jurisdiction of the Court and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court or of any other Court in said County of inferior jurisdiction to the County Court at Law.

Sec. 16. The County Clerk of Nolan County shall be the clerk of the County Court at Law of Nolan County, and the seal of the Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Nolan County."

Sec. 17. The Sheriff of Nolan County shall in person or by deputy attend the County Court at Law of Nolan County when required by the Judge thereof.

Sec. 18. The jurisdiction and authority now vested by law in the County Court of Nolan County and

the Judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law of Nolan County and the Judge thereof; but jurors and talesmen summoned for either of said Courts may by order of the Judge of the Court in which they are summoned be transferred to the other Court for service therein and may be used therein as if summoned for the Court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law of Nolan County and the Judge of the County Court of Nolan County, jurors may be summoned for service in both Courts and shall be used interchangeably in both such Courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said Courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the Court for which they were originally drawn.

Sec. 19. Any vacancy in the office of the Judge of the County Court at Law of Nolan County shall be filled by the Commissioners Court, and when so filled, the Judge shall hold office until the next General Election and until his successor is elected and qualified.

Sec. 20. The Judge of the County Court at Law of Nolan County shall receive the same salary and be paid from the same fund and in the same manner as is now prescribed or may be established by law for the County Judge of Nolan County, to be paid out by the County Treasurer of Nolan County, Texas, on the order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments.

Sec. 21. The Judge of the County Court at Law of Nolan County shall assess the same fees as are prescribed by law relating to the County Judge's fees all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the Judge, but he shall draw the salary as above specified in this Act.

Sec. 22. The Judge of the County Court at Law of Nolan County may appoint an official shorthand reporter for such Court who shall be well-skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Nolan County to be paid out of the County Treasury of Nolan County, as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and are

hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 23. The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Nolan County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law of Nolan County.

[Acts 1959, 56th Leg., p. 179, ch. 100.]

SMITH COUNTY

Art. 1970-348. County Court at Law of Smith County

Sec. 1. There is hereby created a court to be held in Tyler, Smith County, Texas, which shall be known as the County Court at Law of Smith County.

Sec. 2. (a) The County Court at Law of Smith County shall have jurisdiction in all matters, causes, and proceedings, civil, criminal and probate, original and appellate, and also including eminent domain proceedings, over which by the General Laws of this State county courts have jurisdiction, and jurisdiction of said County Court at Law shall be concurrent with that of the County Court of Smith County; but this provision shall not affect the jurisdiction of the Commissioners Court or the County Judge of Smith County as the presiding officer of the Commissioners Court.

(b) The Judge of the County Court at Law may sit in the absence of the County Judge of Smith County from the courtroom in all matters, causes, and proceedings without the necessity of transferring those matters, causes, and proceedings except matters coming under the jurisdiction of the Commissioners Court where the County Judge would be the presiding officer of that Court.

(c) The County Judge, if a duly licensed attorney, may sit in the absence of the Judge of the County Court at Law from the courtroom in all matters and causes without the necessity of transferring those matters and causes.

Sec. 3. Nothing in this Act shall diminish the jurisdiction of the County Court of Smith County. The County Court of Smith County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of the court; and also to punish contempts under such provisions as are or may be provided by General Law governing county courts throughout the State. The County Judge of Smith County shall be the Judge of the County Court of Smith County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Smith County, except insofar as the same shall, by this Act, be committed to the Judge of the County Court at Law of Smith County.

Sec. 4. The terms of the County Court at Law of Smith County shall be as prescribed by the laws relating to the county courts. The terms of the County Court at Law of Smith County shall be held as now established for the terms of the County Court of Smith County and the same may be changed in accordance with the laws governing the change in the terms of the County Court of Smith County.

Sec. 5. At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Smith County who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five (5) years, well-informed in the laws of the state, who shall have resided in and been actively engaged in the practice of law in Smith County, Texas, for a period of not less than two (2) years prior to such general election, and who shall hold his office for the unexpired term. At the general election in November, 1966, he shall be elected to hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective the Commissioners Court of Smith County, Texas, shall appoint a judge of said court at law of Smith County, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said County Court at Law of Smith County shall in like manner, as hereinabove provided, be filled by said Commissioners Court of Smith County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

Sec. 6. The Criminal District Attorney of Smith County shall represent the state in all prosecutions in the County Court at Law of Smith County, as provided by law for such prosecutions in county courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the county courts.

Sec. 7. As soon as this Act becomes effective the Commissioners Court of Smith County shall appoint a Judge of the County Court at Law of Smith County, who shall hold his office until the next general election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said court.

Sec. 8. The Judge of the County Court at Law of Smith County may be removed from office in the same manner and for the same causes as any county judge may be removed under the laws of this state.

Sec. 9. The Judge of the County Court at Law of Smith County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 10. A special judge of the County Court at Law of Smith County may be appointed or elected as provided by law relating to county courts and to the judge thereof. He shall receive the sum of Thirty Dollars (\$30) per day for each day he so actually serves, to be paid out of the general fund of the county by the Commissioners Court.

Sec. 11. In the case of the disqualification of the Judge of the County Court at Law of Smith County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge to try such case or cases where the Judge of the County Court at Law of Smith County is disqualified. In case of the selection of such special judge by agreement of the parties or their attorneys, such special judge shall draw the same compensation as that provided in Section 10 of this Act.

Sec. 12. The County Court at Law of Smith County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseades, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court or of any other court in the county of inferior jurisdiction to the County Court at Law. The County Court at Law or the Judge thereof shall also have the power to punish for contempt as prescribed by law for County Courts.

Sec. 13. The County Clerk of Smith County shall be the clerk of the County Court at Law of Smith County, and the seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Smith County."

Sec. 14. The Sheriff of Smith County shall in person or by deputy attend the County Court at Law of Smith County when required by the judge thereof.

Sec. 15. The jurisdiction and authority now vested by law in the County Court of Smith County and the judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law of Smith County and the judge thereof; but jurors and talesmen summoned for either of said courts may by order of the judge of the court in which they are summoned be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law of Smith County and the Judge of the County Court of Smith County jurors may be summoned for service in both courts and shall be used interchangeably in both such courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required

to appear and serve at the ensuing term of said courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Sec. 16. Any vacancy in the office of the Judge of the County Court at Law of Smith County shall be filled by the Commissioners Court, and when so filled the judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 17. From and after the passage of this Act the Judge of the County Court at Law of Smith County shall receive an annual salary of not less than \$12,000 nor more than \$16,000 as set by the Commissioners Court, to be paid out of the county treasury on the order of the Commissioners Court, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Smith County shall assess the same fees as are now prescribed or may be established by law, relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, no part of which shall be paid to the said judge, but he shall draw the salary as above specified in this Section.

Sec. 18. The Judge of the County Court at Law of Smith County may appoint an official shorthand reporter for such court who shall be well-skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. Such reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Smith County to be paid out of the County Treasury of Smith County, as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and are hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 18a. The Judge of the County Court at Law of Smith County, with the consent of the Commissioners Court, may employ a secretary. The secretary is entitled to a salary as determined by the Commissioners Court.

Sec. 19. The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Smith County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law of Smith County.

[Acts 1963, 58th Leg., p. 627, ch. 232. Amended by Acts 1965, 59th Leg., p. 859, ch. 420, § 1, eff. June 14, 1965; Acts 1965, 59th Leg., p. 1011, ch. 496, § 1, eff. June 16, 1965; Acts 1969, 61st Leg., p. 1871, ch. 624, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 24, ch. 10, § 1, eff. March 2, 1971; Acts 1971, 62nd Leg., p. 25, ch. 10, §§ 2, 3, eff. March 2, 1971.]

Art. 1970-348a. County Court at Law No. 2 of Smith County

Sec. 1. There is created a court to be held in Tyler, Smith County, Texas, which shall be known as the County Court at Law No. 2 of Smith County.

Sec. 2. The County Court at Law No. 2 of Smith County shall have jurisdiction in all matters, causes, and proceedings, civil, criminal, and probate, original and appellate, over which by the general laws of this state county courts have jurisdiction, and jurisdiction of the County Court at Law No. 2 is concurrent with that of the County Court of Smith County and the County Court at Law of Smith County. This provision does not affect the jurisdiction of the Commissioners Court or the County Judge of Smith County as the presiding officer of the commissioners court. The County Judge of Smith County shall be the judge of the County Court of Smith County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Smith County, except insofar as the same shall, by this Act, be committed to the judge of the county court at law.

Sec. 3. The County Court at Law No. 2 of Smith County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest, as provided by general law.

Sec. 4. The terms of the County Court at Law No. 2 of Smith County shall be the same as the terms of the County Court of Smith County and may be changed in accordance with the laws governing the change in the terms of the County Court of Smith County.

Sec. 5. (a) The judge of the County Court at Law No. 2 of Smith County shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five years, shall be well-informed in the laws of the state, and shall have resided in and been actively engaged in the practice of law in Smith County, Texas, for a period of not less than two years prior to his appointment or election.

(b) When this Act becomes effective, the Commissioners Court of Smith County shall appoint a judge to the County Court at Law No. 2 of Smith County, and shall provide suitable quarters for the holding of the court. The judge appointed serves until the general election in 1976, and until his successor is duly elected and has qualified. At the general election in 1976, there shall be elected a judge of the County Court at Law No. 2 for a term ending on December 31, 1978. At the general election in 1978 and every four years thereafter, the judge of the County Court at Law No. 2 shall be elected for a regular four year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. Any vacancy occurring in the office of the judge of the County Court at Law No. 2 shall be filled by the Commissioners Court of Smith

County, and the appointee shall hold office until the next general election and until his successor is duly elected and has qualified.

Sec. 6. The judge of the County Court at Law No. 2 of Smith County may be removed from office in the same manner and for the same causes as any county judge may be removed under the laws of this state.

Sec. 7. The judge of the County Court at Law No. 2 of Smith County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 8. A special judge of the County Court at Law No. 2 of Smith County may be appointed or elected as provided by law relating to county courts and to the judge thereof. He shall receive for each day he actually serves the same compensation as provided for a special judge of the County Court at Law of Smith County, to be paid out of the general fund of the county by the commissioners court.

Sec. 9. In the case of the disqualification of the judge of the County Court at Law No. 2 of Smith County to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge to try the case or cases where the judge of the County Court at Law No. 2 of Smith County is disqualified. In case of the selection of a special judge by agreement of the parties or their attorneys, the special judge shall draw the same compensation as that provided for a special judge in the County Court at Law of Smith County.

Sec. 10. The County Court at Law No. 2 of Smith County, or the judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court or of any other court in the county of inferior jurisdiction to the county court at law. The County Court at Law No. 2, or the judge thereof, shall also have the power to punish for contempt as prescribed by law for county courts.

Sec. 11. (a) The judge of the County Court at Law No. 2 may sit in the absence from the courtroom of the County Judge of Smith County in all matters, causes, and proceedings without the necessity of transferring those matters, causes, and proceedings, except matters coming under the jurisdiction of the commissioners court where the county judge would be the presiding officer of that court.

(b) The county judge, if a duly licensed attorney, may sit in the absence from the courtroom of the judge of the County Court at Law No. 2 in all matters and causes without the necessity of transferring those matters and causes. The judges of the county courts at law may freely exchange

benches and courtrooms with each other without the necessity of transferring the case involved.

(c) Except in cases where the writ of certiorari has been granted, the judges of the county court and the county courts at law may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(d) In cases transferred to either of the courts by order of the judge of one of the other courts, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before the transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 12. The Criminal District Attorney of Smith County shall represent the state in all prosecutions in the County Court at Law No. 2 of Smith County, as provided by law for such prosecutions in county courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the county courts.

Sec. 13. The County Clerk of Smith County shall be the clerk of the County Court at Law No. 2 of Smith County, and the seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 2 of Smith County."

Sec. 14. The Sheriff of Smith County shall in person or by deputy attend the County Court at Law No. 2 of Smith County when required by the judge thereof.

Sec. 15. The jurisdiction and authority now vested by law in the County Court of Smith County, and the judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law No. 2 of Smith County and the judge thereof. Jurors and talesmen summoned for either of the county courts at law or the county court may by order of the judge of the court in which they are summoned be transferred to the other courts for service and may be used as if summoned for the court to which they may be thus transferred. On concurrence of the judges of the county courts at law and the judge of the County Court of Smith County, jurors may be summoned for service in all of those courts and shall be used interchangeably in all such courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall

be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of the courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Sec. 16. The laws of the State of Texas, the rules of procedure, and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law No. 2 of Smith County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law No. 2 of Smith County.

Sec. 17. The judge of the County Court at Law No. 2 of Smith County shall receive an annual salary equal to the annual salary of the judge of the County Court at Law of Smith County as set by the commissioners court, to be paid out of the county treasury on the order of the commissioners court. The salary shall be paid monthly in equal installments. The judge of the County Court at Law No. 2 of Smith County shall assess the same fees as are now prescribed or may be established by law, relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, no part of which shall be paid to the judge, but he shall draw the salary as above specified in this section.

Sec. 18. The judge of the County Court at Law No. 2 of Smith County may appoint an official shorthand reporter for the court who shall be well-skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. The reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Smith County to be paid out of the county treasury in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and are hereby made to apply in all provisions in so far as they are applicable to the official shorthand reporter authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 19. The judge of the County Court at Law No. 2 of Smith County, with the consent of the commissioners court, may employ a secretary. The secretary is entitled to a salary as determined by the commissioners court.

[Acts 1975, 64th Leg., p. 2031, ch. 672, eff. Sept. 1, 1975.]

ORANGE COUNTY

Art. 1970-349. County Court at Law of Orange County

Creation and Jurisdiction

Sec. 1. (a) On the effective date of this Act (as provided in Section 6), the County Court at Law of Orange County is created.

(b) The County Court at Law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, including eminent domain proceedings, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Orange County.

(c) The County Court at Law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the Court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the Court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Orange County is the Judge of the County Court of Orange County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Orange County unless by this Act committed to the Judge of the County Court at Law.

Terms of Court

Sec. 2. The Commissioners Court of Orange County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law of Orange County.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Orange County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than four years, be well informed in the laws of this State, and who must have resided and been actively engaged in the practice of law in Orange County for a period of not less than two years prior to the general election. The Judge elected holds office for four years and until his successor has been duly elected and qualified. During his term of office the Judge may not appear and plead as an attorney at law in any court of record in this State.

(b) When this Act becomes effective, the Commissioners Court of Orange County shall appoint a Judge to the County Court at Law of Orange County. The Judge appointed must have the qualifications prescribed in Subsection (a) of this Section and serves until January 1st of the year following the next general election and until his successor has been duly elected and qualified. Any vacancy occurring in the office of the Judge of the County Court at Law may be filled in like manner by the Commissioners Court and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The Judge of the County Court at Law shall execute a bond and take the oath of office prescribed by law for county judges. He may be

removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law shall receive not less than the same salary prescribed by the Commissioners Court of Orange County for the County Judge of Orange County and not more than \$15,000 per annum. Such salary shall be paid in equal monthly installments out of the county treasury on order of the Commissioners Court. The Judge of the County Court at Law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the Judge.

(e) A special judge of the County Court at Law may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Court Officials

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Orange County, Texas, shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law of Orange County. The Commissioners Court of Orange County may employ as many additional assistant county attorneys, deputy sheriffs and clerks as are necessary to serve the Court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Orange County.

(b) The Judge of the County Court at Law shall appoint an official court reporter, who shall have the qualifications and duties provided by law. The official court reporter shall receive a salary, to be fixed by the Commissioners Court of Orange County, of not more than \$9,000 per year.

Practice

Sec. 5. (a) Practice in the County Court at Law of Orange County shall conform to that prescribed by law for the County Court of Orange County.

(b) The Judges of the County Court and the County Court at Law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law unless it is within the jurisdiction of that Court.

(c) Jurors regularly impaneled for the week by the District Courts of Orange County, Texas, may, at the request of either the Judge of the County Court or of the County Court at Law, be made available by the District Judges in the numbers requested and shall serve for the week in either or both the County Court or the County Court at Law.

Effective Date

Sec. 6. The Act becomes effective upon order of the Commissioners Court of Orange County duly entered in its minutes.

[Acts 1965, 59th Leg., p. 1012, ch. 498, eff. Aug. 30, 1965. Amended by Acts 1969, 61st Leg., p. 2126, ch. 730, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1006, ch. 194, § 1, eff. May 13, 1971.]

Art. 1970-349A. County Court at Law of Orange County; Jurisdiction Concurrent with District and County Courts

Sec. 1. In addition to the jurisdiction now conferred upon the County Court at Law of Orange County, by the Constitution and laws of the State of Texas, said court shall hereinafter have and exercise concurrent civil jurisdiction with the District Courts in Orange County, in suits, causes and matters involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be within the jurisdiction of the District or County Court; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 2. After the effective date of this Act all cases of concurrent jurisdiction enumerated or included above may be instituted or transferred between the District Courts of Orange County and the County Court at Law of Orange County.

Sec. 3. Should the Judge be disqualified to try a particular case, or should the Judge by reason of illness or otherwise fail or refuse to hold court as needed, on matters pending in the County Court at Law of Orange County, such fact shall be brought to the attention of a Judge of the District Courts of Orange County by any attorney, whereupon such matters as require attention shall be promptly acted upon by the said Judge of the District Courts of Orange County and disposed of in the manner as other matters or trials in the several District Courts. In the event it should ever become neces-

sary to select a special Judge for the County Court at Law of Orange County, such special Judge shall be selected in the manner provided by law for the selection of a special Judge of the District Court.

Sec. 4. Nothing in the Act shall diminish the jurisdiction of the District Courts of Orange County, but such Courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law. Such District Courts shall continue to exercise concurrent jurisdiction on all matters which by this Act are brought within the concurrent jurisdiction of the County Court at Law of Orange County and none of the District Courts of Orange County shall be relieved by the provisions of this Act of their several responsibilities for the handling and disposition of all matters which are by this Act brought within the concurrent jurisdiction of the County Court at Law of Orange County as time and the condition of the dockets of such District Courts will permit.

Sec. 5. The County Court at Law of Orange County shall retain concurrent jurisdiction with the County Court of Orange County in all matters and causes, civil and criminal, original and appellate, over which, by the general laws and the Constitution of this State County Courts have jurisdiction, and in addition thereto any additional jurisdiction which may hereafter be assigned to the County Courts at Law of the State of Texas as now constituted or as they may hereafter be constituted, except the executive functions of the County Judge as a member of the Commissioners Court, Board of Equalization, Budget Officer and other executive and administrative functions.

Sec. 6. The jurisdiction of the County Court at Law of Orange County shall extend to all matters of eminent domain of which jurisdiction has heretofore been vested in the County Courts of Orange County, but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Orange County as the presiding officer of said Commissioners Court as to roads, bridges, public highways and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the presiding Judge thereof, including the right of the County Judge of Orange County to appoint commissioners in condemnation, receive the reports and enter judgments. It is the intention of this Section to vest in the County Court at Law of Orange County jurisdiction to hear any and all matters in condemnation, whether by commission or jury of view, appealed to the County Court at Law of Orange County or to the County Court only.

Sec. 7. The County Court of Law of Orange County shall also have the general jurisdiction of a Probate Court within the limits of Orange County, concurrent with the jurisdiction of the County Court of Orange County in such matters and proceedings. Said County Court at Law of Orange County shall have authority to probate wills, appoint guardians of minors, idiots, lunatics, persons non compos men-

tis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law and conduct lunacy proceedings.

The County Court at Law of Orange County shall have jurisdiction concurrent with the County Court of Orange County conferred upon County Courts or upon Probate Court specially created by the Legislature in Article 1970a-1, Revised Civil Statutes of Texas, as the same now stands or may hereafter be amended, and all other provisions of the law relating to Probate Courts whether specially created by the Legislature or otherwise, shall be and they are hereby made to apply concurrently in all their provisions insofar as they are applicable to the County Court at Law of Orange County and insofar as they are not inconsistent with this Act. It is the intention of the Legislature in this Act that the County Judge of Orange County shall be the Judge of the County Court of Orange County; all ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Orange County and all duties and jurisdiction vested in the County Court of Orange County by this Act now being performed by the County Judge of Orange County, Texas, is and shall be concurrent.

Sec. 8. With reference to all matters, civil, criminal and probate, over which the County Court at Law is given concurrent jurisdiction with the County Court of Orange County, the Judge of the County Court at Law of Orange County shall use the same dockets as now provided by said County Clerk in accordance with law for the use of the Judge of the County Court and Probate Court of Orange County and the Judge of the County Court at Law of Orange County and County Judge shall have concurrent jurisdiction over all matters therein insofar as provided in this Act. All suits and other proceedings instituted in the County over which the County Court or Probate Court has jurisdiction shall be addressed to the County Court of the County. The Judge of either the County Court at Law of Orange County or the County Judge may hear and dispose of any suit or other proceeding on the civil, criminal and probate dockets of the County Court of Orange County without the necessity of transferring the suit or other proceeding, either civil, criminal or probate, from one court to the other. Every judgment and order shall be entered in the minutes of the County Court or Probate Court and the Clerk of the County Court in said County shall keep one set of minutes in which shall be recorded all the judgments and orders of the County Court at Law of Orange County and the County Court of Orange County. All citations and other process issued by the County Clerk and all notices, restraining orders and other process authorized to be issued by the Clerk of the County Court shall be returnable to the

County Court of Orange County, and on the return of such process the hearing or trial may be presided over by the Judge of the County Court at Law of Orange County insofar as provided by this Act or the Judge of the County Court, and any and all such Acts thus performed by the County Court at Law of Orange County or the County Court of Orange County shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 9. Immediately after this Act takes effect, the District Clerk of Orange County, who shall be the Clerk of the County Court at Law of Orange County in all matters wherein the County Court at Law of Orange County has concurrent jurisdiction with the District Courts of Orange County may file in the County Court at Law of Orange County any cases involving adoptions and independent actions involving child custody and support of minors, including cases under the Reciprocal Support Act, all applications to change the names of persons and all divorce cases. The County Clerk of Orange County shall be the Clerk of the County Court at Law of Orange County in all matters wherein the County Court at Law of Orange County has concurrent jurisdiction with the County Court.

Sec. 10. The said County Court at Law of Orange County shall be a Court of Record, shall sit and hold court in the county seat of Orange County, shall have a seal and maintain all necessary dockets, records and minutes as herein provided. These dockets, records and minutes shall be separate from the dockets, records and minutes of the District Courts of Orange County and as provided hereinbefore with the County Court of Orange County, Texas.

Sec. 11. It shall be the duty of the Probation Department, the Sheriff, Constables and other law enforcement agencies of the State of Texas and Orange County and the cities thereof as well as Welfare Agencies, to furnish said County Court at Law of Orange County such services in the line of their respective duties as shall be required by said Court and all Sheriffs and Constables within the State of Texas shall render the same services with reference to process and writs from the District Court, County Courts and Probate Courts.

Sec. 12. The said County Court at Law of Orange County and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts and County Courts, when necessary or proper in cases or matters in which said County Court at Law of Orange County has jurisdiction. It shall also have power to punish for contempt.

Sec. 13. The County Court at Law of Orange County as herein created shall have the same terms of Court as the District Courts of Orange County as

are presently established or as they may hereinafter be changed.

Sec. 14. The Judge of the County Court at Law of Orange County may be appointed a member of the Juvenile Board of Orange County and may be paid additional compensation therefor by the Commissioners Court of Orange County, not to exceed the amount paid by Orange County, to the District Judges and/or the County Judge of Orange County for acting as members of the Juvenile Board.

Sec. 15. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals as is now or may be hereafter provided for appeals from District and County Courts and in all criminal cases shall be to the Court of Criminal Appeals.

Sec. 16. The practice and procedure, rules of evidence, the drawing of jury panels, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearing in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts, general or special, as well as County Courts; provided that juries in all matters civil or criminal shall always be composed of twelve (12) members except that in misdemeanor criminal cases the juries shall be composed of six (6) members, as well as six (6) member juries in cases where this Court has concurrent jurisdiction with the County Court as herein provided.

Sec. 17. The Judge of the County Court at Law of Orange County shall have authority to appoint a Court Reporter in such cases as may be required by law, and in such other cases as he shall deem it necessary to record and preserve the testimony. Such Court Reporter may be paid a salary out of the general fund of the County as may be fixed by the Commissioners Court, and shall not exceed the amount paid to reporters of the District Courts of Orange County. The Judge shall also have the power and authority to appoint a court interpreter, in such cases as may be necessary, who may be paid such fees and compensation out of the general fund of the County for such service as may be fixed by the Commissioners Court.

Sec. 18. The Judge of the County Court at Law of Orange County shall not appear as an attorney at law in any court of record in this State nor shall he appear and practice as an attorney at law in any Court or Justice Court over which he has original or appellate jurisdiction.

Sec. 19. From and after the passage of this Act the Judge of the County Court at Law of Orange County shall receive an annual salary of not less than is presently being paid by the County of Orange to the Judge of the County Court at Law of Orange County nor more than that which is paid by the State of Texas to the Judges of the District Courts of Orange County, Texas, as set by the Commissioners Court to be paid out of the county treasury on the order of the Commissioners Court

and said salary shall be paid monthly in equal installments.

Sec. 20. Nothing in this Act shall diminish the jurisdiction of the several District Courts of Orange County and the County Court of Orange County and such courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law and the jurisdiction given herein is concurrent with the jurisdiction of said Courts.

[Acts 1971, 62nd Leg., p. 3060, ch. 1019, eff. June 15, 1971.]

BELL COUNTY

Art. 1970-350. County Court at Law No. 1 of Bell County

Creation and Jurisdiction

Sec. 1. (a) On the effective date of this Act (as provided in Section 6), the County Court at Law of Bell County is created.

(b) The County Court at Law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Bell County.

(c) The County Court at Law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Bell County is the Judge of the County Court of Bell County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Bell County unless by this Act committed to the Judge of the County Court at Law.

Change of Name

Sec. 1A. The name of the County Court at Law of Bell County is changed to County Court at Law No. 1 of Bell County, and all laws heretofore or hereafter enacted by the Legislature applicable or relating to the County Court at Law of Bell County shall hereafter be applicable and shall relate to the County Court at Law No. 1 of Bell County.

Terms of Court

Sec. 2. The Commissioners Court of Bell County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law of Bell County.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a

Judge of the County Court at Law of Bell County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than three years, be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Bell County for a period of not less than two years prior to the general election. The Judge elected holds office for four years and until his successor has been duly elected and qualified. During his term of office the Judge may not appear and plead as an attorney at law in any court of record in this state.

(b) If any vacancy occurs in the office of the Judge of the County Court at Law, the Commissioners Court shall appoint the Judge of the County Court at Law who must have the same qualifications prescribed in Subsection (a) of this Section and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The Judge of the County Court at Law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law shall receive a salary in an amount determined by the Commissioners Court not to exceed the salary prescribed by the Commissioners Court for the County Judge of Bell County. Such salary shall be paid in equal monthly installments out of the county treasury on order of the Commissioners Court. The Judge of the County Court at Law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the Judge.

(e) A special judge of the County Court at Law may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

(f) The Judge of the County Court at Law shall be a member of the Juvenile Board of Bell County, and for this additional work as a member of the Juvenile Board he shall be allowed compensation in like manner as other members of said Juvenile Board, such compensation to be determined and fixed by order of the Commissioners Court and to be paid in addition to any other compensation to which he is entitled under the provisions of law.

Court Officials

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Bell County, Texas shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law of Bell County. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Bell County.

(b) The Judge of the County Court at Law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Bell County.

Practice

Sec. 5. (a) Practice in the County Court at Law of Bell County shall conform to that prescribed by law for the County Court of Bell County.

(b) The Judges of the County Court and the County Court at Law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law unless it is within the jurisdiction of that Court.

(c) Jurors regularly impaneled for the week by the District Courts of Bell County, Texas, may at the request of either the Judge of the County Court or of the County Court at Law, be made available by the District Judges in the numbers requested and shall serve for the week in either or both the County Court or the County Court at Law.

Effective Date

Sec. 6. The Act becomes effective upon order of the Commissioners Court of Bell County duly entered in its minutes.

[Acts 1967, 60th Leg., p. 457, ch. 208, eff. Aug. 28, 1967. Amended by Acts 1972, 62nd Leg., 4th C.S., p. 21, ch. 4, § 2, eff. Oct. 17, 1972; Acts 1975, 64th Leg., p. 79, ch. 37, § 7, eff. April 3, 1975.]

Art. 1970-350a. County Court at Law No. 2 of Bell County

Sec. 1. (a) On the effective date of this Act, the County Court at Law No. 2 of Bell County is created.

(b) The County Court at Law No. 2 has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Bell County and the County Court at Law of Bell County.

(c) The County Court at Law No. 2 of Bell County, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Bell County is the Judge of the County Court of Bell County. All ex officio duties of the county judge shall be exercised by the Judge of the County Court of Bell County unless by this Act committed to the Judge of the County Court at Law No. 2.

Sec. 2. The Commissioners Court of Bell County, by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law No. 2 of Bell County.

Sec. 3. (a) As soon as practicable after this Act becomes effective, the Commissioners Court of Bell County shall appoint a judge to the County Court at Law No. 2 of Bell County. The judge appointed serves until January 1, 1977, and until his successor has qualified. At the general election in 1976, a successor shall be elected to serve until January 1, 1979. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Bell County a judge of the County Court at Law No. 2 of Bell County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(b) The Judge of the County Court at Law No. 2 of Bell County must have been a duly licensed and practicing member of the State Bar of Texas for not less than three years, be well informed in the laws of this state, and must have resided and been actively engaged in the practice of law in Bell County for a period of not less than two years prior to his election or appointment. During his term of office the Judge may not appear and plead as an attorney at law in any court of record in this state.

(c) If any vacancy occurs in the office of the Judge of the County Court at Law No. 2, the commissioners court shall appoint the Judge of the County Court at Law No. 2, who must have the same qualifications prescribed in Subsection (b) of this section, and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(d) The Judge of the County Court at Law No. 2 shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(e) The Judge of the County Court at Law No. 2 shall receive a salary in an amount determined by the commissioners court not to exceed the salary prescribed by the commissioners court for the County Judge of Bell County. Such salary shall be paid in equal monthly installments out of the county treasury on order of the commissioners court. The Judge of the County Court at Law No. 2 shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

(f) A special judge of the County Court at Law No. 2 may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

(g) The Judge of the County Court at Law No. 2 shall be a member of the Juvenile Board of Bell County, and for this additional work as a member of the juvenile board he shall be allowed compensation in like manner as other members of said juvenile board, such compensation to be determined and fixed by order of the commissioners court and to be paid in addition to any other compensation to which he is entitled under the provisions of law.

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Bell County, Texas, shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law No. 2 of Bell County. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Bell County.

(b) The Judge of the County Court at Law No. 2 may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Bell County.

Sec. 5. (a) Practice in the County Court at Law No. 2 of Bell County shall conform to that prescribed by law for the County Court of Bell County.

(b) The Judge of each of the County Courts at Law or the County Court of Bell County may, in his discretion, either in term-time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any cause, civil or criminal, on his docket to the docket of either of those courts, and the judges of those courts may, in their discretion, exchange benches from time to time. Whenever a judge of one of those courts is disqualified, he shall transfer the case from his court to one of the other courts, and either judge may, in his own courtroom, try and determine any case or proceeding pending in either of the county courts at law or the county court, without having the case transferred, or may sit in the other court and there hear and determine any case there pending, and each judgment and order shall be entered in the minutes of the court in which the case is pending. The judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of any county court at law or the county court. In case of absence, sickness, or disqualification of the judge of either of the county courts at law or the county court, either of the other judges may hold court for him. Either of the judges may hear any part of any case or proceeding pending in either of the county courts at law or the county court and determine the same or may hear and determine any question in any case, and either judge may complete the hearing and

render judgment in the case. In cases transferred to one of the county courts at law or the county court by order of the judge of one of the other courts, all process, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in the cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law and by this Act. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken in the cases, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(c) Jurors regularly impaneled for the week by the District Courts of Bell County, Texas, may at the request of either the Judge of the County Court, the County Court at Law, or the County Court at Law No. 2 be made available by the district judges in the numbers requested and shall serve for the week in either the County Court, the County Court at Law, or the County Court at Law No. 2.

[Acts 1975, 64th Leg., p. 79, ch. 37, §§ 1 to 5, eff. April 3, 1975. Amended by Acts 1975, 64th Leg., p. 670, ch. 283, § 1, eff. May 20, 1975.]

GUADALUPE COUNTY

Art. 1970-351. County Court at Law of Guadalupe County

Creation and Jurisdiction

Sec. 1. (a) The County Court at Law of Guadalupe County is created on the effective date of this Act provided in Section 7. It sits in Seguin.

(b) The county court at law has the same jurisdiction over all causes and proceedings, civil, criminal, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Guadalupe County. However, the county court at law does not have jurisdiction over eminent domain proceedings or over causes and proceedings concerning roads, bridges, and public highways which are now within the jurisdiction of the Commissioners Court or County Court of Guadalupe County.

(c) The county court at law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the same power to punish for contempt prescribed by law for county courts.

(d) The County Judge of Guadalupe County is the Judge of the County Court of Guadalupe County. All ex officio duties of the county judge shall be exercised by the Judge of the County Court of Guadalupe County unless by this Act committed to

the Judge of the County Court at Law of Guadalupe County.

Terms of Court

Sec. 2. The terms of the County Court at Law of Guadalupe County are the same as those of the County Court of Guadalupe County.

Judge

Sec. 3. (a) At the general election in November 1970, a Judge of the County Court at Law of Guadalupe County shall be elected if this Act has taken effect in accordance with Section 7.

(b) To be eligible for the office of Judge of the County Court at Law of Guadalupe County, a person must be 30 years old or older, have been a duly licensed and practicing member of the State Bar of Texas for not less than five years before the election, and have resided and been actively engaged in the practice of law in Guadalupe County for a period of not less than two years before the election.

(c) The judge elected holds office for four years and until a successor has been duly elected and qualified.

(d) Any vacancy occurring in the office of the judge of the county court at law shall be filled by the commissioners court appointing a person with the qualifications prescribed in Subsection (b) of this section. The appointee holds office until the next general election and until a successor has been duly elected and qualified. The appointee is entitled to the same compensation as his predecessor.

(e) The Judge of the County Court at Law of Guadalupe County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(f) The Commissioners Court of Guadalupe County shall fix the salary of the Judge of the County Court at Law of Guadalupe County.

(g) When the Judge of the County Court at Law of Guadalupe County is disqualified, the Commissioners Court of Guadalupe County shall appoint a special judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Court Officials and Personnel

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Guadalupe County shall serve as County Attorney, Clerk, and Sheriff, respectively, for the County Court at Law of Guadalupe County. The Commissioners Court of Guadalupe County may employ as many assistant county attorneys, deputy sheriffs, and bailiffs as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by

law for their respective offices in Guadalupe County.

(b) The judge of the county court at law may appoint an official court reporter, who must have the qualifications prescribed by law for district court reporters, who serves at the pleasure of the judge, and who is entitled to the compensation fixed by the Commissioners Court of Guadalupe County.

Practice

Sec. 5. (a) Practice in the County Court at law of Guadalupe County shall conform to that prescribed by law for the County Court of Guadalupe County.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law of Guadalupe County unless it is within the jurisdiction of that court.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of the county court at law may not sit or act in a case unless it is within the jurisdiction of his court.

(d) Jurors regularly impaneled for the week by the district courts whose districts include Guadalupe County may, at the request of either the Judge of the County Court or County Court at Law of Guadalupe County, be made available by the district judges in the numbers requested and shall serve for the week in either or both the county court or county court at law.

Facilities and Equipment

Sec. 6. (a) The Commissioners Court of Guadalupe County shall furnish and equip a suitable courtroom and office space for the county court at law.

(b) The county court at law has a seal identical with the seal of the County Court of Guadalupe County except that it contains the words "County Court at Law of Guadalupe County."

Effective Date

Sec. 7. (a) This Act takes effect when the Commissioners Court of Guadalupe County appoints a

judge to the County Court at Law of Guadalupe County.

(b) The judge appointed must have the qualifications prescribed in Section 3(b) of this Act and serves until December 31, 1970, and until a successor has been duly elected and qualified.

[Acts 1967, 60th Leg., p. 2056, ch. 761, eff. June 18, 1967.]

DENTON COUNTY

Art. 1970-352. County Court at Law of Denton County

Creation and Jurisdiction

Sec. 1. (a) The County Court at Law of Denton County, Texas, is created.

(b) The court has the same jurisdiction over all causes and proceedings, civil and criminal, original and appellate, prescribed by law for county courts. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways which are now within the jurisdiction of the Commissioners Court of Denton County.

(c) The jurisdiction of the County Court at Law of Denton County extends to all matters of eminent domain and is concurrent with that of the County Court and Commissioners Court of Denton County.

(d) The county court at law has the general jurisdiction of a probate court within the limits of Denton County, and its jurisdiction is concurrent with that of the County Court of Denton County in probate matters and proceedings.

(e) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, and he is a magistrate and conservator of the peace.

(f) The County Judge of Denton County is the judge of the County Court of Denton County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Denton County except insofar as the same are, by this Act, committed to the judge of the County Court at Law of Denton County.

Terms of Court

Sec. 2. The terms of the County Court at Law of Denton County are the same as those for the County Court of Denton County, Texas.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a judge of the County Court at Law of Denton County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than five years, who must be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Denton County, Texas, for a period of not less than two years prior to the general election. The judge elected holds office for four years and until his successor has been duly elected and has qualified.

(b) When this Act becomes effective, the Commissioners Court of Denton County, Texas, shall appoint a judge to the County Court at Law of Denton County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified. Any vacancy occurring in the office of the judge of the County Court at Law of Denton County may be filled in like manner by the commissioners court and the appointee holds office until the next general election and until his successor has been duly elected and has qualified.

(c) The judge of the County Court at Law of Denton County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the County Court at Law of Denton County is entitled to receive the same salary, to be paid from the same fund and in the same manner, as the County Judge of Denton County receives. The judge shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

(e) A special judge of the county court at law may be appointed or elected as provided by law for county courts. A special judge is entitled to receive \$30 a day for each day he serves, to be paid out of the general fund of Denton County by the commissioners court.

(f) If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the compensation provided by Subsection (e) of this section.

Court Officials

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Denton County, Texas, shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law of Denton County. They shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices.

(b) The judge of the county court at law shall appoint an official court reporter, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than \$7500 per annum, nor more than \$10,600 per annum, and this compensation shall be fixed by the Commissioners Court of Denton County.

(c) The seal of the court shall contain the words "County Court at Law of Denton County", but in other respects is identical with the seal of the County Court of Denton County.

Practice

Sec. 5. (a) Practice in the County Court at Law of Denton County shall conform to that prescribed by law for the County Court of Denton County, Texas.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law of Denton County unless it is within the jurisdiction of that court.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the cause or proceeding, civil, criminal, or probate, involved. Either judge may hear all or any part of a cause or proceeding pending in the county court or county court at law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the cause or proceeding without the necessity of transferring it to his own docket. However, the judge of the county court at law may not sit or act in any cause or proceeding over which exclusive jurisdiction is vested by this Act in the Denton County Court.

Juries

Sec. 6. (a) The jurisdiction and authority now vested by law in the County Clerk and County Judge of Denton County for the drawing, selection, and service of jurors and talesmen shall also be exercised by the county court at law and its judge. Jurors and talesmen summoned for either court may by order of the judge of the court to which they are summoned be transferred to the other court for service. Upon concurrence of the judge of the county court at law and the county judge, jurors may be summoned for service in both courts and used interchangeably.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of either the

county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

[Acts 1969, 61st Leg., p. 1626, ch. 505, eff. June 10, 1969.]

Art. 1970-352a. County Court at Law No. 2 of Denton County

Creation and Jurisdiction

Sec. 1. (a) The County Court at Law No. 2 of Denton County is created on the date determined under Section 10 of this Act.

(b) The County Court at Law No. 2 has the same jurisdiction over all causes and proceedings, civil and criminal, original and appellate, as prescribed by law for county courts and has jurisdiction concurrent with the County Court of Denton County and the County Court at Law of Denton County in matters and cases, civil and criminal, original and appellate. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways which are within the jurisdiction of the commissioners court of Denton County.

(c) The County Court at Law No. 2 of Denton County has jurisdiction in civil cases where the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

(d) The County Court at Law No. 2 of Denton County has the general jurisdiction of a probate court within the limits of Denton County, concurrent with the jurisdiction of the County Court of Denton County and the County Court at Law of Denton County in such matters and proceedings.

(e) The County Court of Denton County shall have and retain, concurrently with the County Court at Law of Denton County and the County Court at Law No. 2 of Denton County, the general jurisdiction of a probate court and jurisdiction over all causes and proceedings, civil and criminal, original and appellate, that are prescribed by the constitution and general law for county courts. The county judge of Denton County shall be the judge of the County Court of Denton County. All ex officio, executive, ministerial, and administrative duties of the county judge of Denton County shall continue to be exercised by the county judge of Denton County.

Terms and Practice

Sec. 2. The County Court at Law No. 2 of Denton County shall sit in the county seat of Denton County and shall hold continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins. The practice in the court and appeals and writs of error to and from the court shall be as prescribed by the laws and rules relating to the county courts.

Judge

Sec. 3. (a) There shall be elected, by the qualified voters of Denton County, a judge of the County Court at Law No. 2, who shall be a regularly licensed attorney at law in this state, shall be a resident citizen of Denton County, and shall have been actively engaged in the practice of law in this state for a period of not less than two years next preceding his or her election and shall hold office for four years and until a successor is elected and has qualified. As soon as this court is created, the commissioners court of Denton County shall appoint a judge to the County Court at Law No. 2 of Denton County, who shall hold the office as judge until the next general election and until a successor is elected and has qualified. Beginning at the general election in 1982 and every fourth year thereafter, there shall be elected a judge of the County Court at Law No. 2 for the regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. A vacancy in the office of judge of County Court at Law No. 2 of Denton County shall be filled by the appointment of the commissioners court of Denton County and when so filled, the judge shall hold office until the next general election and until a successor is elected and has qualified.

(b) The judge of the County Court at Law No. 2 shall execute a bond and take the oath of office as required by law relating to county judges.

(c) A special judge of any county court at law in Denton County may be appointed or elected as provided by law relating to the county courts and to the judges thereof, who shall be compensated in the same manner as provided for special judges of the county courts.

(d) The judge of the County Court at Law No. 2 of Denton County may be removed from office in the same manner and for the same causes as provided by law for the county judges.

Compensation and Fees

Sec. 4. (a) The judge of the County Court at Law No. 2 of Denton County may receive an annual salary not to exceed 90 percent of the total annual salary paid to judges of the district courts having jurisdiction in Denton County, the amount of which shall be fixed by the commissioners court of Denton County. The salary shall be paid in the same manner and from the same funds as prescribed by law for payment of the salary of the county judge and judge of the County Court at Law of Denton County.

(b) The judge of the County Court at Law No. 2 shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury and which may not be paid to the judge.

Writ Power

Sec. 5. The County Court at Law No. 2 of Denton County, or the judge thereof, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the court, to issue writs of habeas corpus in cases where the offense charged is in the jurisdiction of the court or any other court in the county of inferior jurisdiction to the County Court at Law No. 2, and to punish for contempt under the provisions that are provided by the general laws governing county courts. The judge has all powers, duties, immunities, and privileges that are provided by general law for judges of courts of record and for judges of county courts at law. The judge shall be a magistrate and conservator of the peace.

Court Officials

Sec. 6. (a) The county clerk of Denton County shall be the clerk of the County Court at Law No. 2 of Denton County, and as clerk of the court, he or she shall have the same powers, duties, privileges, and immunities as are provided by law for county clerks.

(b) The county attorney or the criminal district attorney, if there is no county attorney, and the sheriff of Denton County shall serve as county attorney, or criminal district attorney, and sheriff, respectively, of the County Court at Law No. 2 of Denton County. They shall perform the duties and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices.

(c) The judge of the County Court at Law No. 2 shall appoint an official shorthand reporter for the court, who shall have the qualifications provided by law for official court reporters, shall be a sworn officer of the court, and shall hold office at the pleasure of the judge. The duties of the reporter shall be the same as provided by general law for reporters of the district courts, and the salary of the reporter shall be set by the commissioners court and paid monthly by the commissioners court out of any funds available for the purpose.

Jurors

Sec. 7. (a) The jurisdiction and authority vested by law in the county courts, and the judges thereof, for the drawing, selection, and service of jurors shall also be exercised by the County Court at Law No. 2 and the judge thereof. Jurors summoned for either of the county courts at law or the county court may, by order of the judge of the court in which they are summoned, be transferred to either of the other courts for service and may be used as if summoned for the court to which they are thus transferred. Upon the concurrence of the judges of the county courts at law and the county judge, jurors may be summoned for service in all of those courts and shall be used interchangeably in all of those courts.

(b) Jurors regularly impaneled for the week by the district court or courts may on request of either the county judge or the judge of either of the county courts at law be made available by the district judge or judges in such numbers as may be requested for service for the week in either or all of the county courts at law or the county court, and such jurors shall serve in the county court and the county courts at law the same as if they had been drawn and selected as is otherwise provided by law.

Courtroom and Seal

Sec. 8. (a) The commissioners court shall provide suitable quarters for the County Court at Law No. 2.

(b) The seal of the court shall be the same as provided by law for county courts, except that the seal shall contain the words "County Court at Law No. 2 of Denton County, Texas."

Transfer of Cases and Exchange of Benches

Sec. 9. (a) When the County Court at Law No. 2 is created, a sufficient number of matters pending before the County Court of Denton County and the County Court at Law of Denton County shall be transferred to the County Court at Law No. 2 to equalize the dockets.

(b) The judges of the county court and the county courts at law may transfer cases to and from the dockets of the respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) On the transfer pending matters to the County Court at Law No. 2, as provided by Subsection (a) of this section, and in cases transferred to any of the courts by order of the judge of another court, all processes, writs, bonds, recognizances, or any other obligation issued or made in the case shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the term of the court to which the case is transferred as fixed by law. All processes issued or returned before the transfer of the cases, as well as all bonds and recognizances taken before the transfer shall be valid and binding as though originally issued out of the court to which the transfer is made.

(d) The county judge and judges of the county courts at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or is otherwise absent, either of the other judges may hold court for such judge without the necessity of transferring the case involved. Any judge may hear all or any part of a case pending in the county court or in a county court at law, but only in

matters within the judge's jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to the judge's own docket. However, the judge of any court may not sit or act in a case unless it is within the jurisdiction of that judge's court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. This provision for the exchange of benches by and between the judge of the county court and the judges of the county courts at law is cumulative of and in addition to the provisions in this Act for the selection and appointment of a special judge of the county court at law.

Date Created

Sec. 10. This Act takes effect and the County Court at Law No. 2 of Denton County is created on January 1, 1982, or on a date determined by the commissioners court by an order entered in its minutes, whichever date is earlier.

[Acts 1979, 66th Leg., p. 927, ch. 425, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 905, ch. 323, §§ 1, 2, eff. Aug. 31, 1981.]

PARKER COUNTY

Art. 1970-353. Parker County; Jurisdiction of County Court

Sec. 1. The County Court of Parker County shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators, and guardians; transact all business pertaining to the estates of deceased persons, minors, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons pending in such court; conduct lunacy hearings; apprentice minors as provided by law, and issue all writs necessary for the enforcement of its own jurisdiction; punish for contempt under such provisions as now or may be provided for by general law governing county courts throughout the state; and in addition thereto, the County Court of Parker County and the judge thereof, shall have all original and appellate civil and criminal jurisdiction as normally exercised by county courts under the constitution and general laws of this state. All present and future statutes pertaining to probate matters and eminent domain enacted by the Legislature of the State of Texas shall be operative in Parker County as fully as though this statute had not been enacted.

Sec. 2. All concurrent jurisdiction between the County Court of Parker County and the 43rd District Court previously existing by authority of this article is hereby abolished.

Sec. 3. Jurisdiction over juvenile matters in Parker County shall be as established by the constitution and general laws of this state.

Sec. 4. The District Clerk of Parker County shall file, within 30 days after the effective date of this amendment, with the County Clerk of Parker County, all original papers in cases herein transferred to the County Court of Parker County and all judge's dockets and certified copies of any interlocutory judgment or other order entered in the minutes of the 43rd District Court in a case transferred. The county clerk shall immediately docket all such cases on the docket of the County Court of Parker County in the same manner and place as each stands on the docket of the district court. It shall not be necessary that the county clerk refile any papers heretofore filed by the district clerk, but papers in the case bearing the file mark of the district clerk prior to the time of the transfer shall be held to have been filed in the case as of the date filed without being refiled by the county clerk. The district clerk in cases so transferred shall accompany the papers with a certified bill of costs, and against all costs deposit, the district clerk shall charge accrued fees due the district clerk and the remainder of the deposit, if any, the district clerk shall pay to the county court as a deposit in the particular case for which the deposit was made. Credit shall be given all litigants for all jury fees paid in the district court.

Sec. 5. Repealed by Acts 1977, 65th Leg., p. 677, ch. 257, § 3, eff. May 25, 1977.

[Acts 1971, 62nd Leg., p. 1807, ch. 535, § 5, eff. Sept. 1, 1971. Amended by Acts 1973, 63rd Leg., p. 1769, ch. 647, § 1, eff. Aug. 27, 1973; Acts 1977, 65th Leg., p. 676, ch. 257, § 1, eff. May 25, 1977.]

Sections 6 to 8 of the 1971 act provided:

"Sec. 6. This Act shall take effect September 1, 1971.

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

"Sec. 8. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict and in any and all cases of such conflict, the provisions of this Act shall prevail."

HUNT COUNTY

Art. 1970-354. County Court at Law of Hunt County

Sec. 1. There is hereby created a Court in Hunt County, to be called the County Court at Law of Hunt County.

Sec. 2. (a) The County Court at Law of Hunt County, Texas, is created.

(b) The court has the same jurisdiction over all causes and proceedings, civil and criminal, original and appellate, prescribed by law for county courts. However, this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Hunt County as the presiding officer of the commissioners court as to roads, bridges, and public highways, as are now within the jurisdiction

of the commissioners court or the county judge as presiding officer.

(c) The County Court at Law of Hunt County has jurisdiction concurrent with the district court in eminent domain cases as provided by general law and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$50,000, exclusive of interest.

(d) The County Court at Law has the general jurisdiction of a probate court within the limits of Hunt County, and its jurisdiction is concurrent with that of the County Court of Hunt County in probate matters and proceedings.

(e) The County Court at Law of Hunt County and the judge thereof shall have concurrent jurisdiction with the County Court of Hunt County and the judge thereof in the trial of insanity cases and the restoration thereof, approval of applications for admission to state hospitals and special schools where admissions are by application, and the power to punish for contempt.

(f) The County Court at Law of Hunt County has jurisdiction concurrent with the district court in suits to set aside final rulings and decisions of the Industrial Accident Board.

(g) The County Court at Law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the power to punish for contempt as prescribed by law for county courts. The judge of the County Court at Law has all other powers, duties, immunities, and privileges provided by law for county court judges, and he is a magistrate and conservator of the peace.

(h) The County Judge of Hunt County is the judge of the County Court of Hunt County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Hunt County except insofar as the same which are, specified by this Act, committed to the judge of the County Court at Law of Hunt County.

Sec. 3. The terms of the County Court at Law of Hunt County are the same as those for the County Court of Hunt County, Texas.

Sec. 4. (a) The Judge of the County Court at Law of Hunt County must be a duly licensed and practicing member of the State Bar of Texas who has actively practiced law for at least four years, who is well informed in the laws of this state, and who has been a bona fide resident of Hunt County, Texas, for at least two years immediately preceding his appointment or election. The judge holds office for four years and until his successor has been duly elected and has qualified.

(b) When this Act becomes effective, the Commissioners Court of Hunt County, Texas, shall appoint a judge to the County Court at Law of Hunt County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified. At the general election in 1974 and every fourth year thereafter, there shall be elected by the qualified voters of Hunt County a Judge of the County Court at Law of Hunt County for a regular term of four years to commence on the first day of January following his election. Any vacancy in the office shall be filled by the Commissioners Court of Hunt County until the next general election. The judge of the Hunt County Court at Law may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(c) The Judge of the County Court at Law of Hunt County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law of Hunt County is entitled to receive a salary to be set by the Commissioners Court in an amount not less than \$40,000 per year beginning January 1, 1982, and not less than \$42,500 per year beginning January 1, 1983, and to be paid from the same fund and in the same manner as the County Judge of Hunt County. The judge shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge. During his term of office, the Judge of the County Court at Law of Hunt County shall diligently discharge the duties of his office on a full-time basis and shall not engage in the private practice of law.

(e) A special judge of the County Court at Law may be appointed or elected as provided by law for county courts. A special judge must meet the qualifications of a regular judge as provided by Subsection (a) of this section. A special judge is entitled to receive \$100 a day for each day he serves, to be paid out of the general fund of Hunt County by the commissioners court.

(f) If a judge of the County Court at Law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the compensation provided by Subsection (e) of this section.

(g) The Clerk of the County Court of Hunt County shall be the Clerk of the County Court at Law of Hunt County. The County Attorney of Hunt County shall represent the state in all prosecutions pending in the court, and he shall be entitled to the same fee as now prescribed by law for such prosecutions in the county courts. The Sheriff of Hunt County shall in person or by deputy attend the court when

required by the judge; and the various sheriffs and constables of this state executing process issued out of the court shall receive the fees fixed by law for execution of process out of county courts.

Sec. 5. (a) The Judge of the County Court at Law of Hunt County shall assess the same fees as are or may be established by law relating to county judges, all of which shall be collected by the clerk of the court and be by him paid into the county treasury, no part of which shall be paid to the said Judge. The Judge of the County Court at Law shall receive an annual salary set by the commissioners court in the same manner as the other elected county officials who are on a salary basis.

(b) The seal of the court shall contain the words "County Court at Law of Hunt County," but in other respects is identical with the seal of the County Court of Hunt County.

Sec. 6. The Judge of the County Court at Law of Hunt County shall have the power to make and publish rules as to the docketing and disposition of criminal and civil cases in the court not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure. Practice in the County Court at Law of Hunt County shall conform to that prescribed by law for the County Court of Hunt County, Texas.

Sec. 7. (a) The judges of the county court and the County Court at Law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law of Hunt County unless it is within the jurisdiction of that court.

(b) The county judge and the judge of the County Court at Law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the cause or proceeding, civil, criminal, or probate, involved. Either judge may hear all or any part of a cause or proceeding pending in the county court or County Court at Law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the cause or proceeding without the necessity of transferring it to his own docket. However, the judge of the County Court at Law may not sit or act in any cause or proceeding over which exclusive jurisdiction is vested by this Act in the Hunt County Court.

Sec. 8. The Judge of the County Court at Law of Hunt County shall be entitled to traveling expenses and shall be entitled to necessary office expenses in the same manner as is allowed county judges.

[Acts 1971, 62nd Leg., p. 1719, ch. 497, eff. May 28, 1971. Amended by Acts 1981, 67th Leg., p. 2514, ch. 663, §§ 1, 2, eff. June 15, 1981; Acts 1983, 68th Leg., p. 1241, ch. 268, §§ 1 to 3, eff. May 27, 1983.]

ANGELINA COUNTY

Art. 1970-355. County Court at Law of Angelina County

Sec. 1. (a) On the effective date of this Act, the County Court at Law of Angelina County is created.

(b) The county court at law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Angelina County. The county court at law also has jurisdiction concurrent with the district court in eminent domain cases as provided by general law and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

(c) The county court at law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Angelina County is the judge of the County Court of Angelina County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Angelina County unless by this Act committed to the judge of the county court at law.

Sec. 2. (a) The judge of either the County Court of Angelina County or the County Court at Law of Angelina County may, in his discretion, either in term-time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any cause on his docket to the docket of the other court.

(b) The judges of the courts may, in their discretion, exchange benches from time to time. Whenever a judge of one of the courts is disqualified, he shall transfer the case from his court to the other court.

(c) Either judge may, in his own courtroom, try and determine any case or proceeding pending in either court without having the case transferred or may sit in the other court and there hear and determine any case there pending. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(d) In case of absence, sickness, or disqualification of either judge, the other judge may hold court for him. Either of the judges may hear any part of any case or proceeding pending in either of the courts and determine them or may hear and determine any question in any case, and either judge may complete the hearing and render judgment in the case.

(e) In cases transferred to either of the courts by order of the judge of the court, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law.

(f) All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 3. The Commissioners Court of Angelina County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law of Angelina County.

Sec. 4. (a) At the next general election after the effective date of this Act there shall be elected a judge of the County Court at Law of Angelina County who must have been a duly licensed and practicing member of the State Bar of Texas, be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Angelina County for a period of not less than two years prior to the general election. The judge elected holds office for four years and until his successor has been duly elected and qualified.

(b) When this Act becomes effective, the Commissioners Court of Angelina County shall appoint a judge to the County Court at Law of Angelina County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until January 1st of the year following the next general election and until his successor has been duly elected and qualified. Any vacancy occurring in the office of the judge of the county court at law may be filled in like manner by the commissioners court and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the county court at law shall receive a salary of not less than \$14,000 per year. Such salary shall be paid in equal monthly installments out of the county treasury on order of the commissioners court. The judge of the county court at law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

(e) A special judge of the county court at law may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Sec. 5. (a) The county attorney, county clerk, and sheriff of Angelina County, shall serve as county attorney, clerk, and sheriff, respectively, of the County Court at Law of Angelina County. The Commissioners Court of Angelina County may employ as many additional assistant county attorneys, deputy sheriffs and clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Angelina County; provided that the county attorney shall receive a salary of not less than \$2,000 per year less than the salary paid to the judge of the county court at law.

(b) The judge of the county court at law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Angelina County.

Sec. 6. Practice in the County Court at Law of Angelina County shall conform to that prescribed by law for the County Court of Angelina County.

Sec. 7. This Act becomes effective on January 8, 1972.

[Acts 1971, 62nd Leg., p. 1169, ch. 274, eff. Jan. 8, 1972. Amended by Acts 1977, 65th Leg., p. 1480, ch. 602, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1727, ch. 688, § 14, eff. Aug. 29, 1977.]

VICTORIA COUNTY

Art. 1970-356. County Court at Law of Victoria County

Sec. 1. The County Court at Law of Victoria County is created.

Sec. 2. (a) The county court at law has the same jurisdiction over all causes and proceedings, civil, criminal, juvenile, and probate, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Victoria County. This provision does not affect the jurisdiction of the commissioners court or of the County Judge of Victoria County as the presiding officer of the commissioners court as to roads, bridges, and public highways, as are now within the jurisdiction of the commissioners court or the county judge as presiding officer.

(b) The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest.

(c) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforce-

ment of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

(d) The County Judge of Victoria County is the judge of the County Court of Victoria County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Victoria County unless by this Act court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

(e) The judge of the County Court at Law of Victoria County, shall be a member of the juvenile board in Victoria County and shall be entitled to additional compensation for the additional duties hereby imposed, to be fixed by the commissioners court and paid in 12 equal installments out of the general fund or other available fund of the county. Such compensation shall be in addition to all other compensation provided in this Act.

Sec. 3. The terms of the County Court at Law of Victoria County are the same as those for the County Court of Victoria County.

Sec. 4. (a) The judge of the County Court at Law of Victoria County must be a duly licensed and practicing member of the State Bar of Texas who has been a bona fide resident of Victoria County, and actively engaged in the practice of law in Victoria County for a period of not less than two years prior to his appointment or election.

(b) When this Act becomes effective, the Commissioners Court of Victoria County shall appoint a judge to the County Court at Law of Victoria County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified. At the general election in 1974 and every fourth year thereafter, there shall be elected by the qualified voters of Victoria County a judge of the County Court at Law of Victoria County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. Any vacancy in the office shall be filled by the Commissioners Court of Victoria County until the next general election. The judge of the county court at law may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(c) The judge of the County Court at Law of Victoria County shall execute a bond and take the oath of office prescribed by law for county judges.

(d) The judge of the County Court at Law of Victoria County shall receive the same salary, to be paid from the same fund and in the same manner,

as the County Judge of Victoria County. The Commissioners Court of Victoria County may provide traveling expenses, office expenses, and administrative and clerical help which it deems necessary.

(e) A special judge of the county court at law with the same qualifications as the regular judge may be appointed in the manner provided by law for the appointment of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Sec. 5. (a) The Criminal District Attorney, County Clerk, and Sheriff of Victoria County shall serve as criminal district attorney, clerk, and sheriff, respectively, of the County Court at Law of Victoria County. They shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices.

(b) The judge of the county court at law may appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. The official court reporter is entitled to compensation fixed by the Commissioners Court of Victoria County.

(c) The seal of the court shall contain the words "County Court at Law of Victoria County," but in other respects is identical with the seal of the County Court of Victoria County.

Sec. 6. (a) Practice in the County Court at Law of Victoria County shall conform to that prescribed by law for the County Court of Victoria County.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(d) In cases transferred to either of the courts by order of the judge of the other court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 7. (a) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

[Acts 1973, 63rd Leg., p. 409, ch. 183, §§ 1 to 7, eff. May 25, 1973. Amended by Acts 1977, 65th Leg., p. 1757, ch. 705, §§ 1, 2, eff. June 15, 1977.]

Art. 1970-356a. County Court at Law No. 2 of Victoria County

Creation

Sec. 1. The County Court at Law No. 2 of Victoria County is created.

Jurisdiction

Sec. 2. (a) The County Court at Law No. 2 has the same jurisdiction over all causes and proceedings, civil, criminal, juvenile, and probate, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Victoria County and the County Court at Law of Victoria County. This provision does not affect the jurisdiction of the commissioners court or of the county judge of Victoria County as the presiding officer of the commissioners court as to roads, bridges, and public highways within the jurisdiction of the commissioners court or the county judge as presiding officer.

(b) The County Court at Law No. 2 has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

(c) The County Court at Law No. 2, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in

the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge has all other powers, duties, immunities, and privileges provided by law for county court judges.

(d) The county judge of Victoria County is the judge of the County Court of Victoria County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Victoria County unless by this Act committed to the judges of the county courts at law.

Terms

Sec. 3. The terms of the County Court at Law No. 2 are the same as those for the County Court of Victoria County.

Judge

Sec. 4. (a) The judge of the County Court at Law No. 2 must be a duly licensed and practicing member of the State Bar of Texas who has been a bona fide resident of Victoria County, and actively engaged in the practice of law in Victoria County for a period of not less than two years prior to his appointment or election.

(b) When this court is created, the Commissioners Court of Victoria County shall appoint a judge to the County Court at Law No. 2, who shall serve until the next general election and until his or her successor is elected and has qualified. At the general election in 1982 and every fourth year thereafter, there shall be elected by the qualified voters of Victoria County a judge of the County Court at Law No. 2 for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. A vacancy in the office shall be filled by the Commissioners Court of Victoria County until the next general election. The judge of the County Court at Law No. 2 may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(c) The judge of the County Court at Law No. 2 shall execute a bond and take the oath of office prescribed by law for county judges.

(d) The judge of the County Court at Law No. 2 shall receive a salary not to exceed 90 percent of the amount paid a district court judge having jurisdiction in Victoria County. The Commissioners Court of Victoria County may provide traveling expenses, office expenses, and administrative and clerical help which it deems necessary.

(e) A special judge of the County Court at Law No. 2 with the same qualifications as the regular judge may be appointed in the manner provided by law for the appointment of a special county judge. If a judge of the County Court at Law No. 2 is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge

is entitled to the same rate of compensation as the regular judge.

(f) The judge of the County Court at Law No. 2 shall be a member of the juvenile board in Victoria County and shall be entitled to additional compensation for the additional duties hereby imposed, to be fixed by the commissioners court and paid in 12 equal installments out of the general fund or other available fund of the county. Such compensation shall be in addition to all other compensation provided in this Act.

Personnel

Sec. 5. (a) The criminal district attorney, county clerk, and sheriff of Victoria County shall serve as criminal district attorney, clerk, and sheriff, respectively, of the County Court at Law No. 2. They shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices.

(b) The judge of the County Court at Law No. 2 may appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be as provided by law. The official court reporter is entitled to compensation fixed by the Commissioners Court of Victoria County.

Practice

Sec. 6. Practice in the County Court at Law No. 2 shall conform to that prescribed by law for the County Court of Victoria County.

Jurors

Sec. 7. (a) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the County Court at Law No. 2.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or a judge of the county courts at law, be made available and shall serve for the week in either the county court or county courts at law.

Seal

Sec. 8. The seal of the court shall contain the words "County Court at Law No. 2 of Victoria County," but in other respects is identical with the seal of the County Court of Victoria County.

Transfer of Cases

Sec. 9. (a) The judges of the county court and the county courts at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) In cases transferred to any of the courts by order of the judge of another court, all processes,

writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Exchange of Benches

Sec. 10. The county judge and the judges of the county courts at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him or her without the necessity of transferring the case involved. Any of these judges may hear all or any part of a case pending in the county court or a county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his or her own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his or her court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

Effective Date

Sec. 11. The County Court at Law No. 2 of Victoria County is created on January 1, 1984, or on a date determined by the commissioners court by an order entered in its minutes, whichever date is earlier.

[Acts 1979, 66th Leg., p. 1007, ch. 443, §§ 1 to 11, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 2304, ch. 564, § 1, eff. June 12, 1981.]

BRAZORIA COUNTY

Art. 1970-357. County Courts at Law Nos. 1 and 2 of Brazoria County

Sec. 1. (a) The County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County are hereby created. The County Court at Law No. 1 of Brazoria County is created on the effective date of this Act, and the County Court at Law No. 2 is created effective January 1, 1975.

(b) The County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County have the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, and their jurisdiction is concurrent with that of the County Court of Brazoria County. Each county court at law has jurisdiction concurrent with the district court in eminent domain cases, in civil cases when the matter in controversy exceeds \$500

and does not exceed \$50,000, exclusive of interest, and in proceedings under Title 3 of The Family Code.¹ Each county court at law has concurrent jurisdiction with the district courts in Brazoria County in suits and causes involving family law matters, including adoption; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; and independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parent and child and between husband and wife. Each county court at law has concurrent jurisdiction with the district court in appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy. The provisions in this subsection do not diminish the jurisdiction of the district courts in Brazoria County, and the district courts shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

(c) The County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County, or the judge of either court, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court of inferior jurisdiction in the county. Both courts and judges also have the power to punish for contempt as prescribed by law for county courts. Each county court at law may enforce an order of the Family District Court for the 300th Judicial District relating to a family law matter.

(d) The County Judge of Brazoria County is the judge of the County Court of Brazoria County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Brazoria County unless by this Act committed to the judges of the county courts at law.

(e) The County Court at Law No. 1 and the County Court at Law No. 2 of Brazoria County shall be primarily responsible for and give preference to cases in which their jurisdiction is concurrent with the county court, eminent domain proceedings and cases, proceedings under Title 3 of The Family Code, and civil cases where the amount in controversy does not exceed \$20,000 exclusive of interest.

Sec. 2. The Commissioners Court of Brazoria County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County.

Sec. 3. (a) The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall have the same qualifications as those prescribed by the constitution and laws of this state for district judges.

(b) Upon the effective date of this Act the Commissioners Court of Brazoria County, shall make the initial appointment of the Judge of the County Court at Law No. 1 of Brazoria County, who shall serve until the next general election and until his successor shall be duly elected and qualified.

(c) At the general election in 1974 and every four years thereafter, the Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, Constitution of Texas. Any vacancy occurring in the office of the Judge of the County Court at Law No. 1 of Brazoria County or the Judge of the County Court at Law No. 2 of Brazoria County shall be filled by the Commissioners Court of Brazoria County, and the appointee shall hold office until the next general election and until his successor is duly elected and qualified.

(d) The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall execute a bond and take the oath of office prescribed by law for county judges. Either judge may be removed from office in the same manner and for the same causes as a district judge.

(e) The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall each receive compensation prescribed by the Commissioners Court of Brazoria County in an amount not less than an amount that is \$1,000 less than the combined annual salary paid to the district judges of Brazoria County from all sources. The salary shall be paid in equal monthly installments out of the county treasury on order of the commissioners court. The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall assess the fees prescribed by law for county judges and district judges according to the nature of the matter brought before them, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judges.

(f) A special judge of the County Court at Law No. 1 of Brazoria County or the County Court at Law No. 2 of Brazoria County may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Sec. 4. (a) The Criminal District Attorney, County Clerk, and Sheriff of Brazoria County, shall serve as Criminal District Attorney, Clerk, and

Sheriff, respectively, of the County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County, except that the District Clerk of Brazoria County shall serve as clerk of the county courts at law in cases of which the district courts and county courts at law have concurrent jurisdiction and which have been instituted in the district courts. The Commissioners Court of Brazoria County may employ as many additional assistant criminal district attorneys, deputy sheriffs, and deputy clerks as are necessary to serve the courts created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Brazoria County.

(b) The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County may each appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the same compensation as the reporters of the district courts of Brazoria County, to be paid by the County Treasurer out of the general fund of the county.

Sec. 5. (a) Practice in the County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County shall conform to that prescribed by law for the County Court of Brazoria County, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county courts at law involving those matters of concurrent jurisdiction with the district courts shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. When a jury trial is requested in a case of concurrent jurisdiction between the district courts and county courts at law, and the case was instituted in district court, the jury shall be composed of 12 members. In all other cases where jury trial is requested in the county courts at law the jury shall be composed of six jurors.

(b) The judges of the County Court of Brazoria County and the County Courts at Law Nos. 1 and 2 of Brazoria County may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. All cases of concurrent jurisdiction between the district courts and county courts at law except those enumerated in Section 1(e) of this Act shall be instituted in the district courts and may be transferred between the district courts and the county courts at law. Cases of concurrent jurisdiction between the district courts and county courts at law enumerated in Section 1(e) of this Act may be instituted in either the district courts or the county courts at law. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to a county court at law unless it is within the jurisdiction of that court.

(c) Jurors regularly impaneled for the week by the district courts of Brazoria County, may, at the request of either the Judge of the County Court of Brazoria County, the Judge of the County Court at Law No. 1 of Brazoria County, or the Judge of the County Court at Law No. 2 of Brazoria County be made available by the district judges in the numbers requested and shall serve for the week in either the county court or the county courts at law.

Sec. 6. The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 shall not engage in the private practice of law while serving as judges of the county court at law.

Sec. 7. The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall be members of the Juvenile Board of Brazoria County.

[Acts 1973, 63rd Leg., p. 672, ch. 283, eff. June 11, 1973. Amended by Acts 1975, 64th Leg., p. 812, ch. 316, §§ 1 and 2, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1638, ch. 686, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2260, ch. 543, §§ 1 to 4, eff. June 12, 1981; Acts 1983, 68th Leg., p. 5581, ch. 1053, § 1, eff. Sept. 1, 1983.]

¹ Family Code, § 51.01 et seq.

HAYS COUNTY

Art. 1970-358. County Court at Law of Hays County

Sec. 1. There is created a court in Hays County to be called the County Court at Law of Hays County.

Sec. 2. (a) The county court at law has the same jurisdiction over all causes and proceedings, civil, criminal, original, and appellate, prescribed by the law for county courts, and its jurisdiction is concurrent with that of the County Court of Hays County. The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the amount in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest. The county court at law, the County Court of Hays County, and the district court in Hays County have jurisdiction over juvenile matters, and any of those courts may be designated a juvenile court. The county court at law does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways which are within the jurisdiction of the commissioners court or County Court of Hays County.

(b) The county court at law has the general jurisdiction of a probate court within the limits of Hays County, and its jurisdiction is concurrent with that of the County Court of Hays County in probate matters and in proceedings.

(c) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and to issue

writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the power to punish for contempt as prescribed by law for county courts. The judge of the county court of law has all other powers, duties, and immunities and privileges provided by law for county court judges, and he is a magistrate and conservator of the peace.

(d) The County Judge of Hays County is a judge of the County Court of Hays County. All ex officio duties of the county judge shall be exercised by the Judge of the County Court of Hays County except insofar as the same are, by this Act, committed to the Judge of the County Court at Law of Hays County.

(e) In addition to the jurisdiction conferred on the County Court at Law of Hays County by the other provisions of this Act, the county court at law has concurrent jurisdiction with the district court in Hays County in suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; and independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parent and child and between husband and wife. The provisions in this subsection do not diminish the jurisdiction of the district court in Hays County, and the district court shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

Sec. 3. The terms of the County Court at Law of Hays County are the same as those for the County Court of Hays County, Texas.

Sec. 4. (a) There shall be elected a judge of the County Court at Law of Hays County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than four years, who must be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Hays County for a period of not less than one year prior to the general election. Beginning at the general election in 1974 and every four years thereafter, the qualified voters of the county shall elect a judge who holds office for four years and until his successor has been duly elected and has qualified.

(b) When this Act becomes effective, the Commissioners Court of Hays County, Texas, shall appoint a judge to the County Court at Law of Hays County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified.

Any vacancy occurring in the office of the Judge of the County Court at Law of Hays County may be filled in like manner by the commissioners court and the appointee holds office until the next election and until his successor has been duly elected and has qualified.

(c) The Judge of the County Court at Law of Hays County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Commissioners Court of Hays County shall fix the salary of the Judge of the County Court at Law of Hays County. The judge shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

(e) A special judge of the county court at law may be appointed or elected as provided by law for county courts. A special judge is entitled to the same rate of compensation as the regular judge.

(f) If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the compensation provided in Subsection (e) of this section.

Sec. 5. (a) The criminal district attorney, county clerk, and sheriff of Hays County shall serve as criminal district attorney, clerk, and sheriff, respectively, of the County Court at Law of Hays County, except that the district clerk shall serve as clerk of the county court at law in cases enumerated in Section 2(e) of this Act and shall establish a separate docket for the county court at law. The Commissioners Court of Hays County may employ as many assistant district attorneys, deputy sheriffs, and bailiffs as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices in Hays County.

(b) The judge of the county court at law may appoint an official court reporter who serves at the pleasure of the judge and who is entitled to the compensation fixed by the commissioners court. The official court reporter must have the qualifications prescribed by law for district court reporters.

(c) The seal of the court shall contain the words "County Court at Law of Hays County," but in other respects is identical with the seal of the County Court of Hays County.

Sec. 6. (a) Practice in the County Court at Law of Hays County shall conform to that prescribed by law for the County Court of Hays County, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of

concurrent jurisdiction enumerated in Section 2(e) of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. If a case enumerated in Section 2(e) of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. All cases within the concurrent jurisdiction of the county court at law and the district court may be instituted in or transferred between the county court at law and the district court in Hays County. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the cause or proceeding, civil, criminal, or probate, involved. Either judge may hear all or any part of a cause or proceeding pending in the county court or county court at law; and he may rule or enter orders on and continue, determine, or render judgment on all or any part of the cause or proceeding without the necessity of transferring it to his own docket. However, the judge of the county court at law may not sit or act in any cause or proceeding over which exclusive jurisdiction is vested by this Act in the Hays County Court.

(d) In cases transferred to any of the courts by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 7. (a) The jurisdiction and authority now vested by law in the county clerk and the county judge of Hays County for the drawing, selection, and service of jurors and talesman shall be also exercised by the county court at law and its judge. Jurors and talesmen summoned for either court may by order of the judge of the court to which they are summoned be transferred to the other court for service. Upon concurrence of the judge of the county court at law and the county judge, jurors

may be summoned for service in both courts and used interchangeably.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

[Acts 1973, 63rd Leg., p. 702, ch. 298, eff. June 11, 1973. Amended by Acts 1979, 66th Leg., p. 953, ch. 429, §§ 1 to 4, eff. Aug. 27, 1979.]

BRAZOS COUNTY

Art. 1970-359. County Court at Law of Brazos County

Sec. 1. On January 1, 1977, the County Court at Law of Brazos County is created.

Sec. 2. (a) The county court at law has jurisdiction over all causes and proceedings, original and appellate, civil, criminal, juvenile, and probate, prescribed by law for county courts.

(b) The county court at law has the general jurisdiction of a probate court within the limits of Brazos County, and its jurisdiction is concurrent with that of the County Court of Brazos County in probate, administrations, guardianship, and mental illness proceedings. The County Court of Brazos County shall have no other jurisdiction, civil or criminal, original or appellate. This provision does not affect the jurisdiction of the Commissioners Court or the County Judge of Brazos County as the presiding officer of the commissioners court.

(c) The county court at law has jurisdiction concurrent with the district court in eminent domain cases, in juvenile proceedings if designated to serve as juvenile court, and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

(d) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

(e) The County Judge of Brazos County is the judge of the County Court of Brazos County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Brazos County unless by this Act committed to the judge of the county court at law.

Sec. 3. The terms of the County Court at Law of Brazos County are the same as those for the County Court of Brazos County.

Sec. 4. (a) The judge of the County Court at Law of Brazos County must be a duly licensed and practicing member of the State Bar of Texas who has been a bona fide resident of Brazos County, and actively engaged in the practice of law in Brazos County for a period of not less than two years prior to his appointment or election.

(b) At the general election in 1976, there shall be elected by the qualified voters of Brazos County a judge of the court created by this Act for a two-year term beginning on January 1, 1977. Every four years thereafter, this officer shall be elected by the qualified voters of Brazos County for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. Any vacancy in the office shall be filled by the Commissioners Court of Brazos County, and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and has qualified. The judge of the county court at law may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(c) The judge of the County Court at Law of Brazos County shall execute a bond and take the oath of office prescribed by law for county judges.

(d) The judge of the County Court at Law of Brazos County shall receive a salary to be determined by the Commissioners Court of Brazos County in an amount not less than the salary of the county judge of Brazos County and to be paid from the same fund and in the same manner as other county officials. He shall be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The commissioners court shall provide adequate courtroom and office space for the judge of the County Court at Law of Brazos County.

(e) A special judge of the county court at law with the same qualifications as the regular judge may be appointed in the manner provided by law for the appointment of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Sec. 5. (a) The county attorney, county clerk, and sheriff in Brazos County shall serve as county attorney, clerk, and sheriff, respectively, of the County Court at Law of Brazos County. They shall perform the duties, and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices.

(b) The judge of the county court at law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Brazos County.

(c) The seal of the court shall contain the words "County Court at Law of Brazos County," but in other respects is identical with the seal of the County Court of Brazos County.

Sec. 6. (a) Practice in the County Court at Law of Brazos County shall conform to that prescribed by law for county courts.

(b) After the effective date of this Act, all cases of concurrent jurisdiction provided for in this Act may be instituted in or transferred between the courts having concurrent jurisdiction.

(c) The Judge of the County Court at Law of Brazos County or the Judge of the County Court of Brazos County may, in his discretion, either in term-time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any probate matter on his docket to the docket of the other court. The judges of the courts may, in their discretion, in any probate matter exchange benches from time to time. Whenever a judge in one of the courts is disqualified in a probate matter, he shall transfer the matter from his court to the other court. Either judge may, in his own courtroom, try and determine any probate matter pending in either court, without having the case transferred, or may sit in the other court and there hear and determine any probate matter there pending. Each judgment and order shall be entered in the minutes of the court in which the matter is pending. The judges may try different probate matters in the same court at the same time and each may occupy his own courtroom or the courtroom of the other. In case of absence, sickness, or disqualification of either judge, the other judge may hold court for him in any probate matter. Either of the judges may hear any part of or question in any probate matter pending in either of the courts and determine the matter or question. Either judge may complete the hearing and render judgment in the case. In any matter transferred by order of the judge of one of the courts, all process, writs, bonds, recognizances, or other obligations issued or made in the matter shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in the matter shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the matter is transferred to as are fixed by law and by this Act. All processes issued or returned before transfer of the matter as well as all bonds and recognizances before taken shall be valid and binding as though originally issued out of the court to which the transfer may be made.

Sec. 7. (a) The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(b) Jurors regularly impaneled for a week by the district court may, on request of the judge of the

county court at law, be made available and shall serve for the week in the county court at law. [Acts 1975, 64th Leg., p. 110, ch. 50, §§ 1 to 7, eff. Jan. 1, 1977.]

Section 8 of the 1975 Act amended Acts 1959, 56th Leg., p. 4, ch. 2 (art. 1970-310 note) and § 9 thereof provided: "With the exception of Section 4, Subsections (a) and (b), this Act becomes effective on January 1, 1977."

WEBB COUNTY

Art. 1970-360. County Court at Law of Webb County

Sec. 1. The County Court at Law of Webb County is created. It shall sit in Laredo.

Sec. 2. The County Court at Law of Webb County has the same jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, prescribed by law for county courts. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business which is now within the jurisdiction of the Commissioners Court of Webb County. The county court at law also has concurrent jurisdiction with the County Court of Webb County in all matters of probate, and shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and shall grant letters testamentary and of administration, settle accounts of administrators, executors, and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of the estates of deceased persons, and apprentice minors as provided by law.

Sec. 3. (a) The County Court at Law of Webb County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

(b) In addition to the jurisdiction conferred on the County Court at Law of Webb County by the other provisions of this Act, the county court at law has concurrent civil jurisdiction with the district courts of Webb County in suits, causes, and matters involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected, or dependent child proceedings, Uniform Reciprocal Enforcement of Support Act, and all jurisdiction, powers, and authority now or hereafter placed in the district or county courts under the juvenile and child welfare laws of this state; and of all divorce, marriage, and annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons, and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them,

and their minor children, or between any of these and third persons; corporations, trustees, or other legal entities, which are now or may hereafter be within the jurisdiction of the district or county courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, and the county court at law and its judge have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce its jurisdiction. The provisions in this subsection do not diminish the jurisdiction of the several district courts in Webb County, and the district courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law, and the jurisdiction given in this subsection is concurrent with the jurisdiction of the district courts.

Sec. 4. The County Court of Webb County shall have and retain concurrently with the court created by this Act the general jurisdiction of a probate court. The county court shall have no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the county judge shall be exercised and retained by the judge of the County Court of Webb County, except as provided by this Act or otherwise provided by law.

Sec. 5. The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that such judge of the county court at law shall in no way have any authority over the administrative business of Webb County which is now performed by the County Judge of Webb County.

Sec. 6. The County Court at Law of Webb County shall hold six terms of court each year, commencing on the first Monday in January, March, May, July, September, and November of each year and each term shall continue until the business of the court has been disposed of. However, no term of the court shall continue beyond the date fixed for the commencement of its new term, except on an order entered on its minutes during the term extending the term for any particular cause therein specified.

Sec. 7. (a) The judge of the county court at law shall have been a bona fide resident of Webb County for two years prior to his appointment or election and shall be a qualified voter in Webb County. He shall be a licensed attorney in this state who has been actively engaged in the practice of law for a

period of five years prior to this appointment or election.

(b) The judge of the county court at law shall not engage in the private practice of law after his appointment or election.

(c) When this Act becomes effective, the Commissioners Court of Webb County shall appoint a judge to the County Court at Law of Webb County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the general election in 1976 and until his successor has been duly elected and has qualified. At the general election in 1976, there shall be elected a judge of the county court at law for a term ending on December 31, 1978. At the general election in 1978 and every fourth year thereafter there shall be elected by the qualified voters of Webb County a judge of the County Court at Law of Webb County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(d) A vacancy occurring in the office of the judge of county court at law shall be filled by the Commissioners Court of Webb County, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

(e) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the county court at law shall receive a salary to be set by the commissioners court in an amount not less than \$20,000 per annum and not more than the salary of the county judge of Webb County, which shall be paid out of the county treasury by order of the commissioners court and shall be paid monthly in equal installments. The judge of the county court at law shall be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the County Court at Law of Webb County shall assess the same fees as are now prescribed or may be established by law, relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge, but he shall draw the salary as specified in this section.

(g) A special judge of the county court at law with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Sec. 8. (a) The District Attorney of the 49th Judicial District and the Sheriff of Webb County shall serve as district attorney and sheriff, respectively, of the County Court at Law of Webb County, except that the County Attorney of Webb County shall handle and prosecute all juvenile, child welfare, and mental health cases and the other civil cases where the State of Texas is a party. The District Clerk of Webb County shall serve as clerk of the county court at law in the cases enumerated in Section 3 of this Act, and the County Clerk of Webb County shall serve as clerk of the county court at law in cases enumerated in Section 2 of this Act. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law shall appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. The official court reporter is entitled to the compensation fixed by the Commissioners Court of Webb County.

Sec. 9. (a) As soon as practicable following the effective date of this Act, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the County Court of Webb County and shall transfer those matters to the docket of the court created by this Act, and the district clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the district courts of Webb County and may transfer a sufficient number of those matters to the docket of the court created by this Act to equalize the dockets. Equalization of case load shall be the primary objective in establishing the initial case docket for the county court at law.

(b) On the transfer of all cases specified in Subsection (a) of this section to the county court at law, and in cases transferred to any of the courts in Webb County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

(c) The judge of the county court and the judge of the county court at law may transfer cases to and

from the dockets of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. All cases of concurrent jurisdiction enumerated or included in Section 3 of this Act may be instituted in or transferred between the district courts of Webb County and the County Court at Law of Webb County. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(d) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law, but only in matters within his jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. This provision providing for the exchange of benches by and between the judge of the county court and the judge of the county court at law is cumulative of and in addition to the provisions herein provided for the selection and appointment of a special judge of the county court at law.

Sec. 10. (a) Practice in the county court at law shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction enumerated in Subsection (b), Section 3 of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. If a case enumerated in Subsection (b), Section 3 of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

Sec. 11. The Commissioners Court of Webb County shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Sec. 12. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Webb County."

[Acts 1975, 64th Leg., p. 152, ch. 65, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 389, ch. 180, § 2, eff. May 15, 1979; Acts 1981, 67th Leg., p. 549, ch. 230, § 1, eff. May 28, 1981.]

NACOGDOCHES COUNTY

Art. 1970-361. County Court at Law of Nacogdoches County

Sec. 1. On the effective date of this Act, the County Court at Law of Nacogdoches County is created.

Sec. 2. (a) The county court at law has jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts. The County Court of Nacogdoches County shall have no jurisdiction over the matters of which jurisdiction is given to the county court at law by this Act. This provision does not affect the jurisdiction of the Commissioners Court or the County Judge of Nacogdoches County as the presiding officer of the Commissioners Court.

(b) The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest.

(c) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

(d) The County Judge of Nacogdoches County is the judge of the County Court of Nacogdoches County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Nacogdoches County unless by this Act committed to the judge of the county court at law.

Sec. 3. The terms of the County Court at Law of Nacogdoches County shall begin on the first Mondays in January, April, July, and October in each year, and each term of the court shall continue in session until the convening of the next succeeding term.

Sec. 4. (a) The judge of the County Court at Law of Nacogdoches County must be a duly licensed and practicing member of the State Bar of Texas who has been a bona fide resident of Nacogdoches County for two years prior to his appointment or election and actively engaged in the prac-

tice of law in the State of Texas for a period of not less than five years prior to his appointment or election.

(b) When this Act becomes effective, the Commissioners Court of Nacogdoches County shall appoint a judge to the County Court at Law of Nacogdoches County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until January 1 of the year following the next general election and until his successor has been duly elected and has qualified. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Nacogdoches County a judge of the County Court at Law of Nacogdoches County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. Any vacancy in the office shall be filled by the Commissioners Court of Nacogdoches County, and the appointee holds office until January 1 of the year following the next general election and until his successor has been duly elected and has qualified. The judge of the county court at law may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(c) The judge of the County Court at Law of Nacogdoches County shall execute a bond and take the oath of office prescribed by law for county judges.

(d) The judge of the County Court at Law of Nacogdoches County shall receive an annual salary to be fixed by the Commissioners Court of Nacogdoches County at an amount not less than \$15,000 or more than 80 percent of the total annual salary paid to the judge of the 145th Judicial District of Texas. This sum shall be paid in equal monthly installments out of the county treasury of Nacogdoches County on orders from the commissioners court. Additionally, he shall be entitled to reasonable traveling expenses and necessary office expenses, including administrative and clerical help. The judge of the County Court at Law of Nacogdoches County shall charge the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury. During his term of office, the judge of the County Court at Law of Nacogdoches County shall diligently discharge the duties of his office on a full-time basis and shall not engage in the private practice of law.

(e) A special judge of the county court at law with the same qualifications as the regular judge may be appointed in the manner provided by law for the appointment of a special county judge. If a judge of the county court at law is disqualified to try or recuses himself from trying a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Sec. 5. (a) The County Attorney, County Clerk, and Sheriff of Nacogdoches County shall serve as county attorney, clerk, and sheriff, respectively, of the County Court at Law of Nacogdoches County. They shall perform the duties and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices.

(b) The judge of the County Court at Law of Nacogdoches County may appoint an official shorthand reporter for the court who shall be a sworn officer of the court and shall hold his office at the pleasure of the court. All provisions of the general laws of Texas relating to the appointment of a reporter for the district court shall apply, so far as applicable, to the official shorthand reporter authorized to be appointed by the judge of the County Court at Law of Nacogdoches County. The reporter shall be entitled to the same fees and shall perform the same duties as provided in the general laws and in addition shall receive a salary, not to exceed the compensation paid to the official shorthand reporter of the district court of Nacogdoches County, to be determined by the judge of the county court at law and paid out of the county treasury on order of the commissioners court.

(c) The seal of the court shall contain the words "County Court at Law of Nacogdoches County," but in other respects is identical with the seal of the County Court of Nacogdoches County.

Sec. 6. (a) Practice in the County Court at Law of Nacogdoches County shall conform to that prescribed by general law for county courts.

(b) All cases and matters, civil, criminal, and probate, original and appellate, pending before the County Court of Nacogdoches County on the effective date of this Act are transferred to the County Court at Law of Nacogdoches County. All processes, writs, bonds, recognizances, and other obligations issued or made in the cases transferred shall be returned to and filed in the county court at law. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the county court at law as fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the county court at law.

Sec. 7. The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

[Acts 1975, 64th Leg., p. 248, ch. 99, eff. April 30, 1975.]

COLLIN COUNTY

Art. 1970-362. County Court at Law of Collin County

Sec. 1. The County Court at Law of Collin County is created.

Sec. 2. (a) The county court at law has jurisdiction over all causes and proceedings, civil, criminal,

juvenile, and probate, original and appellate, prescribed by law for county courts.

(b) The county court at law has the general jurisdiction of a probate court within the limits of Collin County, and its jurisdiction is concurrent with that of the County Court of Collin County in probate, administrations, guardianship, and mental-illness proceedings. The County Court of Collin County has the general jurisdiction of a probate court but does not have jurisdiction over matters of eminent domain or other original civil or criminal jurisdiction or appellate civil or criminal jurisdiction. All future statutes pertaining to probate matters enacted by the legislature shall be operative in Collin County as fully as though this statute had not been enacted. The County Judge of Collin County is the judge of the County Court of Collin County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Collin County unless by this Act committed to the judge of the county court at law.

(c) The county court at law has jurisdiction concurrent with the district court in eminent-domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

(d) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

Sec. 3. The terms of the county court at law shall commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Sec. 4. (a) The judge of the County Court at Law of Collin County must be a duly licensed and practicing member of the State Bar of Texas who has been a bona fide resident of Collin County and actively engaged in the practice of law in Collin County for a period of not less than two years prior to his appointment or election.

(b) When this Act becomes effective, the Commissioners Court of Collin County shall appoint a judge to the County Court at Law of Collin County. The judge appointed serves until the general election in 1976 and until his successor is duly elected and has qualified. At the general election in 1976, there shall be elected a judge of the county court at law for a term ending on December 31, 1978. At the general election in 1978 and every four years thereafter, the judge of the county court at law shall be

elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. Any vacancy occurring in the office of the judge of the county court at law shall be filled by the Commissioners Court of Collin County, and the appointee shall hold office until the next general election and until his successor is duly elected and has qualified.

(c) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the County Court at Law of Collin County shall receive an annual salary to be fixed by the Commissioners Court of Collin County at an amount not less than \$18,000 nor more than 80 percent of the total annual salary paid to the judge of a district court having jurisdiction in Collin County. The salary shall be paid in equal monthly installments out of the county treasury on order of the commissioners court. The judge of the county court at law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury and which may not be paid to the judge.

(e) The judge of the County Court at Law of Collin County is a member of the Juvenile Board of Collin County.

(f) A special judge of the county court at law may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

(g) During his term of office, the judge of the county court at law shall diligently discharge the duties of his office on a full-time basis and shall not engage in the private practice of law.

Sec. 5. (a) The Criminal District Attorney, County Clerk, and Sheriff of Collin County shall serve as criminal district attorney, clerk, and sheriff, respectively, of the County Court at Law of Collin County. They shall perform the duties and are entitled to the compensation, fees, and allowance prescribed by law for their respective offices.

(b) The judge of the county court at law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Collin County.

(c) The seal of the court shall contain the words "County Court at Law of Collin County," but in other respects is identical with the seal of the County Court of Collin County.

Sec. 6. (a) Practice in the County Court at Law of Collin County shall conform to that prescribed by general law for county courts.

(b) The laws which govern the drawing, selection, service, and pay of jurors for the county courts apply to the county court at law.

Sec. 7. All cases and matters within the jurisdiction of the County Court at Law of Collin County pending before the 199th District Court on the effective date of this Act are transferred to the County Court at Law of Collin County. All processes, writs, bonds, recognizances, and other obligations issued or made in the cases transferred shall be returned to and filed in the county court at law. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the county court at law as fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the county court at law. If, in a civil or criminal case within the jurisdiction of the County Court at Law of Collin County on appeal from the 199th District Court, the court of civil appeals, the supreme court, or the court of criminal appeals enters judgment remanding the case for a new trial or for further proceedings, the case shall be remanded to the County Court at Law of Collin County, and all jurisdiction in respect to that particular case shall thereafter vest in the county court at law. The county clerk and district clerk shall promptly take all necessary steps to effect the transfer of a certified bill of cost and any unused cost deposit or jury fee, all original papers, and certified copies of interlocutory judgments or orders in the cases transferred and shall docket the cases on the docket of the county court at law in the same manner and place as each stands on the docket of the 199th District Court. This Act does not affect final judgments heretofore rendered by the 199th District Court pertaining to matters and causes transferred to the county court at law by this Act, and the district court retains jurisdiction to enforce those final judgments.

[Acts 1975, 64th Leg., p. 375, ch. 166, §§ 1 to 7, eff. Jan. 1, 1976. Amended by Acts 1981, 67th Leg., p. 1004, ch. 382, § 1, eff. Aug. 31, 1981.]

Section 8 of the 1975 Act amended §§ 1 to 3 of art. 5139HHH; § 9 repealed subsecs. (b) to (e) of art. 199a, § 3.028; and § 10 provided: "The effective date of this Act is January 1, 1976."

Art. 1970-362a. County Court at Law No. 2 of Collin County

Creation

Sec. 1. The County Court at Law No. 2 of Collin County is created.

Jurisdiction: Writ Power

Sec. 2. (a) The county court at law created by this Act has jurisdiction over all causes and proceedings, civil, criminal, juvenile, and probate, original and appellate, prescribed by law for county courts,

and its jurisdiction is concurrent with the jurisdiction of the County Court at Law of Collin County.

(b) The county court at law created by this Act has the general jurisdiction of a probate court within the limits of Collin County, and its jurisdiction is concurrent with that of the County Court of Collin County and the County Court at Law of Collin County in probate, administrations, guardianship, and mental-illness proceedings. The County Court of Collin County has the general jurisdiction of a probate court but does not have jurisdiction over matters of eminent domain or other original civil or criminal jurisdiction or appellate civil or criminal jurisdiction. All future statutes pertaining to probate matters enacted by the legislature shall be operative in Collin County as fully as though this statute had not been enacted. The County Judge of Collin County is the judge of the County Court of Collin County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Collin County unless by this Act committed to the judges of the county courts at law.

(c) The county court at law created by this Act has jurisdiction concurrent with the district court in eminent-domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

(d) The county court at law created by this Act, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law created by this Act has all other powers, duties, immunities, and privileges provided by law for county court judges.

Terms

Sec. 3. The terms of the court created by this Act shall commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Judge

Sec. 4. (a) The judge of the County Court at Law No. 2 of Collin County must be a duly licensed and practicing member of the State Bar of Texas who has been a bona fide resident of Collin County and actively engaged in the practice of law in Collin County for a period of not less than two years prior to his appointment or election.

(b) When this Act becomes effective, the Commissioners Court of Collin County shall appoint a judge to the County Court at Law No. 2 of Collin County. The judge appointed serves until the general elec-

tion in 1980 and until his successor is duly elected and has qualified. At the general election in 1980, there shall be elected a judge of the court created by this Act for a term ending on December 31, 1982. At the general election in 1982 and every four years thereafter, the judge of the county court at law shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. Any vacancy occurring in the office of the judge of the court created by this Act shall be filled by the Commissioners Court of Collin County, and the appointee shall hold office until the next general election and until his successor is duly elected and has qualified.

(c) The judge of the court created by this Act shall execute a bond and take the oath of office prescribed by law for county judges. The judge may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the County Court at Law No. 2 of Collin County shall receive an annual salary to be fixed by the Commissioners Court of Collin County at an amount not more than 90 percent of the total annual salary paid to the judges of the district courts having jurisdiction in Collin County. The salary shall be paid in equal monthly installments out of the county treasury on order of the commissioners court. The judge of the court created by this Act shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury and which may not be paid to the judge.

(e) The judge of the County Court at Law No. 2 of Collin County is a member of the Juvenile Board of Collin County.

(f) A special judge of the court created by this Act may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

(g) During his or her term of office, the judge of the court created by this Act shall diligently discharge the duties of the office on a full-time basis and not engage in the private practice of law.

Personnel; Seal

Sec. 5. (a) The criminal district attorney, county clerk, and sheriff of Collin County shall serve as criminal district attorney, clerk, and sheriff, respectively, of the County Court at Law No. 2 of Collin County. They shall perform the duties and are entitled to the compensation, fees, and allowance prescribed by law for their respective offices.

(b) The judge of the court created by this Act shall appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Collin County.

(c) The seal of the court shall contain the words "County Court at Law No. 2 of Collin County," but in other respects is identical with the seal of the County Court of Collin County.

Practice; Jurors

Sec. 6. (a) Practice in the County Court at Law No. 2 of Collin County shall conform to that prescribed by general law for county courts.

(b) The laws which govern the drawing, selection, service, and pay of jurors for the county courts apply to the court created by this Act.

Transfer of Cases

Sec. 7. (a) The judges of the County Court at Law of Collin County and the County Court at Law No. 2 of Collin County may transfer cases to and from the dockets of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. However, no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) In cases transferred to either of the county courts at law by order of the judge of the other court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

Exchange of Benches

Sec. 8. The judges of the County Court at Law of Collin County and the County Court at Law No. 2 of Collin County may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him or her without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the County Court at Law of Collin County or the County Court at Law No. 2 of Collin County, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his or her own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his or her court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are

cumulative of and in addition to the provisions provided in this Act for the selection and appointment of a special judge of the court created by this Act.

[Acts 1979, 66th Leg., p. 836, ch. 375, §§ 1 to 8, eff. Jan. 1, 1981.]

MONTGOMERY COUNTY

Art. 1970-363. County Court at Law No. 1 of Montgomery County

Sec. 1. On the effective date of this Act, the County Court at Law No. 1 of Montgomery County is created.

Sec. 2. (a) The county court at law has the same jurisdiction over all causes and proceedings, civil, criminal, juvenile, and probate, original and appellate, prescribed by law for the County Court of Montgomery County, and its jurisdiction is concurrent with that of the County Court of Montgomery County and the other county courts at law in Montgomery County.

(b) The county court at law shall have and exercise original concurrent jurisdiction with the justice courts in all criminal matters which by the general laws of this state are conferred on justice courts. This Act does not deprive the justice courts of the jurisdiction now conferred on him by law, but grants concurrent original jurisdiction to the County Court at Law No. 1 of Montgomery County over the matters specified in this Act. This Act does not deny the right of appeal to the County Court at Law No. 1 of Montgomery County from the justice court where the right of appeal to the county court now exists by law.

(c) The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, including interest. The county court at law has concurrent civil jurisdiction with the district court in Montgomery County in suits, causes, and matters involving adoptions; removal of disability of minority and coverture; wife and child desertion; the Uniform Reciprocal Enforcement of Support Act (Section 21.01 et seq., Family Code) and all jurisdiction, powers, and authority placed in the district or county courts under the juvenile and child welfare laws of this state; all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved in the cases, temporary support pending final hearing, and any other matter incident to divorce or annulment proceedings, as well as independent actions involving child custody or support of minors; change of name of persons; all other cases involving justiciable controversies and differences between spouses, or between parents, or between parent and child, or between any of these and third persons, corporations, trustees, or other legal entities that are within the jurisdiction of the district or county courts; and all cases in which children are alleged or charged to be dependent and

neglected children or delinquent children as provided by law.

Sec. 3. (a) The county court at law or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

(b) The County Judge of Montgomery County is the judge of the County Court of Montgomery County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Montgomery County unless by this Act committed to the judge of the county court at law.

(c) The judge of the County Court at Law No. 1 of Montgomery County is a member of the Montgomery County Juvenile Board.

Sec. 4. The terms of the County Court at Law No. 1 of Montgomery County are the same as those for the County Court of Montgomery County.

Sec. 5. (a) The judge of the County Court at Law No. 1 of Montgomery County must be a duly licensed and practicing member of the State Bar of Texas for not less than five years who has resided in and been actively engaged in the practice of law in Montgomery County for a period of not less than two years prior to his appointment or election, and shall be well informed in the laws of the state.

(b) When this Act becomes effective, the Commissioners Court of Montgomery County shall appoint a judge to the County Court at Law No. 1 of Montgomery County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until January 1 of the year following the next general election and until his successor has been duly elected and has qualified. At the next general election after the effective date of this Act, a judge shall be elected to serve until January 1, 1979. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Montgomery County a judge of the County Court at Law No. 1 of Montgomery County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. Any vacancy in the office shall be filled by the Commissioners Court of Montgomery County, and the appointee holds office until January 1 of the year following the next general election and until his successor has been duly elected and has qualified.

(c) During his term of office, the judge shall not engage in the private practice of law while serving as the county court at law judge.

(d) The judge of the County Court at Law No. 1 of Montgomery County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(e) The judge of the County Court at Law No. 1 of Montgomery County shall receive a salary in an amount that is not less than 95 percent of the annual salary of the district judges in Montgomery County, to be paid by the county treasurer by order of the commissioners court, and the salary shall be paid monthly in equal installments. The judge of the County Court at Law No. 1 shall be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the County Court at Law No. 1 shall assess the same fees that are prescribed by law relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge, but he shall draw the salary as specified in this section.

(f) A special judge of the county court at law may be appointed in the manner provided by law for the appointment of a special county judge when the judge of the county court at law is disqualified. A special judge must have the same qualifications as the judge of the county court at law and is entitled to the same rate of compensation as the regular judge.

Sec. 6. (a) The County Attorney of Montgomery County shall represent the state in all prosecutions in the County Court at Law No. 1 of Montgomery County, as provided by law for prosecutions in the county court.

(b) The County Clerk and Sheriff of Montgomery County shall serve as clerk and sheriff, respectively, of the County Court at Law No. 1 of Montgomery County. The Commissioners Court of Montgomery County may employ as many additional deputy sheriffs and clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices in Montgomery County.

(c) The judge of the county court at law shall appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Montgomery County, and shall serve at the pleasure of the judge of the county court at law.

Sec. 7. (a) Practice in the County Court at Law No. 1 of Montgomery County shall conform to that

prescribed by law for the County Court of Montgomery County.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(d) In cases transferred to either of the courts by order of the judge of the other court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 8. The jurisdiction and authority now vested by law in the County Court of Montgomery County and the judge thereof for the drawing, selection, and service of jurors shall also be exercised by the County Court at Law No. 1 of Montgomery County and the judge of the county court at law. Jurors summoned for either of the courts may by order of the judge of the court in which they are summoned be transferred to the other court for service and may be used as if summoned for the court to which they may be transferred. On concurrence of the Judge of the County Court at Law No. 1 of Montgomery County and the Judge of the County Court of Montgomery County, jurors may be summoned for service in both courts and shall be used interchangeably in both courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect shall be as valid as if no change had been made, and the persons constituting such jury panels shall be

required to appear and serve at the ensuing term of the courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Sec. 9. (a) The Commissioners Court of Montgomery County shall furnish and equip a suitable courtroom and office space for the county court at law.

(b) The county court at law shall have a seal identical with the seal of the County Court of Montgomery County, except that it shall contain the words "County Court at Law No. 1 of Montgomery County."

Sec. 10. This Act becomes effective on July 1, 1975.

[Acts 1975, 64th Leg., p. 439, ch. 186, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 534, ch. 217, §§ 11, 12, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 1939, ch. 356, § 1, eff. Aug. 29, 1983.]

Art. 1970-363a. County Court at Law No. 2 of Montgomery County

Creation

Sec. 1. On the date provided by Section 10 of this Act, the County Court at Law No. 2 of Montgomery County is created.

Jurisdiction

Sec. 2. (a) The County Court at Law No. 2 has the same civil, criminal, and probate jurisdiction, original and appellate, over all causes and proceedings that is prescribed by law for county courts, which jurisdiction is concurrent with that of the County Court of Montgomery County and the other county courts at law of Montgomery County.

(b) The County Court at Law No. 2 has jurisdiction concurrent with the district court and the County Court at Law No. 1 in eminent domain proceedings and in civil cases when the amount in controversy exceeds \$500 and does not exceed \$20,000, including interest. The County Court at Law No. 2 has concurrent civil jurisdiction with the district court in Montgomery County in suits, causes, and matters involving adoptions; removal of disability of minority and coverture; wife and child desertion; Uniform Reciprocal Enforcement of Support Act (Section 21.01, Family Code) and all jurisdiction, powers, and authority placed in the district or county courts under the juvenile and child welfare laws of this state; all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, temporary support pending final hearing, and any and every other matter incident to divorce or annulment proceedings, as well as independent actions involving child custody or support of minors; change of name of persons; all other cases involving justiciable controversies and differences between spouses, or between parents, or between

them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees, or other legal entities which are within the jurisdiction of the district or county courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law.

(c) This Act does not diminish the jurisdiction of the several district courts of Montgomery County or the County Court of Montgomery County or the County Court at Law No. 1 of Montgomery County, and those courts shall retain and continue to exercise the jurisdiction now conferred by law. The jurisdiction conferred by this Act is concurrent with the jurisdiction of those courts.

(d) The county judge of Montgomery County is the judge of the County Court of Montgomery County. All ex officio duties of the county judge, the executive functions of the county judge as a member of the commissioners court, board of equalization, budget officer, and other executive and administrative functions shall be exercised by the judge of the County Court of Montgomery County.

Writ Power

Sec. 3. The County Court at Law No. 2 or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

Terms

Sec. 4. The Commissioners Court of Montgomery County by order duly entered of record shall prescribe not less than four terms each year for the County Court at Law No. 2 of Montgomery County.

Judge

Sec. 5. (a) Beginning at the general election in 1982 or 1986, whichever is first after creation of this court, there shall be elected a judge of the County Court at Law No. 2 of Montgomery County for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. The judge must have been a duly licensed and practicing member of the State Bar of Texas for not less than four years, be well informed in the laws of this state, and must have resided and been actively engaged in the practice of law in Montgomery County for a period of not less than two years prior to the general election. The judge holds office until his successor has been elected and qualified. During his term of office, the judge may not appear and plead as an attorney at law in any court of record in this state or in any court over which he has appellate jurisdiction.

(b) When this court is created, the Commissioners Court of Montgomery County shall appoint a judge to the County Court at Law No. 2 of Montgomery County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until January 1 of the year following the next general election and until his successor has been elected and qualified. Any vacancy occurring in the office of the judge of the County Court at Law No. 2 may be filled in like manner by the commissioners court, and the appointee holds office until January 1 of the year following the next general election and until his successor has been elected and qualified.

(c) The judge of the County Court at Law No. 2 shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the County Court at Law No. 2 shall receive a salary in an amount that is not less than 95 percent of the annual salary of the district judges in Montgomery County, to be paid by the county treasurer by order of the commissioners court, and the salary shall be paid monthly in equal installments. The judge of the County Court at Law No. 2 shall be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the County Court at Law No. 2 shall assess the same fees that are prescribed by law relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge, but he shall draw the salary as specified in this section.

(e) A special judge of the County Court at Law No. 2 may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications and is entitled to the same rate of compensation as the regular judge.

Court Officials

Sec. 6. (a) The county attorney and sheriff of Montgomery County shall serve as county attorney and sheriff, respectively, of the County Court at Law No. 2. The county clerk of Montgomery County shall be the clerk of the County Court at Law No. 2, except that the district clerk of Montgomery County shall be the clerk of the county courts at law in cases of concurrent jurisdiction between the district courts and the county courts at law and shall establish dockets for the county courts at law separate from the dockets of the district courts. The Commissioners Court of Montgomery County may employ as many additional assistant county attorneys, deputy sheriffs, and clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties and are entitled to the compensation, fees, and allowances prescribed

by law for their respective offices in Montgomery County.

(b) The judge of the County Court at Law No. 2 shall appoint an official court reporter, who shall have the qualifications and duties provided by law. The official court reporter shall receive a salary, to be fixed by the Commissioners Court of Montgomery County, of not more than \$_____ per year.

Practice and Procedure

Sec. 7. (a) Practice in the County Court at Law No. 2 shall conform to that prescribed by law for the County Court of Montgomery County and the County Court at Law No. 1, except that the practice and procedure, rules of evidence, issuance of process, and all other matters pertaining to the conduct of trials and hearings in the County Court at Law No. 2 involving matters of concurrent jurisdiction with the district court shall be governed by provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. Juries in all civil or criminal matters shall be composed of 12 members, except that in misdemeanor criminal cases and any other cases where the court has concurrent jurisdiction with the county court, the juries shall be composed of six members.

(b) The judges of the county court, the County Court at Law No. 1 and the County Court at Law No. 2 may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. All cases of concurrent jurisdiction between the district courts and county courts at law may be instituted in or transferred between the district courts of Montgomery County and the county courts at law of Montgomery County. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred to another court unless it is within the jurisdiction of the court to which it is transferred. In cases transferred to any of the courts in Montgomery County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(c) The county judge and the judges of the county courts at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or

otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Any of those judges may hear all or any part of a case pending in the county court or county courts at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring the case to his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of and in addition to the provisions provided for the selection and appointment of a special judge.

(d) Appeals in all cases from judgments and orders of the County Court at Law No. 2 shall be to the court of appeals as provided for appeals from district and county courts.

(e) The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the County Court at Law No. 2. Jurors regularly impaneled for the week by the district courts of Montgomery County may, at the request of either the judge of the county court, the judge of the County Court at Law No. 1, or the judge of the County Court at Law No. 2, be made available by the district judges in the numbers requested and shall serve for the week in the county court, the County Court at Law No. 1, and the County Court at Law No. 2.

Facilities

Sec. 8. (a) The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

(b) The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 2 of Montgomery County."

Juvenile Board

Sec. 9. The judge of the County Court at Law No. 2 of Montgomery County is a member of the Juvenile Board of Montgomery County and may be paid additional compensation therefor by the Commissioners Court of Montgomery County not to exceed the amount paid by Montgomery County to the district judges, the county judge of Montgomery County, and the judge of the County Court at Law No. 1 of Montgomery County for acting as members of the juvenile board.

Date of Creation

Sec. 10. The County Court at Law No. 2 of Montgomery County is created on January 1, 1984, or on a date determined by the commissioners court

by an order entered on its minutes, whichever date is earlier.

[Acts 1981, 67th Leg., p. 530, ch. 217, §§ 1 to 10, eff. Aug. 31, 1981. Amended by Acts 1983, 68th Leg., p. 1940, ch. 356, § 2, eff. Aug. 29, 1983.]

Art. 1970-363b. County Court at Law No. 3 of Montgomery County

Creation

Sec. 1. On the date determined under Section 11 of this Act, the County Court at Law No. 3 of Montgomery County is created.

Jurisdiction

Sec. 2. (a) The County Court at Law No. 3, concurrently with the County Court of Montgomery County and the other county courts at law in Montgomery County, has the same civil, criminal, and probate jurisdiction, original and appellate, over all causes and proceedings that is prescribed by law for county courts.

(b) The County Court at Law No. 3 has concurrent jurisdiction with the district court and the other county courts at law in Montgomery County in eminent domain cases and in civil cases in which the amount in controversy exceeds \$500 but does not exceed \$20,000, including interest. The County Court at Law No. 3 has concurrent civil jurisdiction with the district court in Montgomery County in suits, causes, and matters involving adoptions; removal of disability of minority and coverture; wife and child desertion; the Uniform Reciprocal Enforcement of Support Act (Chapter 21, Family Code) and all jurisdiction, powers, and authority placed in the district or county courts under the juvenile and child welfare laws of this state; all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved in the cases, temporary support pending final hearing, and any other matter incident to divorce or annulment proceedings, as well as independent actions involving child custody or support of minors; change of name of persons; all other cases involving justiciable controversies and differences between spouses, or between parents, or between parent and child, or between any of these and third persons, corporations, trustees, or other legal entities that are within the jurisdiction of the district or county courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law.

(c) This Act does not diminish the jurisdiction of the district courts of Montgomery County, the County Court of Montgomery County, or the other county courts at law of Montgomery County; and those courts retain and shall continue to exercise the jurisdiction now conferred by law. The jurisdiction conferred by this Act is concurrent with the jurisdiction of those courts.

(d) The county judge of Montgomery County is the judge of the County Court of Montgomery County. All ex officio duties of the county judge, the executive functions of the county judge as a member of the commissioners court, board of equalization, budget officer, and other executive and administrative functions shall be exercised by the judge of the County Court of Montgomery County.

Writ Power

Sec. 3. The County Court at Law No. 3 or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and other writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge may punish for contempt as prescribed by law for county courts.

Terms

Sec. 4. The Commissioners Court of Montgomery County by order entered on its minutes shall prescribe at least four terms each year for the County Court at Law No. 3 of Montgomery County.

Judge

Sec. 5. (a) When this court is created, the Commissioners Court of Montgomery County shall appoint a judge to the County Court at Law No. 3 of Montgomery County. The appointed judge serves until the next general election and until his successor is elected and has qualified. Beginning at the next general election at which county court at law judges are regularly elected and every fourth year thereafter, the qualified voters of Montgomery County shall elect a judge of the County Court at Law No. 3 of Montgomery County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(b) The judge must be a licensed attorney in this state who has actively practiced law in this state for at least four years prior to his appointment or election, be well informed in the laws of this state, and must have resided and been actively engaged in the practice of law in Montgomery County for at least two years prior to his appointment or election. The judge may not appear and plead as an attorney at law in any court of record in this state or in any court over which he has appellate jurisdiction.

(c) A vacancy occurring in the office of the judge of the County Court at Law No. 3 shall be filled by appointment made by the commissioners court, and the appointee holds office until the next general election and until his successor is elected and has qualified.

(d) The judge of the County Court at Law No. 3 shall execute a bond and take the oath of office prescribed by law for county judges. He may be

removed from office in the same manner and for the same causes as a county judge.

(e) The judge of the County Court at Law No. 3 shall receive a salary in an amount that is not less than 95 percent of the annual salary of the district judges in Montgomery County to be paid monthly in equal installments by the county treasurer on order of the commissioners court. The judge of the County Court at Law No. 3 is entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the County Court at Law No. 3 shall assess the same fees that are prescribed by law relating to the county judge's fees, which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge.

(f) A special judge of the County Court at Law No. 3 may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications and is entitled to the same rate of compensation as the regular judge.

Court Officials

Sec. 6. (a) The county attorney and sheriff of Montgomery County shall serve as county attorney and sheriff, respectively, of the County Court at Law No. 3. The county clerk of Montgomery County shall serve as the clerk of the County Court at Law No. 3, except that the district clerk of Montgomery County shall serve as the clerk of the county courts at law in cases of concurrent jurisdiction between the district courts and the county courts at law. The district clerk shall establish dockets for the county courts at law separate from the dockets of the district courts. The Commissioners Court of Montgomery County may employ as many additional assistant county attorneys, deputy sheriffs, and clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices in Montgomery County.

(b) The judge of the County Court at Law No. 3 shall appoint an official court reporter, who shall have the qualifications and duties provided by law. The official court reporter shall receive a salary to be fixed by the Commissioners Court of Montgomery County.

Practice and Procedure

Sec. 7. (a) Practice in the County Court at Law No. 3 shall conform to that prescribed by law for the County Court of Montgomery County and the other county courts at law in Montgomery County, except that the practice and procedure, rules of evidence, issuance of process, and all other matters pertaining to the conduct of trials and hearings in the County Court at Law No. 3 involving matters of

concurrent jurisdiction with the district court shall be governed by provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. Juries in all civil or criminal matters shall be composed of 12 members, except that in misdemeanor criminal cases and any other cases in which the court has concurrent jurisdiction with the county court, the juries shall be composed of six members.

(b) The judges of the county court and the county courts at law in Montgomery County may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. All cases of concurrent jurisdiction between the district courts and the county courts at law may be instituted in or transferred between the district courts of Montgomery County and the county courts at law of Montgomery County. However, a case may not be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and a case may not be transferred to another court unless it is within the jurisdiction of the court to which it is transferred. In a case transferred to any of the courts in Montgomery County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, are valid and binding as though originally issued out of the court to which the transfer is made.

(c) The county judge and the judges of the county courts at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, one of the others may hold court for him without the necessity of transferring the case involved. Any of those judges may hear all or any part of a case pending in the county court or county courts at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring the case to his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of and in addition to the provisions provided for the selection and appointment of a special judge.

(d) Appeals in all cases from judgments and orders of the County Court at Law No. 3 shall be to

the court of appeals as provided for appeals from district and county courts.

(e) The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the County Court at Law No. 3. Jurors regularly impaneled for the week by the district courts of Montgomery County may, at the request of the judge of the county court or the judge of a county court at law, be made available by the district judges in the numbers requested and shall serve for the week in the county court or a county court at law.

Facilities

Sec. 8. The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 9. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 3 of Montgomery County."

Juvenile Board

Sec. 10. The judge of the County Court at Law No. 3 of Montgomery County is a member of the Juvenile Board of Montgomery County and may be paid additional compensation for service on that board by the Commissioners Court of Montgomery County not to exceed the amount paid by the county to the other members of the juvenile board.

Date of Creation

Sec. 11. The County Court at Law No. 3 of Montgomery County is created on January 1, 1986, or on an earlier date determined by the commissioners court by an order entered on its minutes.

[Acts 1983, 68th Leg., p. 3198, ch. 550, eff. Aug. 29, 1983.]

FORT BEND COUNTY

Art. 1970-364. County Court at Law of Fort Bend County

Sec. 1. (a) The County Court at Law of Fort Bend County is created.

(b) The county court at law has the same jurisdiction over all causes and proceedings, civil, criminal, juvenile, and probate, original and appellate, prescribed by law for county courts and its jurisdiction is concurrent with that of the County Court of Fort Bend County.

(c) The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest, as provided by general law.

(d) The county court at law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the

jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(e) The County Judge of Fort Bend County is the judge of the County Court of Fort Bend County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Fort Bend County unless by this Act committed to the judge of the county court at law.

Sec. 2. The terms of the County Court at Law of Fort Bend County are the same as those for the County Court of Fort Bend County.

Sec. 3. (a) The judge of the County Court at Law of Fort Bend County shall be a qualified voter of Fort Bend County. He shall be a regularly licensed attorney at law in this state, and shall have resided in this state and have been actively engaged in the practice of law or as the judge of a court for a period of not less than three years next preceding his appointment of election.

(b) On the effective date of this Act the Commissioners Court of Fort Bend County shall make the initial appointment of the judge, who shall serve until the general election in 1976 and until his successor shall be duly elected and has qualified. At the general election in 1976, there shall be elected a judge of the county court at law for a term ending on December 31, 1978. At the general election in 1978 and every four years thereafter, the judge of the county court at law shall be elected for a regular four year term as provided in Article V, Section 30 and Article XVI, Section 65 of the Texas Constitution. Any vacancy occurring in the office of the judge of the County Court at Law of Fort Bend County shall be filled by the Commissioners Court of Fort Bend County, and the appointee shall hold office until the next general election and until his successor is duly elected and has qualified.

(c) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the county court at law shall receive a salary in an amount not less than \$18,000, and other compensation for office expense, travel expense, service on the juvenile board, and other allowances paid by the county. The salary shall be paid in equal monthly installments out of the county treasury on order of the commissioners court. The judge of the county court at law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may be paid to the judge.

(e) A special judge of the county court at law may be appointed or elected in the manner provided

by law for the appointment or election of a special county judge. A special judge must have the same qualifications and is entitled to the same rate of compensation, as the regular judge.

Sec. 4. (a) The Criminal District Attorney, County Clerk, and Sheriff of Fort Bend County shall serve as criminal district attorney, clerk, and sheriff, respectively, of the County Court at Law of Fort Bend County. The Commissioners Court of Fort Bend County may employ as many additional assistant criminal district attorneys, deputy sheriffs, and clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Fort Bend County.

(b) The judge of the county court at law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Fort Bend County.

Sec. 5. (a) Practice in the County Court at Law of Fort Bend County shall conform to that prescribed by law for the County Court of Fort Bend County.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred to the county court at law unless it is within the jurisdiction of that court.

(c) Jurors regularly impaneled for the week by the district courts of Fort Bend County, may, at the request of either the judge of the county court or of the county court at law, be made available by the district judges in the numbers requested and shall serve for the week in either or both the county court or the county court at law.

Sec. 6. The judge of the County Court at Law of Fort Bend County shall be a member of the Juvenile Board of Fort Bend County and receive the same additional compensation for service on the juvenile board as paid by Fort Bend County to the County Judge of Fort Bend County for acting as a member of the juvenile board.

Sec. 7. The effective date of this Act is November 1, 1975.

[Acts 1975, 64th Leg., p. 797, ch. 308, eff. Nov. 1, 1975. Amended by Acts 1979, 66th Leg., p. 205, ch. 115, § 1, eff. Aug. 27, 1979.]

HOUSTON COUNTY

Art. 1970-365. County Court at Law of Houston County

Sec. 1. On the effective date of this Act, the County Court at Law of Houston County is created.

Sec. 2. (a) The county court at law has jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, which jurisdiction is concurrent with that of the County Court of Houston County. This Act does not diminish the jurisdiction of the county court and does not affect the jurisdiction of the Commissioners Court or the County Judge of Houston County as the presiding officer of the commissioners court.

(b) The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest.

(c) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

(d) The County Judge of Houston County is the judge of the County Court of Houston County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Houston County unless by this Act committed to the judge of the county court at law.

Sec. 3. The terms of the County Court at Law of Houston County shall begin on the first Mondays in January, April, July, and October in each year, and each term of the court shall continue in session until the convening of the next succeeding term.

Sec. 4. (a) The judge of the County Court at Law of Houston County must be a duly licensed and practicing member of the State Bar of Texas who has been a bona fide resident of Houston County for two years prior to his appointment or election and actively engaged in the practice of law in the State of Texas for a period of not less than five years prior to his appointment or election.

(b) When this Act becomes effective, the Commissioners Court of Houston County shall appoint a judge to the County Court at Law of Houston County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until January 1st of the year following the next general election and until his successor has been duly elected and has qualified. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Houston County a judge of the County Court at Law of Houston County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

Any vacancy in the office shall be filled by the Commissioners Court of Houston County, and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and has qualified. The judge of the county court at law may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(c) The judge of the County Court at Law of Houston County shall execute a bond and take the oath of office prescribed by law for county judges.

(d) The judge of the County Court at Law of Houston County shall receive an annual salary to be fixed by the Commissioners Court of Houston County. This sum shall be paid in equal monthly installments out of the county treasury of Houston County on orders from the commissioners court. Additionally, he shall be entitled to reasonable traveling expenses and necessary office expenses, including administrative and clerical help. The judge of the County Court at Law of Houston County shall charge the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury. During his term of office, the judge of the County Court at Law of Houston County shall diligently discharge the duties of his office on a full-time basis and shall not engage in the private practice of law.

(e) A special judge of the county court at law with the same qualifications as the regular judge may be appointed in the manner provided by law for the appointment of a special county judge. If a judge of the county court at law is disqualified to try or excuses himself from trying a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Sec. 5. (a) The county attorney, county clerk, and sheriff of Houston County shall serve as county attorney, clerk, and sheriff, respectively, of the County Court at Law of Houston County. They shall perform the duties and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices.

(b) The judge of the County Court at Law of Houston County may appoint an official shorthand reporter for the court, who shall be a sworn officer of the court and shall hold his office at the pleasure of the court. All provisions of the general laws of Texas relating to the appointment of a reporter for the district court shall apply, so far as applicable, to the official shorthand reporter authorized to be appointed by the judge of the County Court at Law of Houston County. The reporter shall be entitled to the same fees and shall perform the same duties as provided in the general laws and in addition shall receive a salary not to exceed the compensation paid to the official shorthand reporter of the district court of Houston County, to be determined by the

judge of the county court at law and paid out of the county treasury on order of the commissioners court.

(c) The seal of the court shall contain the words "County Court at Law of Houston County," but in other respects is identical with the seal of the County Court of Houston County.

Sec. 6. (a) Practice in the County Court at Law of Houston County shall conform to that prescribed by general law for county courts.

(b) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts¹ in matters within their jurisdiction. If the office of either judge is vacant, the clerk of the court may transfer cases within their concurrent jurisdiction to the other court. However, no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred. In cases transferred to another court, all processes, writs, bonds, recognizances, and other obligations issued or made in the cases transferred shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

(c) In the case of the illness, disqualification, or absence of the county judge, the judge of the county court at law may sit for the county judge in all matters, causes, and proceedings within the concurrent jurisdiction of their courts without the necessity of transferring the matters, causes, and proceedings. In the case of the illness, disqualification, or absence of the judge of the county court at law, a county judge of Houston County who is a licensed attorney may sit for the judge of the county court at law in all matters, causes, and proceedings without the necessity of transferring the matters, causes, and proceedings. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of and in addition to the provisions herein provided for the selection and appointment of a special judge of the county court at law.

Sec. 7. The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

[Acts 1975, 64th Leg., p. 1953, ch. 644, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 911, ch. 327, §§ 1, 2, eff. June 8, 1981; Acts 1981, 67th Leg., p. 1875, ch. 451, §§ 1, 2, eff. Aug. 31, 1981.]

¹ Acts 1981, 67th Leg., p. 1875, ch. 451, § 2, here inserted a comma.

HENDERSON COUNTY

Art. 1970-366. County Court at Law of Henderson County

Sec. 1. On the date determined by the provisions of Section 8 of this Act, the County Court at Law of Henderson County is created.

Sec. 2. (a) The county court at law has the same jurisdiction over all causes and proceedings, civil and criminal, original and appellate, as prescribed by law for county courts, and its jurisdiction in those matters is concurrent with that of the County Court of Henderson County. This provision does not affect the jurisdiction of the Commissioners Court or of the County Judge of Henderson County as the presiding officer of the commissioners court as to roads, bridges, public highways, and all other matters which are now within the jurisdiction of the commissioners court or the county judge as presiding officer. The County Court of Henderson County shall retain the general jurisdiction of a probate court and the county court at law does not have probate jurisdiction.

(b) The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest.

(c) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

(d) The County Judge of Henderson County is the judge of the County Court of Henderson County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Henderson County.

Sec. 3. The terms of the County Court at Law of Henderson County are the same as those for the County Court of Henderson County.

Sec. 4. (a) The judge of the County Court at Law of Henderson County must be a duly licensed and practicing member of the State Bar of Texas. He may not actively engage in the private practice of law while serving as judge of the county court at law.

(b) The judge of the county court at law may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(c) The judge of the County Court at Law of Henderson County shall execute a bond and take the oath of office prescribed by law for county judges.

(d) The judge of the County Court at Law of Henderson County shall receive a salary to be determined by the Commissioners Court of Henderson County in an amount not less than \$20,000 per year nor more than \$25,000 per year and to be paid from the same fund and in the same manner as other county officials. In addition to a salary, the commissioners court may provide office and traveling expenses which it deems necessary. The judge of the county court at law shall charge the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury.

(e) A special judge of the county court at law with the same qualifications as the regular judge may be appointed in the manner provided by law for the appointment of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Sec. 5. (a) The county attorney, county clerk, and sheriff of Henderson County shall serve as county attorney, clerk, and sheriff, respectively, of the County Court at Law of Henderson County. They shall perform the duties and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices.

(b) The judge of the county court at law may appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. The official court reporter is entitled to the compensation fixed by the Commissioners Court of Henderson County.

(c) The seal of the court shall contain the words "County Court at Law of Henderson County," but in other respects is identical with the seal of the County Court of Henderson County.

Sec. 6. (a) Practice in the County Court at Law of Henderson County shall conform to that prescribed by law for the County Court of Henderson County.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill,

or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(d) In cases transferred to either of the courts by order of the judge of the other court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 7. (a) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

Sec. 8. (a) It is expressly provided that the provisions of this Act shall not become effective until the Commissioners Court of Henderson County enters an order adopting the same.

(b) When this Act becomes effective, the Commissioners Court of Henderson County shall have the option of either appointing a judge to the County Court at Law of Henderson County or allowing said judge to be elected at the next general election. If a judge is appointed, said judge serves until the next general election and until his successor has been duly elected and has qualified. If a judge is appointed or elected as provided herein and completes an unexpired term, then said judge shall stand for election at the next general election and every fourth year thereafter for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. If this Act is made effective and a judge of the County Court at Law is elected for the first time to a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution, said judge shall stand for election every fourth year thereafter as provided in said sections of the Constitution. Any vacancy in the office shall be filled by the Commissioners Court of

Henderson County until the next general election. The judge of the county court at law may be removed from office in the same manner and for the same causes as provided by the laws of this state for the removal of county judges.

Sec. 9. The Henderson County Commissioners Court is hereby empowered to submit the question of creating a county court at law for Henderson County to a vote of the people of Henderson County at any countywide general or special election.

[Acts 1975, 64th Leg., p. 1971, ch. 654, eff. June 19, 1975.]

WALKER COUNTY

Art. 1970-367. County Court at Law of Walker County

Sec. 1. There is hereby created a county court at law in Walker County, Texas. It shall sit in Huntsville and shall be known as the County Court at Law of Walker County.

Sec. 2. The County Court at Law of Walker County has the same jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, prescribed by law for county courts. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business which is now within the jurisdiction of the Commissioners Court of Walker County. The county court at law has concurrent jurisdiction with the County Court of Walker County in all matters of probate, and shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and shall grant letters testamentary and of administration, settle accounts of administrators, executors, and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of the estates of deceased persons, and apprentice minors as provided by law.

Sec. 3. (a) The County Court at Law of Walker County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

(b) In addition to the jurisdiction conferred on the County Court at Law of Walker County by the other provisions of this Act, the county court at law has concurrent civil jurisdiction with the district court of Walker County in suits, causes, and matters involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected, or dependent child proceedings, Uniform Reciprocal Enforcement of Support Act, and all jurisdiction, powers, and authority now or hereafter placed in the district or county courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights

and custody and support of minor children involved therein, temporary support pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons, and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees, or other legal entities, which are now or may hereafter be within the jurisdiction of the district or county courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, and the county court at law and its judge have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce its jurisdiction. The provisions in this subsection do not diminish the jurisdiction of the district court in Walker County, and the district court shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law, and the jurisdiction given in this section is concurrent with the jurisdiction of the district court.

Sec. 4. The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, execution, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that such judge of the county court at law shall in no way have any authority over the administrative business of Walker County which is now performed by the County Judge of Walker County.

Sec. 5. The County Court of Walker County shall have and retain concurrently with the court created by this Act the general jurisdiction of a probate court. The county court shall have no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the county judge shall be exercised and retained by the judge of the County Court of Walker County, except as provided by this Act or otherwise provided by law.

Sec. 6. The County Court at Law of Walker County shall hold four terms of court each year which terms shall begin on the first Mondays in January, April, July, and October in each year, and each term of the court shall continue in session until the convening of the next succeeding term.

Sec. 7. (a) The judge of the county court at law shall have been a bona fide resident of Walker County for two years prior to his appointment or election and shall be a qualified voter in Walker

County. He shall be a licensed attorney in this state who has been actively engaged in the practice of law for a period of five years prior to his appointment or election.

(b) The judge of the county court at law shall not engage in the private practice of law after his appointment or election.

(c) When this Act becomes effective, the Commissioners Court of Walker County shall appoint a judge to the County Court at Law of Walker County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and shall serve until the general election in 1978 and until his successor has been duly elected and has qualified. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Walker County a judge of the County Court at Law of Walker County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(d) A vacancy occurring in the office of the judge of county court at law shall be filled by the Commissioners Court of Walker County and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

(e) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the county court at law shall receive a salary of not less than 83 percent of the annual salary of the district judge in Walker County, to be paid by the county treasurer by order of the commissioners court, and the salary shall be paid monthly in equal installments. The judge of the county court at law shall be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the County Court at Law of Walker County shall assess the same fees as are now prescribed or may be established by law, relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge, but he shall draw the salary as specified in this section.

(g) A special judge of the county court at law with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Sec. 8. (a) The County Attorney, County Clerk, and Sheriff of Walker County shall serve as county attorney, clerk and sheriff respectively of the County Court at Law of Walker County, except that the District Clerk of Walker County shall serve as clerk of the county court at law in the cases enumerated in Subsection (b), Section 3 of this Act. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law may appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law, which reporter shall serve at the pleasure of the judge of the county court at law. The official court reporter is entitled to the compensation fixed by the Commissioners Court of Walker County. The judge of the county court at law may, in lieu of appointing an official court reporter, contract for the services of a court reporter under guidelines to be established by the commissioners court.

Sec. 9. (a) As soon as practicable following the effective date of this Act, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the County Court of Walker County and shall transfer those matters to the docket of the court created by this Act, and the district clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the district court in Walker County and may transfer a sufficient number of those matters to the docket of the court created by this Act to equalize the dockets. Equalization of case load shall be the primary objective in establishing the initial case docket for the county court at law.

(b) On the transfer of all cases specified in Subsection (a) of this section to the county court at law, and in cases transferred to any of the courts in Walker County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

(c) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts in mat-

ters within their jurisdiction. All cases of concurrent jurisdiction enumerated or included in Section 3 of this Act may be instituted in or transferred between the district court in Walker County and the county court at law in Walker County. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(d) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law, but only in matters within his jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. This provision providing for the exchange of benches by and between the judge of the county court and the judge of the county court at law is cumulative of and in addition to the provisions herein provided for the selection and appointment of a special judge of the county court at law.

Sec. 10. (a) Practice in the county court at law shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearing in the county court at law involving those matters of concurrent jurisdiction enumerated in Subsection (b), Section 3 of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. If a case enumerated in Subsection (b), Section 3 of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of the judge of the county court at law, be made available and shall serve for the week in the county court at law.

Sec. 11. The Commissioners Court of Walker County shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Sec. 12. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Walker County."

The County Court at Law of Walker County shall be a court of record.

Sec. 13. Appeals in all civil cases from judgments and orders of the county court at law shall be to the Court of Civil Appeals as is now or may be hereafter provided for appeals from district and county courts and in all criminal cases shall be to the Court of Criminal Appeals.

Sec. 14. All cases appealed from the justice courts and other inferior courts in Walker County shall be made direct to the County Court at Law of Walker County, unless otherwise provided by law.

Sec. 15. The effective date of this Act is September 1, 1977.

[Acts 1977, 65th Leg., p. 139, ch. 68, eff. Sept. 1, 1977.]

COMAL COUNTY

Art. 1970-368. County Court at Law of Comal County

Sec. 1. There is created a court in Comal County to be known as the County Court at Law of Comal County.

Sec. 2. (a) The county court at law has the same jurisdiction over all causes and proceedings, civil and criminal, original and appellate, as is prescribed by the constitution and general laws of the state for county courts. The county court at law has jurisdiction concurrent with the district court in Comal County in juvenile matters and proceedings and in all civil and criminal matters and proceedings, original and appellate, for which jurisdiction was transferred from the county court to the district court by Chapter 35, Acts of the 18th Legislature, Regular Session, 1883. The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the amount in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest, as provided by general law. The county court at law does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business which is now within the jurisdiction of the commissioners court of Comal County.

(b) The county court at law has the general jurisdiction of a probate court within the limits of Comal County, and its jurisdiction is concurrent with that of the County Court of Comal County in probate matters and in proceedings.

(c) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the power to punish for contempt as prescribed by law for county

courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, and he is a magistrate and conservator of the peace.

(d) The County Judge of Comal County is the judge of the County Court of Comal County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Comal County except insofar as the same are, by this Act, committed to the judge of the County Court at Law of Comal County.

(e) In addition to the jurisdiction conferred on the county court at law by the other provisions of this Act, the county court at law has concurrent jurisdiction with the district courts in Comal County in suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority and coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; and independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parent and child and between husband and wife. The provisions in this subsection do not diminish the jurisdiction of the district courts in Comal County, and the district courts shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

Sec. 3. The terms of the County Court at Law of Comal County are the same as those for the County Court of Comal County, Texas.

Sec. 4. (a) There shall be elected, by the qualified voters of the county, a judge of the County Court at Law of Comal County, who must have been a duly licensed and practicing member of the State Bar of Texas for not less than five years, who must be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Comal County for a period of not less than one year prior to the general election. The judge elected holds office for four years and until his successor has been duly elected and has qualified. During his term of office, the judge shall not engage in the private practice of law.

(b) When this Act becomes effective, the Commissioners Court of Comal County shall appoint a judge to the County Court at Law of Comal County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified. Beginning at the general election in 1978 and every fourth year thereafter, there shall be elected a judge of the county court at law for a regular term of four years as provided in Article V, Section 30,

and Article XVI, Section 65, of the Texas Constitution. A vacancy occurring in the office of the judge of the County Court at Law of Comal County may be filled by appointment by the commissioners court, and the appointee holds office until the next general election and until his successor has been duly elected and has qualified.

(c) The judge of the County Court at Law of Comal County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Commissioners Court of Comal County shall fix the salary of the judge of the County Court at Law of Comal County. The judge shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

(e) A special judge of the county court at law may be appointed or elected as provided by law for county courts. A special judge is entitled to the same rate of compensation as the regular judge.

(f) If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the compensation provided in Subsection (e) of this section.

Sec. 5. (a) The county attorney, county clerk, and sheriff of Comal County shall serve as county attorney, county clerk, and sheriff, respectively, of the County Court at Law of Comal County, except that the district clerk of Comal County shall serve as clerk of the county court at law in the cases enumerated in Subsection (e) of Section 2 of this Act and shall establish a separate docket for the county court at law. The Commissioners Court of Comal County may employ as many assistant county attorneys, deputy sheriffs, and bailiffs as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices in Comal County.

(b) The judge of the county court at law may appoint an official court reporter who serves at the pleasure of the judge and who is entitled to the compensation fixed by the commissioners court. The official court reporter must have the qualifications prescribed by law for district court reporters.

(c) The seal of the court shall contain the words "County Court at Law of Comal County," but in other respects is identical with the seal of the County Court of Comal County.

Sec. 6. (a) Practice in the County Court at Law of Comal County shall conform to that prescribed by law for the County Court of Comal County, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hear-

ings in the county court at law involving those matters of concurrent jurisdiction enumerated in Subsection (e), Section 2, of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. If a case enumerated in Subsection (e), Section 2, of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts, in matters within their concurrent probate jurisdiction, in order that the business may be equally distributed between them. All cases of concurrent jurisdiction enumerated or included in Subsection (a) or (e) of Section 2 of this Act may be instituted in or transferred between the district court in Comal County and the County Court at Law of Comal County. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the cause or proceeding. Either judge may hear all or any part of a cause or proceeding pending in the county court or county court at law, and he may rule or enter orders on and continue, determine, or render judgment on all or any part of the cause or proceeding without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in any cause or proceeding unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the matter is pending.

(d) In cases transferred to any of the courts by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 7. (a) The jurisdiction and authority now vested by law in the county clerk and the county judge of Comal County for the drawing, selection, and service of jurors and talesmen shall also be exercised by the county court at law and its judge.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

Sec. 8. This Act shall take effect July 15, 1977.

[Acts 1977, 65th Leg., p. 284, ch. 137, eff. July 15, 1977. Amended by Acts 1979, 66th Leg., p. 34, ch. 23, §§ 1 to 3, eff. March 22, 1979; Acts 1981, 67th Leg., p. 2276, ch. 554, § 5, eff. Sept. 1, 1981.]

TOM GREEN COUNTY

Art. 1970-369. County Court at Law of Tom Green County

Sec. 1. The County Court at Law of Tom Green County is created.

Sec. 2. (a) The county court at law has jurisdiction in all causes and proceedings, civil, criminal, juvenile, and probate, original and appellate, over which by the constitution and general laws of the state the county courts have jurisdiction, and its jurisdiction is concurrent with that of the county court of Tom Green County. This provision does not affect the jurisdiction of the commissioners court or of the county judge of Tom Green County as the presiding officer of the commissioners court. The county judge of Tom Green County shall be the judge of the county court of Tom Green County. All ex officio duties of the county judge shall be exercised by the judge of the county court of Tom Green County unless by this Act committed to the judge of the county court at law.

(b) The county court at law has jurisdiction concurrent with the district court in eminent domain cases as provided by general law and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

Sec. 3. The county court at law or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

Sec. 4. The terms of the county court at law are the same as those for the county court of Tom Green County.

Sec. 5. (a) The judge of the county court at law shall have been a bona fide resident of Tom Green County for two years prior to his appointment or election. He shall be a licensed attorney in this state who has been actively engaged in the practice of law for a period of five years prior to this

appointment or election. He shall devote his entire time to the duties of his office and shall not engage in the private practice of law while in office.

(b) When this court is created, the commissioners court shall appoint a judge to the county court at law who shall serve until the next general election and until his successor is duly elected and has qualified. At the general election in 1978 or 1982, and every fourth year thereafter, there shall be elected by the qualified voters of Tom Green County a judge of the county court at law for a regular term of four years, as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. A vacancy in the office of the judge of the county court at law shall be filled by appointment by the commissioners court, and the appointee holds office until January 1 of the year following the next general election and until his successor is duly elected and has qualified.

(c) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the county court at law may receive a salary to be set by the commissioners court to be paid in equal monthly installments out of the county treasury by the commissioners court. He may be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the county court at law shall assess the same fees as are now prescribed or may be established by law relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection.

(e) A special judge of the county court at law may be appointed in the manner provided by law for the appointment of a special county judge when the judge of the county court at law is disqualified. A special judge must have the same qualifications as the judge of the county court at law and is entitled to the same rate of compensation as the regular judge.

Sec. 6. (a) The county attorney, county clerk, and sheriff of Tom Green County shall serve as county attorney, clerk, and sheriff, respectively, of the county court at law. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their offices and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office, who is entitled to the compensation fixed by the Commissioners Court of Tom Green County, and

who shall serve at the pleasure of the judge of the county court at law. Except where inconsistent with this Act, all general laws relating to court reporters apply to the official court reporter of the county court at law. The reporter shall be available for matters being considered in the county court and in the district courts in Tom Green County, with the approval of the judge of the county court at law.

Sec. 7. (a) Practice in the county court at law shall conform to that prescribed by law for the county court.

(b) In order that the business may be equally distributed between the courts, the judges of the county court at law and the county court may transfer cases to and from the dockets of their respective courts and the judges of the county court at law and the district courts may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) The county judge and the judge of the county court at law may, in their discretion, exchange benches from time to time, and either of the judges may, in his own courtroom, try and determine any case or proceeding pending in either of the courts without having the case transferred, or may sit in either of the courts and there hear and determine any case there pending, and each judgment and order shall be entered in the minutes of the court in which the case is pending. The judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of any other court. In case of absence, sickness, or disqualification of either of the judges, the other judge may hold court for him. Either of the judges may hear any part of any case or proceeding pending in either of the courts and determine the same or may hear and determine any question in any case, and either of the judges may complete the hearing and render judgment in the case. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court.

(d) In cases transferred to any of the courts by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 8. The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law. A general panel of jurors, or jurors impaneled for a week by a district court, may be made available and shall serve for the week in the county court at law.

Sec. 9. (a) The Commissioners Court of Tom Green County shall furnish and equip a suitable courtroom and office space for the county court at law.

(b) The county court at law shall have a seal identical with the seal of the county court of Tom Green County, except that it shall contain the words "County Court at Law of Tom Green County."

Sec. 10. The County Court at Law of Tom Green County is created on January 1, 1980, or on a date determined by the commissioners court by an order entered in its minutes, whichever date is earlier. [Acts 1977, 65th Leg., p. 688, ch. 260, eff. Aug. 29, 1977.]

MIDLAND COUNTY

Art. 1970-370. County Court at Law of Midland County

Sec. 1. The County Court at Law of Midland County is created on the date determined by the provisions of Section 10a of this Act.

Sec. 2. (a) The county court at law has jurisdiction in all causes and proceedings, civil, criminal, juvenile, and probate, original and appellate, over which by the constitution and general laws of the state the county courts have jurisdiction, and its jurisdiction is concurrent with that of the County Court of Midland County. This provision does not affect the jurisdiction of the commissioners court or of the county judge of Midland County as the presiding officer of the commissioners court. The county judge of Midland County shall be the judge of the county court of Midland County. All ex officio duties of the county judge shall be exercised by the judge of the county court of Midland County unless by this Act committed to the judge of the county court at law.

(b) The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest, as provided by general law.

Sec. 3. The county court at law or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

Sec. 4. The terms of the county court at law are the same as those for the County Court of Midland County.

Sec. 5. (a) The judge of the county court at law must be a duly licensed and practicing member of the State Bar of Texas who has resided in and been actively engaged in the practice of law in Midland County for a period of not less than two years prior to his appointment or election.

(b) When this Act becomes effective, the commissioners court shall appoint a judge to the county court at law who shall serve until the next general election and until his successor is duly elected and has qualified. At the general election in 1978 and every fourth year thereafter, there shall be elected by the qualified voters of Midland County a judge of the county court at law for a regular term of four years beginning on January 1, 1979, as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. A vacancy in the office of the judge of the county court at law shall be filled by appointment by the commissioners court, and the appointee holds office until January 1 of the year following the next general election and until his successor is duly elected and has qualified.

(c) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the county court at law shall receive a salary to be set by the commissioners court and to be paid in equal monthly installments out of the county treasury by the commissioners court. He shall be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the county court at law shall assess the same fees as are now prescribed or may be established by law relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection.

(e) A special judge of the county court at law may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. A special judge must have the same qualifications as the judge of the county court at law and is entitled to the same rate of compensation as the regular judge.

Sec. 6. (a) The county attorney, county clerk, and sheriff of Midland County shall serve as county attorney, clerk, and sheriff, respectively, of the county court at law. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their offices and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office, who is entitled to the compensation fixed by the Commissioners Court of Midland County, and who shall serve at the pleasure of the judge of the county court at law. Except where inconsistent with this Act, all general laws relating to court reporters apply to the official court reporter of the county court at law. The reporter shall be available for matters being considered in the county court and in the district courts in Midland County, with the approval of the judge of the county court at law.

Sec. 7. (a) Practice in the county court at law shall conform to that prescribed by law for the county court.

(b) In order that the business may be equally distributed between the courts, the judges of the county court at law and the county court may transfer cases to and from the dockets of their respective courts and the judges of the county court at law and the district courts may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(d) In cases transferred to any of the courts by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 8. The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law. A general panel

of jurors, or jurors impaneled for a week by a district court, may be made available and shall serve for the week in the county court at law. A general panel of jurors or jurors impaneled for a week by a district court or summoned for the county court or county court at law may, on request of a justice of the peace, be made available in such numbers as may be requested for service in the justice court and shall serve in the justice court as if summoned for the justice court to which they are transferred.

Sec. 9. (a) The Commissioners Court of Midland County shall furnish and equip a suitable courtroom and office space for the county court at law.

(b) The county court at law shall have a seal identical with the seal of the county court of Midland County, except that it shall contain the words "County Court at Law of Midland County."

Sec. 10. The judge of the county court at law is a member of the Midland County Juvenile Board.

Sec. 10a. The County Court at Law of Midland County is created on January 1, 1980, or on an earlier date determined by the Commissioners Court of Midland County by an order entered in its minutes, finding and determining that the conditions of the dockets of the district courts serving Midland County require the creation of the county court at law to properly dispose of cases arising in Midland County. In determining the need of a county court at law, the commissioners court may submit the question in a nonbinding referendum to the voters of Midland County at any countywide general election or special election called for that purpose.

[Acts 1977, 65th Leg., p. 1626, ch. 640, §§ 1 to 10a, eff. Jan. 1, 1978. Amended by Acts 1979, 66th Leg., p. 48, ch. 27, § 1, eff. April 3, 1979.]

RANDALL COUNTY

Art. 1970-371. County Court at Law of Randall County

Sec. 1. The County Court at Law of Randall County is created on the date determined by the provisions of Section 13 of this Act.

Sec. 2. The County Court at Law of Randall County, concurrently with the County Court of Randall County, has jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, prescribed by the constitution and general laws of this state for county courts. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business which is now within the jurisdiction of the Commissioners Court of Randall County.

Sec. 3. The County Court at Law of Randall County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

Sec. 4. In addition to the jurisdiction conferred on the County Court at Law of Randall County by

the other provisions of this Act, the county court at law has concurrent civil jurisdiction with the district courts of Randall County in suits, causes, and matters involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected, or dependent child proceedings, Uniform Reciprocal Enforcement of Support Act, and all jurisdiction, powers, and authority now or hereafter placed in the district or county courts under the juvenile and child welfare laws of this state; and of all divorce, marriage, and annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, temporary support pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons, and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons; corporations, trustees, or other legal entities, which are now or may hereafter be within the jurisdiction of the district or county courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, and the county court at law and its judge have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce its jurisdiction. The provisions in this subsection do not diminish the jurisdiction of the several district courts in Randall County, and the district courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law, and the jurisdiction given in this subsection is concurrent with the jurisdiction of the district courts.

Sec. 5. The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that such judge of the county court at law shall in no way have any authority over the administrative business of Randall County which is now performed by the County Judge of Randall County.

Sec. 6. The county court at law shall hold two continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Sec. 7. (a) The judge of the county court at law shall be a qualified voter in Randall County. He shall be a licensed attorney in this state who has

been actively engaged in the practice of law for a period of five years prior to his appointment or election.

(b) The judge of the county court at law shall not engage in the private practice of law after his appointment or election.

(c) When this court is created, the Commissioners Court of Randall County shall appoint a judge to the County Court at Law of Randall County. The judge appointed serves until the next general election and until his successor is duly elected and has qualified. Beginning at the general election in 1978 or 1982 and every fourth year thereafter, there shall be elected by the qualified voters of Randall County a judge of the county court at law for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(d) A vacancy occurring in the office of the judge of county court at law shall be filled by the Commissioners Court of Randall County, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

(e) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the county court at law may receive a salary to be set by the commissioners court and to be paid out of the county treasury by the commissioners court. The salary may be paid in equal monthly installments. The judge of the county court at law may be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the county court at law shall assess the same fees as are now prescribed or may be established by law, relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge.

(g) A special judge of the county court at law with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Sec. 8. (a) The criminal district attorney and sheriff of Randall County shall serve as district attorney and sheriff, respectively, of the County Court at Law of Randall County. The district clerk of Randall County shall serve as clerk of the county court at law in cases enumerated in Sections 3 and 4 of this Act, and the county clerk of Randall County

shall serve as clerk of the county court at law in cases enumerated in Section 2 of this Act. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law shall appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. The official court reporter is entitled to the compensation fixed by the Commissioners Court of Randall County.

Sec. 9. (a) As soon as practicable after this court is created, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the County Court of Randall County and shall transfer those matters to the docket of the court created by this Act, and the district clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the district courts of Randall County and may transfer a sufficient number of those matters to the docket of the court created by this Act to equalize the dockets. Equalization of case load shall be the primary objective in establishing the initial case docket for the county court at law.

(b) On the transfer of all cases specified in Subsection (a) of this section to the county court at law, and in cases transferred to any of the courts in Randall County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

(c) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. All cases of concurrent jurisdiction enumerated in Sections 3 and 4 of this Act may be instituted in or transferred between the districts courts of Randall County and the County Court at Law of Randall County. However, no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred, and

no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(d) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. The district judges and the judge of the county court at law may freely exchange benches and courtrooms with each other in matters within their concurrent jurisdiction so that if one is ill, disqualified, or otherwise absent, another may hold court for him without the necessity of transferring the case involved. Either of the judges may hear all or any part of a case pending in the district court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of and in addition to the provisions herein provided for the selection and appointment of a special judge of the county court at law.

Sec. 10. (a) Practice in the county court at law shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction enumerated in Section 4 of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. If a case enumerated in Section 4 of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

Sec. 11. The Commissioners Court of Randall County shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Sec. 12. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Randall County."

Sec. 13. The County Court at Law of Randall County is created on January 1, 1980, or on a date determined by the commissioners court by an order entered on its minutes, which ever date is earlier. [Acts 1977, 65th Leg., p. 1723, ch. 688, eff. Aug. 29, 1977.]

REEVES COUNTY

Art. 1970-372. County Court at Law of Reeves County

Sec. 1. The County Court at Law of Reeves County is created on the date determined by the provisions of Section 20 of this Act. It shall sit in Pecos, Texas.

Sec. 2. (a) The County Court at Law of Reeves County has jurisdiction in all matters and causes, civil, criminal, juvenile, and probate, original and appellate, over which, by the general laws of the state, the county court of the county would have jurisdiction. This provision does not affect the jurisdiction of the commissioners court, or of the County Judge of Reeves County as the presiding officer of the commissioners court, as to roads, bridges, and public highways, and matters which are now in the jurisdiction of the commissioners court or the judge thereof.

(b) The County Court at Law of Reeves County has jurisdiction concurrent with the district court in eminent domain cases, as provided by general law, and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

(c) The County Court at Law of Reeves County has concurrent civil jurisdiction with the district court in Reeves County in suits, causes, and matters involving adoptions, removal of disability of minority and coverture, and all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, temporary support pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child support and custody of minors, and change of name of persons. This court and the judge thereof shall have the power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce its jurisdiction.

(d) Nothing in this Act shall diminish the jurisdiction of the district courts in Reeves County, and the district courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law, and the jurisdiction given in this Act is concurrent with the jurisdiction of the district courts.

Sec. 3. The County Court of Reeves County shall have no jurisdiction, civil, criminal, juvenile, or probate, original or appellate. All ex officio duties of the county judge shall be exercised and retained

by the judge of the County Court of Reeves County, except insofar as same shall by this Act be committed to the County Court at Law of Reeves County.

Sec. 4. The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the County Court at Law of Reeves County. Jurors regularly impaneled for a week by the district court may, on request of the judge of the county court at law, be made available and shall serve for the week in the county court at law.

Sec. 5. (a) Practice in the county court at law shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction enumerated in Subsection (c) of Section 2 of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general and special, as well as county courts. If a case enumerated in Subsection (c) of Section 2 is tried before a jury, the jury shall be composed of 12 members.

(b) The county court at law shall have the same terms of court as the district court sitting in Reeves County as presently established or as they may hereinafter be changed.

(c) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts.

Sec. 6. At the general election in 1978 and every four years thereafter, there shall be elected a judge of the County Court at Law of Reeves County who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five years, who shall be well informed in the laws of the state, who shall have resided in and been actively engaged in the practice of law in Reeves County for a period of not less than two years prior to the general election, and who shall hold his office for four years and until his successor shall have been duly elected and qualified. When this court is created, the commissioners court shall appoint a judge of the County Court at Law of Reeves County who shall have the qualifications prescribed in this section and who shall serve until December 31, 1978, and until his successor shall be duly elected and qualified. A vacancy thereafter occurring in the office of the judge of the County Court at Law of Reeves County shall in like manner be filled by the commissioners court, with the appointee to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

Sec. 7. The judge of the County Court at Law of Reeves County may receive a salary in an amount determined by the commissioners court, not to exceed 90 percent of the total salary paid the district judge, to be paid out by the county treasurer by order of the commissioners court. The salary shall be paid monthly in equal installments. The judge of the county court at law is entitled to traveling expenses and necessary office expenses, including administrative and clerical help. The judge of the County Court at Law of Reeves County shall assess the same fees as are now prescribed by law relating to the county judge's fees, all of which shall be collected by the clerk of the court, shall be paid into the county treasury on collection, and no part of which shall be paid to the judge.

Sec. 8. The judge of the County Court at Law of Reeves County shall execute a bond and take the oath of office as required by law relating to county and district judges.

Sec. 9. The judge of the county court at law shall not engage in the practice of law in this or any other court in the State of Texas.

Sec. 10. The judge of the County Court at Law of Reeves County may be removed from office in the same manner and for the same causes as any county judge may be removed under the laws of this state.

Sec. 11. A special judge of the County Court at Law of Reeves County may be appointed or elected as provided by law relating to county courts. In the case of a disqualification of the judge of the county court at law to try a case pending in this court, the parties or their attorneys may agree on the selection of a special judge to try the case. A special judge, whether appointed, elected, or selected by the parties, shall receive, as compensation for each day he actively serves, an amount equal to $\frac{1}{365}$ th of the annual salary of the judge of the County Court at Law of Reeves County, to be paid out of the general fund of the county by the commissioners court.

Sec. 12. The county attorney of Reeves County shall represent the state in the County Court at Law of Reeves County as provided by law for prosecutions in county court, and shall be entitled to the fees prescribed by law for prosecutors in the county court.

Sec. 13. The sheriff of Reeves County shall in person or by deputy attend the court when required by the judge thereof.

Sec. 14. The county clerk of Reeves County shall be the clerk of the County Court at Law of Reeves County, except that the district clerk of Reeves County shall be the clerk of the county court at law in all those cases enumerated in Subsection (c), Section 2, of this Act.

Sec. 15. The judge of the County Court at Law of Reeves County shall appoint an official shorthand reporter for the court who shall be well-skilled in his profession and shall be a sworn officer of the

court and shall hold his office at the pleasure of the court. The reporter shall take the oath required of official court reporters, and shall receive a salary to be set by the commissioners court of Reeves County and to be paid out of the county treasury of Reeves County, as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall apply insofar as they are applicable to the official shorthand reporter authorized in this Act to be appointed and insofar as they are not inconsistent with this Act.

Sec. 16. The seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Reeves County." The commissioners court of Reeves County shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Sec. 17. All cases of concurrent jurisdiction may be instituted in or transferred between the district court of Reeves County and the County Court at Law of Reeves County.

Sec. 18. All cases appealed from the justice courts and other inferior courts in Reeves County shall be appealed to the County Court at Law of Reeves County under the provisions governing such appeals to the county courts. The laws of the State of Texas, the rules of procedure, and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Reeves County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law of Reeves County.

Sec. 19. When the county court at law is created, all cases and matters pending before the County Court of Reeves County are transferred to the County Court at Law of Reeves County. All processes, writs, bonds, recognizances, and other obligations issued or made in the cases transferred shall be returned to and filed in the county court at law. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the county court at law as fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the county court at law.

Sec. 20. The County Court at Law of Reeves County is created on January 1, 1978, or on a date determined by the commissioners court by an order entered in its minutes, whichever date is earlier.

[Acts 1977, 65th Leg., p. 1736, ch. 692, eff. June 15, 1977.]

VAL VERDE COUNTY

Art. 1970-373. County Court at Law of Val Verde County

Creation

Sec. 1. The County Court at Law of Val Verde County is created on the date determined by the provisions of Section 17 of this Act. It shall sit in Del Rio, Texas.

Jurisdiction

Sec. 2. (a) The County Court at Law of Val Verde County has jurisdiction concurrently with the County Court of Val Verde County in all matters and causes, civil, criminal, juvenile and probate, original and appellate, over which, by the constitution and general laws of the state, the county court has jurisdiction. This provision does not affect the jurisdiction of the commissioners court, or of the county judge of Val Verde County as the presiding officer of the commissioners court, as to roads, bridges, and public highways, and matters which are now in the jurisdiction of the commissioners court or the judge thereof, or the administrative business of Val Verde County that is now performed by the county judge of Val Verde County.

(b) The County Court at Law of Val Verde County has concurrent jurisdiction with the district court in civil cases when the matter in controversy exceeds \$500 and does not exceed \$10,000, exclusive of interest.

(c) The County Court at Law of Val Verde County has concurrent civil jurisdiction with the district court of Val Verde County in suits, causes and matters involving adoptions, termination of parental rights, removal of disability of minority and coverture, all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, temporary support pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child support and custody of minors, and change of name of persons.

(d) The county court at law has the concurrent jurisdiction with the district court that is specified in this section, which concurrent jurisdiction does not diminish the jurisdiction of the district court in Val Verde County, and the district court shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

Jurors

Sec. 3. The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law. Jurors regularly impaneled for a week by the district court may, on request of the judge of the county court at law, be made available and shall serve for the week in the county court at law.

Practice and Procedure

Sec. 4. Practice in the county court at law shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction enumerated in Section 2(c) of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general and special, as well as county courts. If a case enumerated in Section 2(c) is tried before a jury, the jury shall be composed of 12 members.

Terms

Sec. 5. The county court at law shall have the same terms of court as the district court sitting in Val Verde County as presently established or as they may be changed.

Writ Power

Sec. 6. The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts.

Election; Vacancy; Qualifications

Sec. 7. At the general election in 1982 and every four years thereafter, there shall be elected by the qualified voters of Val Verde County a judge of the county court at law, who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five years, who shall be well informed in the laws of the state, who shall have resided in and been actively engaged in the practice of law in Val Verde County for a period of not less than two years prior to the general election, and who shall hold office for four years and until his successor is elected and has qualified. When this court is created, the commissioners court shall appoint a judge of the county court at law, who shall have the qualifications prescribed in this section and who shall serve until the next general election and until his successor is elected and has qualified. A vacancy thereafter occurring in the office of the judge of the county court at law shall in like manner be filled by the commissioners court, with the appointee holding office until the next succeeding general election and until his successor is elected and has qualified.

Compensation

Sec. 8. The judge of the county court at law may receive an annual salary to be determined by

the commissioners court in an amount not less than \$20,000 and not more than 90 percent of the total compensation paid the district judge. The salary shall be paid monthly in equal installments by the county treasurer by order of the commissioners court. The judge of the county court at law is entitled to traveling expenses and necessary office expenses, including administrative and clerical help. The judge of the county court at law shall assess the same fees as are now prescribed by law relating to the county judge's fees, all of which shall be collected by the clerk of the court, shall be paid into the county treasury on collection, and no part of which shall be paid to the judge.

Bond and Oath

Sec. 9. The judge of the county court at law shall execute a bond and take the oath of office as required by law relating to county and district judges.

Private Practice Prohibited

Sec. 10. The judge of the county court at law shall not engage in the private practice of law after his appointment or election.

Removal

Sec. 11. The judge of the county court at law may be removed from office in the same manner and for the same causes as any county judge may be removed under the laws of this state.

Special Judge

Sec. 12. A special judge of the county court at law may be appointed or elected as provided by law relating to county courts. In the case of a disqualification of the judge of the county court at law to try a case pending in this court, the parties or their attorneys may agree on the selection of a special judge to try the case. A special judge, whether appointed, elected, or selected by the parties, shall receive, as compensation for each day he actively serves, an amount equal to $\frac{1}{365}$ of the annual salary of the judge of the county court at law, to be paid out of the general fund of the county by the commissioners court.

Personnel

Sec. 13. (a) The county attorney of Val Verde County shall represent the state in the county court at law as provided by law for prosecutions in county court, and shall be entitled to the fees prescribed by law for prosecutors in the county court.

(b) The sheriff of Val Verde County shall in person or by deputy attend the court when required by the judge thereof.

(c) The county clerk of Val Verde County shall be the clerk of the county court at law, except that the district clerk of Val Verde County shall be the clerk of the county court at law in all those cases enumerated in Section 2(c) of this Act.

(d) The judge of the county court at law shall appoint an official shorthand reporter for the court, who shall have the qualifications required by law, shall be a sworn officer of the court, and shall hold the office at the pleasure of the court. The reporter shall take the oath required of official court reporters, and shall receive a salary to be set by the commissioners court of Val Verde County and to be paid out of the county treasury, as other county officials are paid, in equal monthly installments. All other provisions of the law relating to official court reporters shall apply insofar as they are applicable to the official shorthand reporter authorized in this Act to be appointed and insofar as they are not inconsistent with this Act.

Seal and Courtroom

Sec. 14. The seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Val Verde County." The commissioners court of Val Verde County may furnish and equip a suitable courtroom and office space for the court created by this Act.

Transfer of Cases

Sec. 15. (a) On the first day of the court's existence, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the County Court of Val Verde County, by transferring the odd-numbered suits to the docket of the court created by this Act and leaving the even-numbered suits in the county court.

(b) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. All cases of concurrent jurisdiction enumerated in Section 2(b) and 2(c) of this Act may be instituted in or transferred between the district courts of Val Verde County and the County Court at Law of Val Verde County. However, no case may be transferred unless it is within the jurisdiction of the court to which it is transferred, and no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred.

Exchange of Benches

Sec. 16. The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to

his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of and in addition to the provisions herein provided for the selection and appointment of a special judge of the county court at law.

Effective Date

Sec. 17. The County Court at Law of Val Verde County is created on January 1, 1982, or on a date determined by the commissioners court by an order entered in its minutes, whichever date is earlier.

[Acts 1979, 66th Leg., p. 341, ch. 156, eff. Aug. 27, 1979.]

WISE COUNTY

Art. 1970-374. County Court at Law of Wise County

Sec. 1. The County Court at Law of Wise County is created. The court shall sit in Decatur, Texas.

Sec. 2. (a) The County Court at Law of Wise County has the same jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, prescribed by law for county courts, and its jurisdiction in those matters is concurrent with that of the County Court of Wise County. This provision does not affect the jurisdiction of the commissioners court or the county judge of Wise County as the presiding officer of the commissioners court.

(b) The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest.

(c) The county court at law or its judge has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

(d) The county judge of Wise County is the judge of the County Court of Wise County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Wise County unless this Act provides otherwise.

Sec. 3. The term of the county court at law is continuous on an annual basis, beginning on January 1 of each year and concluding on December 31 of the same year.

Sec. 4. (a) The judge of the county court at law must be a duly licensed and practicing member of the State Bar of Texas who has been a bona fide resident of Wise County for six months prior to his appointment or election.

(b) When this Act becomes effective, the commissioners court shall appoint a judge to the county court at law to serve until January 1 of the year following the next general election and until his successor has been duly elected and has qualified. At the next general election after the effective date of this Act, a judge shall be elected to serve until January 1, 1981. At the general election in 1982 and every fourth year thereafter, there shall be elected by the qualified voters of Wise County a judge of the County Court at Law of Wise County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. A vacancy in the office shall be filled by the commissioners court and the appointee holds office until January 1 of the year following the next general election and until his successor has been duly elected and has qualified. The judge of the county court at law may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(c) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges.

(d) The judge of the county court at law shall receive an annual salary in an amount to be fixed by the commissioners court, which shall not exceed 90 percent of the amount paid district judges from the General Revenue Fund of the state and which shall be paid in equal monthly installments out of the county treasury of Wise County on orders from the commissioners court. Additionally, he shall be entitled to reasonable traveling expenses and necessary office expenses, including administrative and clerical help. The judge of the county court at law shall charge the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury.

(e) A special judge of the county court at law with the same qualifications as the judge of the county court at law may be appointed in the manner provided by law for the appointment of a special county judge. A special judge is entitled to the same rate of compensation as the regular judge.

Sec. 5. (a) The county attorney, county clerk, and sheriff of Wise County shall serve in their respective capacities in the county court at law. They shall perform the duties and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices.

(b) The judge of the county court at law may appoint an official shorthand reporter for the court who shall be a sworn officer of the court and shall hold his office at the pleasure of the court. All provisions of the general laws of Texas relating to

the appointment of a reporter for the district court shall apply, so far as applicable, to the official shorthand reporter authorized to be appointed by the judge of the county court at law. The reporter shall be entitled to the same fees and shall perform the same duties as provided in the general laws and in addition shall receive a salary, not to exceed the compensation paid to the official shorthand reporter of the district court of Wise County, to be determined by the judge of the county court at law and paid out of the county treasury on order of the commissioners court.

(c) The seal of the court shall contain the words "County Court at Law of Wise County," but in other respects is identical with the seal of the county court of Wise County.

Sec. 6. (a) Practice in the county court at law shall conform to that prescribed by general law for county courts.

(b) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of the judge of the county court at law, be made available and shall serve for the week in the county court at law.

Sec. 7. (a) In order that the business may be equally distributed between the courts, the judges of the county court at law and the county court may transfer cases to and from the dockets of their respective courts and the judges of the county court at law and the district courts may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) The county judge and the judge of the county court at law may, in their discretion, exchange benches from time to time, and either of the judges may, in his own courtroom, try and determine any case or proceeding pending in either of the courts without having the case transferred, or may sit in either of the courts and there hear and determine any case there pending, and each judgment and order shall be entered in the minutes of the court in which the case is pending. The judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of any other court. In case of absence, sickness, or disqualification of either of the judges, the other judge may hold court for him. Either of the judges may hear any part of any case or proceeding pending in either of the courts and determine the same or may hear and determine any question in any case, and either of the judges may complete the hearing and render judgment in the case. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court.

(c) In cases transferred to any of the courts by order of the judge of another court or by Section 10 of this Act, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases transferred shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 8. The judge of the county court at law is a member of the juvenile board of Wise County.

Sec. 9. The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Sec. 10. All cases and matters, civil, criminal, and probate, original and appellate, pending before the County Court of Wise County on the effective date of this Act are transferred to the County Court at Law of Wise County.

Sec. 11. This Act takes effect on September 1, 1979.

[Acts 1979, 66th Leg., p. 418, ch. 192, eff. Sept. 1, 1979.]

GREGG COUNTY

Art. 1970-375. County Court at Law of Gregg County

Creation

Sec. 1. The County Court at Law of Gregg County is created on the date determined under Section 11 of this Act.

Jurisdiction

Sec. 2. (a) The County Court at Law of Gregg County, concurrently with the County Court of Gregg County, has jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, prescribed by the constitution and general laws of this state for county courts. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business which is now within the jurisdiction of the Commissioners Court of Gregg County.

(b) The County Court at Law of Gregg County has concurrent jurisdiction with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

Writ Power

Sec. 3. The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari,

supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that such judge of the county court at law shall in no way have any authority over the administrative business of Gregg County which is now performed by the County Judge of Gregg County.

Terms

Sec. 4. The county court at law shall hold two continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Judge

Sec. 5. (a) The judge of the county court at law shall be a qualified voter in Gregg County. He shall be a licensed attorney in this state who has been actively engaged in the practice of law for a period of five years prior to his appointment or election.

(b) The judge of the county court at law shall not engage in the private practice of law after his appointment or election.

(c) When this court is created, the Commissioners Court of Gregg County shall appoint a judge to the County Court at Law of Gregg County. The judge appointed serves until the next general election and until his successor is duly elected and has qualified. Beginning at the general election in 1982 and every fourth year thereafter, there shall be elected by the qualified voters of Gregg County a judge of the county court at law for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(d) A vacancy occurring in the office of the judge of county court at law shall be filled by the Commissioners Court of Gregg County, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

(e) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the County Court at Law of Gregg County and the county judge of Gregg County shall receive an annual salary to be set by the commissioners court in an amount not to exceed 90 percent of the total annual salary paid to the judges of the district courts having jurisdiction in Gregg County. The salary may be paid in equal monthly installments. The judge of the county court at law

may be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the county court at law shall assess the same fees as are prescribed by law relating to county judges' fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge.

(g) A special judge of the county court at law with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Court Officials and Personnel

Sec. 6. (a) The criminal district attorney and sheriff of Gregg County shall serve as district attorney and sheriff, respectively, of the County Court at Law of Gregg County. The district clerk of Gregg County shall serve as clerk of the county court at law in cases enumerated in Section 2(b), and the county clerk of Gregg County shall serve as clerk of the county court at law in cases enumerated in Section 2(a) of this Act. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law shall appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. The official court reporter is entitled to the compensation fixed by the Commissioners Court of Gregg County.

(c) The judge of the County Court at Law of Gregg County, Texas, with the consent of the commissioners court, may employ a secretary, the secretary being entitled to a salary as determined by the commissioners court.

Transfer of Cases and Exchange of Benches

Sec. 7. (a) As soon as practicable after this court is created, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the County Court of Gregg County and shall transfer those matters to the docket of the court created by this Act, and the district clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the district courts of Gregg County and may transfer a

sufficient number of those matters to the docket of the court created by this Act to equalize the dockets. Equalization of case load shall be the primary objective in establishing the initial case docket for the county court at law.

(b) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. All cases of concurrent jurisdiction enumerated in Section 2(b) of this Act may be instituted in or transferred between the district courts of Gregg County and the County Court at Law of Gregg County. However, no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) On the transfer of all cases specified in Subsection (a) of this section to the county court at law, and in cases transferred to any of the courts in Gregg County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

(d) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions for the exchange of benches by and between the judges are cumulative of and in addition to the provisions in this Act for the selection and appointment of a special judge of the county court at law.

Practice and Jurors

Sec. 8. (a) Practice in the county court at law shall conform to that prescribed by general law for county courts.

(b) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

Courtroom

Sec. 9. The Commissioners Court of Gregg County shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 10. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Gregg County."

Effective Date

Sec. 11. The County Court at Law of Gregg County is created on January 1, 1981, or on a date determined by the commissioners court by an order entered on its minutes, whichever date is earlier. [Acts 1979, 66th Leg., p. 889, ch. 409, eff. Aug. 27, 1979.]

MEDINA COUNTY

Art. 1970-376. County Court at Law of Medina County

Creation

Sec. 1. The County Court at Law of Medina County is created on the date determined by Section 10 of this Act.

Jurisdiction

Sec. 2. (a) The County Court at Law of Medina County has jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, prescribed by the constitution and general laws of the state for county courts, and its jurisdiction is concurrent with the jurisdiction of the County Court of Medina County. It does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business which is now within the jurisdiction of the Commissioners Court of Medina County.

(b) The County Court at Law of Medina County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest, as provided by general law.

(c) In addition to the jurisdiction conferred on the County Court at Law of Medina County by the other provisions of this Act, the county court at law has concurrent jurisdiction with the district courts in Medina County in suits and causes involving family law matters, including adoptions; birth

records; removal of disability of minority or coverage; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; and independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parent and child and between husband and wife. The provisions in this subsection do not diminish the jurisdiction of the district courts in Medina County, and the district courts shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

(d) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that such judge of the county court at law shall in no way have any authority over the administrative business of Medina County which is now performed by the county judge of Medina County.

Terms

Sec. 3. The county court at law shall hold two continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Judge

Sec. 4. (a) The judge of the county court at law shall be a qualified voter in Medina County, shall have been a resident of Medina County for two years, and shall be a licensed attorney in this state who has been actively engaged in the practice of law or has been a judge of a court in this state, or both combined, for four years prior to the judge's appointment or election.

(b) When this court is created, the governor shall appoint a judge to the county court at law, who shall serve until the next general election after he or she takes office, and until his or her successor is elected and has qualified. Beginning at the general election in 1982 and every fourth year thereafter, there shall be elected by the qualified voters of Medina County a judge of the county court at law for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) After the initial appointment, a vacancy occurring in the office of the judge of the county court at law shall be filled by the Commissioners Court of Medina County, and the appointee shall hold office until the next general election and until his or her successor is elected and has qualified.

(d) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. The judge may be removed from office in the same manner and for the same causes as a county judge.

(e) The judge of the county court at law shall receive a salary to be set by the commissioners court and to be paid out of the county treasury by the commissioners court in an amount not to exceed 90 percent of the amount paid a district judge having jurisdiction in Medina County. The salary shall be paid in equal monthly installments. The judge of the county court at law shall be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the county court at law shall assess the same fees as are now prescribed or may be established by law, relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge.

(f) A special judge of the county court at law with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his or her court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Personnel

Sec. 5. (a) The county attorney, county clerk, and sheriff of Medina County shall serve as county attorney, clerk, and sheriff, respectively, for the county court at law, except that the district clerk of Medina County shall serve as clerk of the county court at law in cases enumerated in Section 2(c) of this Act and shall establish a separate docket for the county court at law. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law shall appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be as provided by law for official court reporters. The official court reporter is entitled to

the compensation fixed by the Commissioners Court of Medina County.

Transfer of Cases and Judges

Sec. 6. (a) As soon as practicable after this court is created, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the county court, and shall transfer those matters to the docket of the court created by this Act, and the district clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the district courts of Medina County and may transfer a sufficient number of those matters to the docket of the court created by this Act to equalize the dockets. Equalization of case load shall be the primary objective in establishing the initial case docket for the county court at law.

(b) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. All cases of concurrent jurisdiction enumerated in Section 2(c) of this Act may be instituted in or transferred between the district courts of Medina County and the County Court at Law of Medina County. However, no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) On the transfer of all cases specified in Subsection (a) of this section to the county court at law, and in cases transferred to any of the courts in Medina County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(d) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him or her without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to

his or her own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his or her court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of and in addition to the provisions herein provided for the selection and appointment of a special judge of the county court at law.

Practice and Procedure

Sec. 7. (a) Practice in the county court at law shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction enumerated in Section 2(c) of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. If a case enumerated in Section 2(c) of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

Courtroom

Sec. 8. The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 9. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Medina County."

Date of Creation

Sec. 10. The County Court at Law of Medina County is created on January 1, 1980, or on a date determined by the commissioners court by an order entered on its minutes, whichever date is earlier. [Acts 1979, 66th Leg., p. 931, ch. 426, eff. Aug. 27, 1979.]

ANDERSON COUNTY

Art. 1970-377. **County Court at Law of Anderson County**

Creation

Sec. 1. The County Court at Law of Anderson County is created on the date determined by Section 11 of this Act. The court shall sit in Palestine, Texas.

Jurisdiction

Sec. 2. (a) The County Court at Law of Anderson County has jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, prescribed by the constitution and general laws of the state for county courts. The county court at law has concurrent jurisdiction with the County Court of Anderson County in all probate matters. It does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business which is now within the jurisdiction of the Commissioners Court of Anderson County.

(b) The County Court at Law of Anderson County has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

(c) In addition to the jurisdiction conferred on the County Court at Law of Anderson County by the other provisions of this Act, the county court at law has concurrent civil jurisdiction with the district courts in Anderson County in suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; and independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parents, between parent and child, and between husband and wife. The provisions in this subsection do not diminish the jurisdiction of the district courts in Anderson County, and the district courts shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

(d) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and the judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that such judge of the county court at law shall in no way have any authority over the administrative business of Anderson County which is now performed by the county judge of Anderson County.

Terms

Sec. 3. The county court at law shall hold four terms of court each year which commence on the first Mondays in January, April, July, and October, and each term of court shall continue in session until the convening of the next succeeding term.

Judge

Sec. 4. (a) The judge of the county court at law shall be a qualified voter in Anderson County, shall have been a resident of Anderson County for two years, and shall be a licensed attorney in this state who has been actively engaged in the practice of law or has been a judge of a court in this state, or both combined, for four years prior to the judge's appointment or election.

(b) When the court is created, the commissioners court shall appoint a judge to the county court at law, who shall serve until the next general election after he takes office, and until his successor is elected and has qualified. Beginning at the general election in 1982 or 1986 and every fourth year thereafter, there shall be elected by the qualified voters of Anderson County a judge of the county court at law for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy occurring in the office of the judge of the county court at law shall be filled by the commissioners court, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

(d) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(e) The judge of the county court at law shall receive a salary to be set by the commissioners court and to be paid out of the county treasury by the commissioners court. The salary shall be paid in equal monthly installments. The judge of the county court at law shall be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the county court at law shall assess the same fees that are prescribed or established by law relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge.

(f) A special judge of the county court at law with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge

is entitled to the same rate of compensation as the regular judge.

(g) The judge of the county court at law shall not engage in the private practice of law after his appointment or election.

Personnel

Sec. 5. (a) The county attorney, county clerk, and sheriff of Anderson County shall serve as county attorney, clerk, and sheriff, respectively, for the county court at law, except that the district clerk of Anderson County shall serve as clerk of the county court at law in cases enumerated in Section 2(c) of this Act and shall establish a separate docket for the county court at law. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law may appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be as provided by law for official court reporters. The court reporter shall serve at the pleasure of the judge of the county court at law. The official court reporter is entitled to the compensation fixed by the Commissioners Court of Anderson County. The judge of the county court at law may, in lieu of appointing an official court reporter, contract for the services of a court reporter under guidelines to be established by the commissioners court.

Transfer of Cases and Judges

Sec. 6. (a) As soon as practicable after this court is created, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the county court, and shall transfer those matters to the docket of the court created by this Act, and the district clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the district courts of Anderson County and may transfer a sufficient number of those matters to the docket of the court created by this Act to equalize the dockets. Equalization of case load shall be the primary objective in establishing the initial case docket for the county court at law.

(b) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts, in matters within their jurisdiction. All cases of concurrent jurisdiction between the district courts and the county court at law may be instituted in or transferred between the district courts of Anderson County and the County Court at Law of Anderson County. However, no case may be transferred

from one court to another without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) On the transfer of all cases specified in Subsection (a) of this section to the county court at law, and in cases transferred to any of the courts in Anderson County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(d) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of and in addition to the provisions provided by this Act for the selection and appointment of a special judge of the county court at law.

Practice and Procedure

Sec. 7. (a) Practice in the county court at law shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction enumerated in Section 2(c) of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. If a case enumerated in Section 2(c) of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of the judge of the county court at law, be made available and shall serve for the week in the county court at law.

Courtroom

Sec. 8. The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 9. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Anderson County." The County Court at Law of Anderson County is a court of record.

Appeals

Sec. 10. (a) Appeals in all civil cases from judgments and orders of the county court at law shall be to the court of appeals as provided for appeals from district and county courts and in all criminal cases to the court of appeals as provided for appeals from county courts.

(b) All cases appealed from the justice courts and other inferior courts in Anderson County shall be made directly to the County Court at Law of Anderson County, unless otherwise provided by law.

Date of Creation

Sec. 11. The County Court at Law of Anderson County is created on January 1, 1984, or on a date determined by the commissioners court by an order entered in its minutes, whichever date is earlier. [Acts 1981, 67th Leg., p. 2516, ch. 665, eff. Aug. 31, 1981.]

CALDWELL COUNTY

Art. 1970-378. County Court at Law of Caldwell County

Creation

Sec. 1. The County Court at Law of Caldwell County is created.

Jurisdiction

Sec. 2. (a) The county court at law has the same jurisdiction over all causes and proceedings, civil and criminal, original and appellate, as prescribed by the constitution and general laws of the state for county courts. The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases in which the amount in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest. The county court at law and the district court have concurrent jurisdiction over juvenile matters, and either of those courts may be designated a juvenile court.

(b) The county court at law has concurrent jurisdiction with the district court in suits and causes involving family law matters, including adoptions;

birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; and independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parent and child and between husband and wife. The provisions in this section do not diminish the jurisdiction of the district court, and the district court retains and shall continue to exercise the jurisdiction that is conferred by law on district courts.

(c) The county court at law has the general jurisdiction of a probate court within the limits of Caldwell County, and its jurisdiction is concurrent with that of the County Court of Caldwell County in probate matters and proceedings.

(d) The county court at law does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways that are within the jurisdiction of the commissioners court of Caldwell County.

Powers and Duties

Sec. 3. (a) The county court at law or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court in the county of inferior jurisdiction. The court and judge also have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges. The judge is a magistrate and conservator of the peace.

(b) The county judge of Caldwell County is the judge of the County Court of Caldwell County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Caldwell County except insofar as those duties are committed by this Act to the judge of the County Court at Law of Caldwell County.

Terms

Sec. 4. The terms of the County Court at Law of Caldwell County are the same as those for the County Court of Caldwell County.

Judge

Sec. 5. (a) The judge of the County Court at Law of Caldwell County must have been a duly licensed and practicing member of the State Bar of Texas for at least four years prior to election or appointment, be well informed in the laws of this

state, and have resided and been actively engaged in the practice of law in Caldwell County for at least one year prior to election or appointment. Beginning at the general election in 1986 and every fourth year thereafter, the qualified voters of the county shall elect the judge who holds office for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(b) The commissioners court shall appoint a person to fill a vacancy in the court created by this Act. The judge appointed must have the qualifications prescribed in Subsection (a) of this section. The appointee holds office until the next general election and until his successor is elected and has qualified.

(c) The judge of the County Court at Law of Caldwell County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The commissioners court shall fix the salary of the judge of the County Court at Law of Caldwell County. The judge shall assess the fees prescribed by law for county judges. The clerk of the court shall collect the fees and pay them into the county treasury. Fees may not be paid to the judge.

Special Judge

Sec. 6. (a) A special judge of the county court at law may be appointed or elected as provided by law for special judges of county courts. A special judge is entitled to the same rate of compensation as the regular judge.

(b) If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the same compensation provided for appointed or elected special judges.

Court Officials

Sec. 7. The criminal district attorney, county clerk, and sheriff of Caldwell County shall serve as criminal district attorney, clerk, and sheriff of the County Court at Law of Caldwell County, except that the district clerk of Caldwell County shall serve as clerk of the county court at law in the cases enumerated in Subsection (b) of Section 2 of this Act and shall establish a separate docket for the county court at law. The commissioners court may employ assistant district attorneys, deputy sheriffs, and bailiffs necessary to serve the court created by this Act. Those serving shall perform the duties and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices in Caldwell County.

Court Reporter

Sec. 8. The judge of the county court at law may appoint an official court reporter who serves at the pleasure of the judge. The court reporter is

entitled to the compensation fixed by the commissioners court. The official court reporter must have the qualifications prescribed by law for district court reporters.

Seal

Sec. 9. The seal of the court created by this Act is the same as that provided by law for county courts, except that the seal shall contain the words "County Court at Law of Caldwell County."

Practice and Procedure; Jury

Sec. 10. Practice in the County Court at Law of Caldwell County shall conform to that prescribed by law for the County Court of Caldwell County, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction enumerated in Subsection (b) of Section 2 of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts. If a case enumerated in Subsection (b) of Section 2 of this Act is tried before a jury, the jury shall be composed of 12 members.

Transfer of Cases

Sec. 11. (a) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in matters within their concurrent probate jurisdiction in order that the business may be equally distributed between them. A case within the concurrent jurisdiction of the county court at law and the district court may be instituted in or transferred from one court to the other without the consent of the judge of the court to which it is transferred. A case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) When a case is transferred to any of the courts by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the case shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in the case shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the case is transferred as are fixed by law. All processes issued or returned before transfer of the case and all bonds and recognizances taken in and for a court from which a case is transferred shall be valid and binding as though originally issued out of the court to which the transfer is made.

Exchange of Benches

Sec. 12. The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or absent, the other may hold court for him without the necessity of transferring the case. Either judge may hear all or any part of a case

pending in the county court or county court at law, and he may rule or enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. A judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

Juries

Sec. 13. (a) The jurisdiction and authority vested in the county clerk and the county judge of Caldwell County for the drawing, selection, and service of jurors and talesmen shall also be exercised by the county court at law and its judge.

(b) On request of either the county judge or the judge of the county court at law, jurors regularly impaneled for a week by the district court or courts may be made available and shall serve for the week in either the county court or county court at law.

Initial Appointment of Judge

Sec. 14. The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge as provided by Subsection (b) of Section 5 of this Act.

Effective Date

Sec. 15. This Act takes effect October 1, 1983. [Acts 1983, 68th Leg., p. 591, ch. 124, eff. Oct. 1, 1983.]

LIBERTY COUNTY

Art. 1970-379. County Court at Law of Liberty County

Creation

Section 1. The County Court at Law of Liberty County is created on the date determined as provided by Section 11 of this Act. It shall sit in the City of Liberty.

Jurisdiction

Sec. 2. (a) The county court at law has concurrent civil jurisdiction with the district court in:

(1) cases in which the matter in controversy exceeds \$500 and does not exceed \$50,000, excluding interest and attorney's fees;

(2) appeals of final rulings and decisions of the Industrial Accident Board;

(3) eminent domain cases and proceedings; and

(4) cases and proceedings involving adoptions, birth records, or removal of disability of minority or coverture; change of names of persons; child welfare, custody, support and reciprocal support, dependency, neglect, or delinquency; divorce and marriage annulment, including the adjustment of property rights, custody and support of minor children involved therein, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions in-

volving child support and custody of minors and wife or child desertion; and independent actions involving controversies between parent and child, between parents, and between spouses.

(b) The county court at law has concurrent jurisdiction with the county court in:

(1) all civil and criminal cases and proceedings, original and appellate, prescribed by law for county courts; and

(2) probate matters and proceedings.

(c) The county court at law has concurrent jurisdiction with the county and district court in juvenile matters and proceedings as provided by Chapter 178, Acts of the 66th Legislature, Regular Session, 1979 (Article 2338-1.1, Vernon's Texas Civil Statutes).

(d) This section does not deny the right of appeal to the county court at law from the justice court where the right of appeal to the county court exists by law.

(e) The county court at law does not have jurisdiction over causes and proceedings involving the general administration of county business, including the supervision and construction of roads, bridges, and public highways, that is within the jurisdiction of the commissioners court. The judge of the county court retains and shall exercise all ex officio duties of the county judge.

(f) This section does not diminish the jurisdiction of the district courts but only gives concurrent jurisdiction to the county court at law over the matters specified in Subsections (a) through (d). The district courts retain and shall continue to exercise the jurisdiction conferred by law on district courts.

(g) Article 1951, Revised Statutes, does not apply to the county court at law and does not affect or diminish the jurisdiction of the county court at law.

Powers and Duties

Sec. 3. (a) The county court at law or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county.

(b) The county court at law or its judge may punish for contempt as prescribed by general law.

(c) The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that a judge of the county court at law does not have any authority over the administrative business of the county that is performed by the county judge.

Terms of Court

Sec. 4. The terms of the county court at law begin on the first Mondays in January and July of each year. Each term of court continues until the next succeeding term begins.

Judge

Sec. 5. (a) The judge of the county court at law must be a citizen of the United States, must have resided in the county for at least one year prior to his election or appointment, and must be a licensed member of the state bar who has actively practiced law for at least four years prior to his election or appointment.

(b) The commissioners court shall fix the annual salary of the judge of the county court at law. The annual salary shall be paid in equal monthly installments.

(c) The commissioners court shall appoint a person to fill a vacancy in the office of the judge of the county court at law. The appointee holds office until the next succeeding general election and until his successor is elected and has qualified.

(d) At the first general election following creation of the court at which county court at law judges are regularly elected, and every fourth year thereafter, the qualified voters of the county shall elect the judge of the county court at law for regular terms of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(e) The judge of the county court at law shall take the oath of office prescribed by the constitution of this state, but a bond is not required of the county court at law judge.

(f) The judge of the county court at law may not engage in the private practice of law.

Court Officials, Personnel, and Facilities

Sec. 6. (a) The judge of the county court at law shall appoint an official court reporter. The court reporter must have the qualifications prescribed by law for that office and is entitled to the same compensation, fees, and allowances as the reporters of the district courts in the county.

(b) With the approval of the commissioners court, the judge of the county court at law may appoint a court coordinator or administrative assistant for the court. A court coordinator or administrative assistant performs the duties prescribed by the judge and cooperates with the administrative judges and state agencies for the uniform and efficient operation of the courts and the administration of justice. The court coordinator or administrative assistant is entitled to be paid from county funds the compensation, fees, and allowances that are set by the commissioners court or as otherwise provided by law.

(c) The criminal district attorney or county attorney and the sheriff of the county shall attend the

county court at law as required by the judge of the court. The county clerk serves as clerk of the county court at law.

(d) The commissioners court shall provide the physical facilities and the deputy clerks, bailiffs, and other personnel necessary to operate the county court at law.

Special Judge

Sec. 7. (a) If the regular judge of the county court at law is absent or is from any cause disabled or disqualified from presiding, the presiding judge of the administrative judicial district in which the county is located may appoint a retired district judge or a person licensed to practice law in this state to sit as a special judge.

(b) To be eligible for appointment as a special judge, a person must meet the qualifications required of the regular judge, except that the only residency requirement for a person who is a retired judge is that the retired judge must reside in the administrative judicial district. A retired judge must have voluntarily retired from office and have certified his willingness to serve.

(c) A special judge shall take the oath of office that is required by law for the regular judge and has all the power and jurisdiction of the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other process of any kind as "Judge Presiding" when acting for the regular judge.

(d) A special judge is entitled to receive for the services actually performed the same amount of compensation that the regular judge is entitled to receive for the services. The compensation shall be paid out of county funds on certification by the presiding judge of the administrative judicial district that the special judge has rendered the services and is entitled to receive the compensation. None of the amount paid to a special judge for sitting for the regular judge may be deducted or paid out of the salary of the regular judge.

Transfer of Cases; Exchange of Benches

Sec. 8. (a) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts, except that a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. The county judge and judge of the county court at law may exchange benches and courtrooms with each other so that if one is absent, disabled, or disqualified, the other may hold court for him without the necessity of transferring the case. Either judge may hear all or any part of a case pending in the county court or the county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case

without the necessity of transferring it to his own docket. A judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(b) On motion of a party, on agreement of the parties, or on their own motion, the judges of the county court at law and district courts in the county may transfer civil cases and proceedings to and from the dockets of their respective courts, except that a case or proceeding may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. If a judge is disqualified in a case or proceeding, he shall transfer the case or proceeding from his court to one of the other courts.

(c) When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred and all witnesses summoned to appear in a court from which a case is transferred are required to appear before the court to which the case is transferred as if originally issued out of the court to which the transfer is made.

Juries, Practice and Procedure

Sec. 9. (a) The drawing of jury panels, selection of jurors, and practice in the county court at law shall conform to that prescribed by general law for county courts, except that practice, procedure, rules of evidence, issuance of process and writs, juries, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction with district courts shall be governed by the law and rules pertaining to district courts.

(b) In matters within their concurrent jurisdiction, the judges of the county court at law and district courts in the county shall adopt the rules governing the filing and numbering of cases, the assignment of cases for trial, and the distribution of the work of those courts that they consider necessary or desirable for the orderly dispatch of the business of those courts. The rules must receive an affirmative vote of a majority of those judges. If it is numerically impossible to obtain a majority of the judges, the vote of the district judge with the greatest number of years of service is considered to be the vote of a majority of the judges.

Seal

Sec. 10. The seal of the court created by this Act is the same as that provided by law for county

courts, except that the seal shall contain the words "County Court at Law of Liberty County."

Date of Creation

Sec. 11. The County Court at Law of Liberty County is created on January 1, 1986, or on an earlier date determined by the commissioners court by an order entered on its minutes.

Initial Appointment of Judge

Sec. 12. The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge as provided by Subsection (c) of Section 5 of this Act.

[Acts 1983, 68th Leg., p. 937, ch. 218, eff. Sept. 1, 1983.]

WILLIAMSON COUNTY

Art. 1970-380. County Court at Law of Williamson County

Creation

Sec. 1. The County Court at Law of Williamson County is created on the date determined by Section 11 of this Act.

Jurisdiction

Sec. 2. (a) The County Court at Law of Williamson County has concurrent jurisdiction with the district court in cases in which the matter in controversy exceeds \$500 and does not exceed \$10,000, excluding interest.

(b) The court created by this Act has concurrent jurisdiction with the county court in:

(1) all civil and criminal cases and proceedings, original and appellate, prescribed by law for county courts; and

(2) probate matters and proceedings.

(c) The court created by this Act has concurrent jurisdiction with the county and district court in juvenile matters and proceedings as provided by Chapter 178, Acts of the 66th Legislature, Regular Session, 1979 (Article 2338-1.1, Vernon's Texas Civil Statutes).

(d) The court created by this Act has concurrent jurisdiction with the justice court in all criminal matters for which jurisdiction is conferred on justice courts by the general laws of this state. This section does not deny the right of appeal to the court created by this Act from the justice court where the right of appeal to the county court exists by law.

(e) The court created by this Act does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business that is within the jurisdiction of the commissioners court. The judge of the county court retains and shall exercise all ex officio duties of the county judge.

(f) This section does not diminish the jurisdiction of the district courts and justice courts but only

gives concurrent jurisdiction to the court created by this Act over the matters specified in Subsections (a)–(d). The district courts and justice courts retain and shall continue to exercise the jurisdiction conferred by law on those courts.

(g) Article 1951, Revised Statutes, does not apply to the court created by this Act. Neither Article 1951 nor Section 4, Chapter 832, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3266a, Vernon's Texas Civil Statutes), affects or diminishes the jurisdiction of the court created by this Act.

Powers and Duties

Sec. 3. (a) The County Court at Law of Williamson County or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county.

(b) The court created by this Act or its judge may punish for contempt as prescribed by general law.

(c) The judge of the court created by this Act has all other powers, duties, immunities, and privileges provided by law for county court judges, except that the judge does not have any authority over the administrative business of the county that is performed by the county judge of the county.

Terms of Court

Sec. 4. The terms of the County Court at Law of Williamson County begin on the first Mondays in January and July of each year. Each term of court continues until the next succeeding term begins.

Judge

Sec. 5. (a) The judge of the County Court at Law of Williamson County must be a citizen of the United States, have resided in the county for at least one year prior to election or appointment, be licensed to practice law in this state, and have actively practiced law for at least four years prior to election or appointment.

(b) The commissioners court shall set the annual salary of the judge of the court created by this Act. The annual salary shall be paid in equal monthly installments.

(c) The commissioners court shall appoint a person to fill a vacancy in the office of the judge of the court created by this Act. The appointee holds office until the next succeeding general election and until his successor is elected and has qualified.

(d) Beginning at the first general election following creation of the court at which county court at law judges are regularly elected, and every fourth year thereafter, the qualified voters of the county shall elect the judge of the court created by this Act for a regular term of four years as provided by

Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(e) The judge shall take the oath of office prescribed by the constitution of this state.

(f) The judge may not engage in the private practice of law.

Court Officials, Personnel, and Facilities

Sec. 6. (a) The judge may appoint a court coordinator or administrative assistant for the court created by this Act. A court coordinator or administrative assistant performs the duties prescribed by the judge and cooperates with the administrative judges and state agencies for the uniform and efficient operation of the courts and the administration of justice. The court coordinator or administrative assistant is entitled to be paid from county funds the compensation, fees, and allowances that are set by the commissioners court or as otherwise provided by law. This section is cumulative of the provisions of the law that relate to a court administrator's system for county courts with criminal jurisdiction in certain counties.

(b) The county attorney and the sheriff of the county shall attend the court created by this Act as required by the judge of the court. The county clerk serves as clerk of the court.

(c) The commissioners court shall provide the physical facilities and the deputy clerks, bailiffs, and other personnel necessary to operate the court created by this Act.

Special Judge

Sec. 7. (a) If the regular judge of the County Court at Law of Williamson County is absent or is from any cause disabled or disqualified from presiding, the presiding judge of the administrative judicial district in which the county is located may appoint a person licensed to practice law in this state to sit as a special judge.

(b) To be eligible for appointment as a special judge, the person must meet the qualifications required of the regular judge, except that the only residency requirement for a person who is a retired judge of a district court or county court at law is that the retired judge must reside in the administrative judicial district.

(c) A special judge shall take the oath of office that is required by law for the regular judge and has all the power and jurisdiction of the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other process of any kind as "Judge Presiding" when acting for the regular judge.

(d) A special judge is entitled to receive for the services actually performed the same amount of compensation that the regular judge is entitled to receive for the services. The compensation shall be paid out of county funds on certification by the presiding judge of the administrative judicial district

that the special judge has rendered the services and is entitled to receive the compensation. None of the amount paid to a special judge for sitting for the regular judge may be deducted or paid out of the salary of the regular judge. Section 42.104, Title 110B, Revised Statutes, does not apply to a retired judge of a district court who is appointed a special judge under this section.

Transfer of Cases; Exchange of Benches

Sec. 8. (a) The judge of the county court and the judge of the county court at law in Williamson County may transfer cases to and from the dockets of their respective courts, except that a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. The county judge and the judge of the county court at law in Williamson County may exchange benches and courtrooms with each other so that if one is absent, disabled, or disqualified, the other may hold court for him without the necessity of transferring the case. Either judge may hear all or any part of a case pending in the county court or the county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. A judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(b) When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which the case is transferred as if originally issued out of the court to which the transfer is made.

Juries; Practice and Procedure

Sec. 9. The drawing of jury panels, selection of jurors, and practice in the County Court at Law of Williamson County shall conform to that prescribed by general law for county courts, except that practice, procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the court created by this Act involving those matters of concurrent jurisdiction with district courts shall be governed by the laws and rules pertaining to district courts. Juries in the County Court at Law of Williamson County shall be composed of six persons.

Seal

Sec. 10. The seal of the court created by this Act is the same as that provided by law for county courts, except that the seal shall contain the words "County Court at Law of Williamson County."

Date of Creation

Sec. 11. The County Court at Law of Williamson County is created on January 1, 1986, or on an earlier date determined by the commissioners court by an order entered on its minutes.

Initial Appointment of Judge

Sec. 12. The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge as provided by Section 5(c) of this Act.

Effective Date

Sec. 13. This Act takes effect September 1, 1983.

[Acts 1983, 68th Leg., p. 2630, ch. 452, eff. Sept. 1, 1983.]

WALLER COUNTY

Art. 1970—381. County Court at Law of Waller County

Creation

Sec. 1. The County Court at Law of Waller County is created. It shall sit in Hempstead, Texas.

Jurisdiction

Sec. 2. (a) The county court at law has jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, prescribed by law for county courts. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, or public highways or the general administration of county business that is now within the jurisdiction of the commissioners court of Waller County. The county court at law has concurrent jurisdiction with the County Court of Waller County in all matters of probate.

(b) The county court at law has jurisdiction concurrent with the district court in eminent domain cases as provided by general law and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

(c) The county court at law has concurrent civil jurisdiction with the district court of Waller County in suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of names of persons; child welfare, custody, support and reciprocal support, dependency, neglect, or delinquency; paternity; termination of parental rights; divorce and marriage annulment, including the adjustment of property rights, custody and support of minor children involved therein, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent ac-

tions involving child support and custody of minors and wife or child desertion; and independent actions involving controversies between parent and child, between parents, and between spouses.

(d) The provisions in this section do not diminish the jurisdiction of the district court in Waller County, and the district court shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

(e) The county court at law or its judge has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, execution, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by general law. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that the judge of the county court at law does not have any authority over the administrative business of Waller County that is performed by the county judge of Waller County.

(f) The county Court of Waller County shall have and retain, concurrently with the court created by this Act, the general jurisdiction of a probate court. The county court shall have no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the judge shall be exercised and retained by the judge of the County Court of Waller County, except as otherwise provided by law.

Terms

Sec. 3. The county court at law shall hold four terms of court each year. The terms begin on the first Mondays in January, April, July, and October, and each term of the court continues in session until the convening of the succeeding term.

Judge

Sec. 4. (a) The judge of the county court at law must have been a bona fide resident of Waller County for at least two years prior to his appointment or election and must be a qualified voter in Waller County, at least 30 years of age, and a licensed attorney in this state who has been actively engaged in the practice of law for a period of five years prior to his appointment or election.

(b) The judge of the county court at law may not engage in the private practice of law after his appointment or election.

(c) When this Act becomes effective, the commissioners court shall appoint a judge to the county court at law with the qualifications prescribed in this section. The appointed judge serves until the next general election and until his successor is elected and has qualified. Beginning at the general election in 1986 and every fourth year thereafter,

the qualified voters of Waller County shall elect a judge of the county court at law for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(d) The commissioners court shall fill a vacancy occurring in the office of the judge of the county court at law, and the appointee holds office until the next general election and until his successor is elected and has qualified.

(e) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. The judge may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the county court at law shall receive an annual salary of not less than 85 percent of the amount appropriated by the state for the annual salary of each district judge. The salary shall be paid by the county treasurer by order of the commissioners court and shall be paid monthly in equal installments. The judge of the county court at law is entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner that is allowed the county judge. The judge of the county court at law shall assess the same fees that are prescribed by the law relating to the county judge's fees, which shall be collected by the clerk of the court and paid into the county treasury on collection. No part of the fees may be paid to the judge.

(g) A special judge of the county court at law with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If a judge of the county court at law is disqualified to try a case pending in that court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Personnel

Sec. 5. (a) The county attorney, county clerk, and sheriff of Waller County shall serve as county attorney, clerk, and sheriff respectively of the county court at law, except that the district clerk of Waller County shall serve as clerk of the county court at law in the cases enumerated in Subsection (c) of Section 2 of this Act. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their offices and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law may appoint an official court reporter who has the qualifications and duties provided by law and who serves at the pleasure of the judge of the county court at

law. The official court reporter is entitled to the compensation fixed by the commissioners court of Waller County. The judge of the county court at law may, in lieu of appointing an official court reporter, contract for the services of a court reporter under guidelines to be established by the commissioners court.

Transfer of Cases and Judges

Sec. 6. (a) As soon as practicable following the effective date of this Act, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the County Court of Waller County. All pending civil and criminal cases in the county court are transferred to the county court at law. The district clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the district courts in Waller County and may transfer a sufficient number of those matters to the docket of the court created by this Act to equalize the dockets. Equalization of case load shall be the primary objective in establishing the initial case docket for the county court at law.

(b) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts in matters within their jurisdiction. All cases of which the district courts and county court at law have concurrent jurisdiction may be instituted in or transferred between the district court of Waller County and the county court at law. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) On the transfer of all cases specified in Subsection (a) of this section to the county court at law and in cases transferred to any of the courts in Waller County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken in the cases, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(d) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other in matters within their respective jurisdictions so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any

part of a case pending in the county court or county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. This provision providing for the exchange of benches by and between the judge of the county court and the judge of the county court at law is cumulative of the provisions for the selection and appointment of a special judge of the county court at law.

Practice and Procedure

Sec. 7. (a) Practice in the county court at law shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction with the district courts shall be governed by the laws and rules pertaining to district courts, general or special, as well as county courts. If a case that is not included in the jurisdiction enumerated in Subsection (a) of Section 2 of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of the judge of the county court at law, be made available and shall serve for the week in the county court at law.

Courtroom

Sec. 8. The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 9. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Waller County." The County Court at Law of Waller County is a court of record.

Appeal

Sec. 10. (a) Appeals in civil and criminal cases from judgments and orders of the county court at law shall be to the court of appeals as provided for appeals from district and county courts.

(b) All cases appealed from the justice courts and other inferior courts in Waller County shall be made to the county court at law, unless otherwise provided by law.

Effective Date

Sec. 11. This Act takes effect January 1, 1984.
[Acts 1983, 68th Leg., p. 2854, ch. 485, eff. Jan. 1, 1984.]

KLEBERG COUNTY**Art. 1970-382. County Court at Law of Kleberg County****Creation**

Sec. 1. The County Court at Law of Kleberg County is created as provided by this Act.

Jurisdiction

Sec. 2. (a) The county court at law has the same civil, criminal, and probate jurisdiction, original and appellate, over all causes and proceedings that is prescribed by law for county courts.

(b) The district court, county court, and county court at law in Kleberg County have jurisdiction over juvenile matters as provided by general law, and each court may be designated a juvenile court.

(c) The county court at law has jurisdiction concurrent with the district court in eminent domain proceedings as provided by general law and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$20,000, excluding interest. The county court at law has concurrent civil jurisdiction with the district court in suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parents, between parent and child, and between husband and wife.

(d) This Act does not diminish the jurisdiction of the district court or the county court in Kleberg County, and those courts retain and continue to exercise the jurisdiction that is conferred by law on district courts and county courts, respectively. The jurisdiction conferred by this Act is concurrent with the jurisdiction of those courts.

(e) This Act does not affect the jurisdiction of the commissioners court or of the county judge as the presiding officer of the commissioners court as to roads, bridges, public highways, and the general administration of county business that is within the jurisdiction of the commissioners court. The county judge of Kleberg County is the judge of the County Court of Kleberg County and retains and shall perform all ex officio duties and executive and administrative functions of the county judge.

Writ Power

Sec. 3. The county court at law or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and the judge may punish for contempt as prescribed by general law.

Terms

Sec. 4. The county court at law has two terms that commence on the first Monday in January and the first Monday in July of each year. Each term of court continues until the succeeding term begins.

Judge

Sec. 5. (a) The judge of the county court at law must be a citizen of the United States, must have resided in Kleberg County for at least two years prior to the judge's appointment or election, and must be a licensed attorney in this state who has been actively engaged in the practice of law or has been a judge of a court in this state, or both combined, for at least four years prior to the judge's appointment or election.

(b) The commissioners court shall appoint a judge to fill the initial vacancy in the office of the judge of the county court at law when the court is created and shall fill a subsequent vacancy in the office of the judge in the same manner. The appointee to fill either the initial or a subsequent vacancy holds office until January 1 of the year following the next general election after the appointment and until his successor is elected and qualified.

(c) Beginning at the general election in 1986, the judge of the county court at law is elected by the qualified voters of Kleberg County for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. The judge shall continue to perform the duties of the office until his successor is elected and qualified.

(d) The judge of the county court at law shall take the oath of office prescribed by the constitution of this state, but a bond is not required of the judge.

(e) The judge of the county court at law may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the county court at law shall receive an annual salary set by the commissioners court at an amount not less than \$32,000, but not more than an amount equal to \$1,000 less than the salary paid by the state to a district judge. The salary shall be paid monthly in equal installments. The judge of the county court at law is entitled to traveling expenses and necessary office expenses,

including administrative and clerical help, in the same manner that is allowed the county judge. The judge of the county court at law shall assess the same fees that are prescribed by law relating to the county judge's fees. The fees shall be collected by the clerk of the court and paid into the county treasury on collection. The fees may not be paid to the judge.

(g) A special judge of the county court at law may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. A special judge must have the same qualifications and is entitled to the same rate of compensation as the regular judge.

Court Officials and Personnel

Sec. 6. (a) The county attorney, county clerk, and sheriff of Kleberg County shall serve as county attorney, clerk, and sheriff, respectively, for the county court at law, except that the district clerk of Kleberg County shall serve as clerk of the county court at law in cases where that court has concurrent jurisdiction with the district court and shall establish a separate docket for the county court at law. These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law shall appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be as provided by law for official court reporters. The official court reporter is entitled to the compensation fixed by the commissioners court.

Practice and Procedure

Sec. 7. (a) Practice in the county court at law shall conform to that prescribed by law for the county court, except that the practice and procedure, rules of evidence, issuance of process, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving matters of concurrent jurisdiction with the district court shall be governed by this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. A jury is composed of 12 members, except that a jury is composed of six members in a misdemeanor criminal case or any other case where the court has concurrent jurisdiction with the county court.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. All cases of concurrent jurisdiction between the district court and county court at law may be instituted in or transferred between the district court of Kleberg

County and the County Court at Law of Kleberg County. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred to another court unless it is within the jurisdiction of the court to which it is transferred. In cases transferred to any of the courts in Kleberg County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(c) The county judge and the judge of the county court at law may exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either of those judges may hear all or any part of a case pending in the county court or county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring the case to his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions providing for the exchange of benches by and between the judges are cumulative of the provisions for the election and appointment of a special judge.

(d) The laws that govern the drawing, selection, and service of jurors for county courts apply to the county court at law. Jurors regularly impaneled for the week by the district court of Kleberg County may, at the request of either the judge of the county court or the judge of the county court at law, be made available by the district judge in the numbers requested and shall serve for the week in the county court or the county court at law.

Facilities

Sec. 8. (a) The county court at law shall sit in the county seat of Kleberg County. The commissioners court shall furnish and equip a suitable courtroom and office space for the county court at law.

(b) The seal of the county court at law shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Kleberg County."

Date of Creation

Sec. 9. The County Court at Law of Kleberg County is created on January 1, 1986, or on a date determined by the commissioners court by an order entered on its minutes, whichever date is earlier. [Acts 1983, 68th Leg., p. 4731, ch. 828, eff. Aug. 29, 1983.]

RUSK COUNTY**Art. 1970-383. County Court at Law of Rusk County****Creation**

Sec. 1. The County Court at Law of Rusk County is created on the date determined under Section 11 of this Act.

Jurisdiction

Sec. 2. (a) The County Court at Law of Rusk County, concurrently with the County Court of Rusk County, has jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, prescribed by law for county courts. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business which is now within the jurisdiction of the Commissioners Court of Rusk County.

(b) The County Court at Law of Rusk County has concurrent jurisdiction with the district court in eminent domain cases and in civil cases in which the matter in controversy exceeds \$500 but does not exceed \$20,000, exclusive of interest.

Writ Power

Sec. 3. The county court at law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, and supersedeas, and other writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court may punish for contempt as prescribed by law for county courts. The judge of the court has all other powers, duties, immunities, and privileges provided by law for county court judges, except that the judge of the county court at law has no authority over the administrative business of Rusk County that is now performed by the County Judge of Rusk County.

Terms

Sec. 4. The county court at law shall hold two continuous terms which begin on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next term begins.

Judge

Sec. 5. (a) The judge of the county court at law must be a qualified voter in Rusk County. He must be a licensed attorney in this state who has actively

practiced law or served as a judge of a court of record for at least two years prior to his appointment or election.

(b) The judge of the county court at law may not engage in the private practice of law after his appointment or election.

(c) When this court is created, the Commissioners Court of Rusk County shall appoint a judge to the County Court at Law of Rusk County. The appointed judge serves until the next general election and until his successor is elected and has qualified. Beginning at the next general election at which county court at law judges are regularly elected and every fourth year thereafter, the qualified voters of Rusk County shall elect a judge of the county court at law for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(d) A vacancy occurring in the office of the judge of the county court at law shall be filled by appointment made by the Commissioners Court of Rusk County, and the appointee holds office until the next general election and until his successor is elected and has qualified.

(e) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the County Court at Law of Rusk County and the county judge of Rusk County are entitled to receive an annual salary set by the commissioners court. The salary shall be paid in equal monthly installments. The commissioners court may provide traveling expenses and office expenses, including administrative and clerical help, in addition to the judge's salary, as it deems necessary. The judge of the county court at law shall assess the same fees as are prescribed by law relating to county judges' fees, which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge.

(g) A special judge of the county court at law with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

(h) The judge of the County Court at Law of Rusk County is a member of the county juvenile board.

Court Officials and Personnel

Sec. 6. (a) The county attorney and sheriff of Rusk County shall serve as district attorney and

sheriff, respectively, of the County Court at Law of Rusk County. The district clerk of Rusk County shall serve as clerk of the county court at law in cases enumerated in Section 2(b) of this Act, and the county clerk of Rusk County shall serve as clerk of the county court at law in cases enumerated in Section 2(a). These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the county court at law shall appoint an official court reporter who must have the qualifications prescribed by law for that office and whose duties shall in every respect be the same as provided by law. The official court reporter is entitled to the compensation fixed by the Commissioners Court of Rusk County.

(c) The judge of the County Court at Law of Rusk County, with the consent of the commissioners court, may employ a secretary. The secretary is entitled to a salary as determined by the commissioners court.

Transfer of Cases and Exchange of Benches

Sec. 7. (a) As soon as practicable after this court is created, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the County Court of Rusk County and shall transfer those matters to the docket of the court created by this Act. The district clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the district courts of Rusk County and may transfer a sufficient number of those matters to the docket of the court created by this Act to equalize the dockets. Equalization of case load shall be the primary objective in establishing the initial case docket for the county court at law.

(b) The judge of the county court and the judge of the county court at law may transfer cases to and from the dockets of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. All cases of concurrent jurisdiction enumerated in Section 2(b) of this Act may be instituted in or transferred between the district courts of Rusk County and the County Court at Law of Rusk County. However, a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) On the transfer of a case specified in Subsection (a) of this section to the county court at law, and in a case transferred to any of the courts in Rusk County by order of the judge of another court,

all processes, writs, bonds, recognizances, or other obligations issued or made in the case shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases are valid and binding as though originally issued out of the court to which the transfer is made.

(d) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions for the exchange of benches by and between the judges are cumulative of and in addition to the provisions in this Act for the selection and appointment of a special judge of the county court at law.

Practice and Jurors

Sec. 8. (a) Practice in the county court at law shall conform to that prescribed by general law for county courts.

(b) The laws governing the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

Courtroom

Sec. 9. The Commissioners Court of Rusk County shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 10. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Rusk County."

Date of Creation

Sec. 11. The County Court at Law of Rusk County is created on January 1, 1986, or on an

earlier date determined by the commissioners court by an order entered on its minutes.

[Acts 1983, 68th Leg., p. 4834, ch. 853, §§ 1 to 11, eff. Aug. 29, 1983.]

CHEROKEE COUNTY

Art. 1970-384. County Court at Law of Cherokee County

Creation

Sec. 1. The County Court at Law of Cherokee County is created on the date determined under Section 12 of this Act. The court shall sit in the city of Rusk.

Jurisdiction

Sec. 2. (a) The County Court at Law of Cherokee County has jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, prescribed by the constitution and general laws for county courts. The court created by this Act has concurrent jurisdiction with the county court in all probate matters. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business which is now within the jurisdiction of the Commissioners Court of Cherokee County.

(b) The County Court at Law of Cherokee County has concurrent jurisdiction with the district court in:

- (1) eminent domain cases;
- (2) civil cases in which the matter in controversy exceeds \$500 but does not exceed \$20,000, exclusive of interest; and
- (3) civil cases in suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support and alimony pending final hearing, and every other matter incident to divorce or annulment proceedings, including the power to punish for contempt to the same extent as the district court; independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parents, between parent and child, and between husband and wife.

(c) This section does not diminish the jurisdiction of the district courts in Cherokee County. The district courts retain and continue to exercise the jurisdiction that is conferred by law on those courts.

Powers and Duties

Sec. 3. (a) The court created by this Act or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the orders and jurisdiction of the

court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county.

(b) The court and the judge may punish for contempt as prescribed by law for county courts.

(c) The judge of the court created by this Act has all other powers, duties, immunities, and privileges provided by law for county court judges, except that the judge does not have any authority over the administrative business of the county that is performed by the county judge.

Terms

Sec. 4. The terms of the court created by this Act begin on the first Mondays in March and September of each year. Each term of court continues in session until the convening of the next succeeding term.

Judge

Sec. 5. (a) The judge of the County Court at Law of Cherokee County must be a qualified voter in Cherokee County, have been a resident of Cherokee County for two years, and be a licensed attorney in this state who has been actively engaged in the practice of law or has been a judge of a court in this state, or both combined, for four years prior to the judge's appointment or election.

(b) Beginning at the next general election, after creation of the court at which county court at law judges are regularly elected, and every fourth year thereafter, the qualified voters of Cherokee County shall elect a judge of the county court at law for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy occurring in the office of the judge of the County Court at Law of Cherokee County shall be filled by appointment by the commissioners court. The appointee holds office until the next general election and until his successor is elected and has qualified.

(d) The judge of the County Court at Law of Cherokee County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(e) The judge of the court created by this Act is entitled to receive an annual salary set by the commissioners court and paid out of the county treasury by the commissioners court. The salary shall be paid in equal monthly installments. The judge is entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge shall assess the same fees that are prescribed by law relating to county judges' fees. The clerk of the court shall collect the fees and pay them into the county treasury on

collection. None of the fees may be paid to the judge.

(f) A special judge of the court created by this Act with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. If the judge of the court created by this Act is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

(g) The judge of the court created by this Act may not engage in the private practice of law after his appointment or election.

Personnel

Sec. 6. (a) The county attorney, county clerk, and sheriff of Cherokee County shall serve as county attorney, clerk, and sheriff, respectively, for the court created by this Act, except that the district clerk shall serve as clerk of the court created by this Act in cases enumerated in Section 2(b)(3) of this Act and shall establish a separate docket for the court created by this Act. Those officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their offices and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(b) The judge of the court created by this Act may appoint an official court reporter. The reporter must have the same qualifications as provided by law for official court reporters. The reporter's duties are the same as provided by law for official court reporters. The reporter serves at the pleasure of the judge. The reporter is entitled to the compensation fixed by the commissioners court. The judge, in lieu of appointing an official court reporter, may contract for the services of a court reporter under guidelines to be established by the commissioners court.

Transfer of Cases; Exchange of Benches

Sec. 7. (a) The judge of the county court and the judge of the court created by this Act may transfer cases to and from the dockets of their respective courts in matters within their jurisdiction. All cases of concurrent jurisdiction between the district courts and the county court at law may be instituted in or transferred between the district courts of Cherokee County and the County Court at Law of Cherokee County. However, a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) On the transfer of a case as provided by this Act, all processes, writs, bonds, recognizances, or other obligations issued or made in the case must be returned to and filed in the court to which the transfer is made. A bond executed and recognizance entered into in the case binds the parties for their appearance or to fulfill the obligations of the bond or recognizance at the term of the court to which the case is transferred as fixed by law. A process issued or returned before transfer of the case and a bond or recognizance taken before transfer is valid and binding as though originally issued out of the court to which the transfer is made.

(c) The county judge and the judge of the court created by this Act may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or court created by this Act in matters within their jurisdiction and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. This section is cumulative of the provisions of this Act for the selection and appointment of a special judge of the County Court at Law of Cherokee County.

Practice and Procedure

Sec. 8. (a) Practice in the court created by this Act shall conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the court created by this Act involving those matters of concurrent jurisdiction enumerated in Section 2(b)(3) of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. If a case enumerated in Section 2(b)(3) of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the court created by this Act.

(c) Jurors regularly impaneled for a week by the district courts, on request of the judge of the court created by this Act, may be made available and shall serve for the week in the court created by this Act.

Courtroom

Sec. 9. The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 10. The seal of the court created by this Act shall be the same as that provided by law for county courts except the seal shall contain the words "County Court at Law of Cherokee County." The County Court at Law of Cherokee County is a court of record.

Appeals

Sec. 11. (a) Appeals in all civil and criminal cases from judgments and orders of the court created by this Act are governed by the applicable laws and rules of civil and criminal procedure.

(b) Unless otherwise provided by law, an appeal from a justice court or other inferior court shall be made directly to the County Court at Law of Cherokee County or the county court.

Date of Creation

Sec. 12. The County Court at Law of Cherokee County is created on January 1, 1986, or on an earlier date determined by the commissioners court by an order entered on its minutes.

Initial Appointment of Judge

Sec. 13. The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge as provided by Section 5(c) of this Act.

Initial Transfer of Cases

Sec. 14. As soon as practicable after the court is created, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the county court and shall transfer those matters to the docket of the court created by this Act. The district clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the district court of Cherokee County and may transfer a sufficient number of those matters to the docket of the court created by this Act to equalize the dockets. Equalization of case load shall be the primary objective in establishing the initial case docket for the court created by this Act.

[Acts 1983, 68th Leg., p. 5632, ch. 1067, eff. Aug. 29, 1983.]

CALHOUN COUNTY**Art. 1970-385. County Court at Law No. 1 of Calhoun County****Creation**

Sec. 1. The County Court at Law No. 1 of Calhoun County is created on the date determined under Section 20 of this Act.

Jurisdiction

Sec. 2. (a) The county court at law, concurrently with the County Court of Calhoun County, has the same jurisdiction over all causes and proceedings,

criminal, juvenile, and probate, original and appellate, prescribed by law for county courts.

(b) The county court at law has original concurrent jurisdiction with the justice courts in all criminal matters for which jurisdiction is conferred on justice courts by the general laws of this state. This subsection does not diminish the jurisdiction of the justice courts, but only grants concurrent original jurisdiction to the County Court at Law No. 1 of Calhoun County over the matters specified in this subsection. This subsection does not deny the right of appeal to the County Court at Law No. 1 of Calhoun County from the justice court where the right of appeal to the county court exists by law.

(c) The county court at law has concurrent civil jurisdiction with the district court in:

(1) cases in which the matter in controversy exceeds \$500 and does not exceed \$20,000, excluding interest;

(2) appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy;

(3) eminent domain cases and proceedings, regardless of the amount in controversy; and

(4) cases and proceedings involving adoptions, birth records, or removal of disability of minority or coverture; change of names of persons; child welfare, custody, support and reciprocal support, dependency, neglect, or delinquency; paternity; termination of parental rights; divorce and marriage annulment, including the adjustment of property rights, custody and support of minor children involved therein, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions involving child support, custody of minors, and wife or child desertion; and independent actions involving controversies between parent and child, between parents, and between spouses.

Powers and Duties

Sec. 3. (a) The county court at law or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county.

(b) The court and judge have the power to punish for contempt as prescribed by law for county courts.

(c) The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that the judge does not have any authority over the administrative business of the county that is performed by the county judge.

County Judge

Sec. 4. The county judge of Calhoun County is the judge of the County Court of Calhoun County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Calhoun County unless committed by this Act to the judge of the county court at law.

Juvenile Board Member

Sec. 5. The judge of the County Court at Law No. 1 of Calhoun County is a member of the Calhoun County Juvenile Board.

Terms

Sec. 6. The terms of the County Court at Law No. 1 of Calhoun County are the same as those of the County Court of Calhoun County.

Judge

Sec. 7. (a) The judge of the County Court at Law No. 1 of Calhoun County must be a licensed attorney in this state, well informed in the laws of this state, who has resided in and been actively engaged in the practice of law in Calhoun County for at least one year prior to his appointment or election.

(b) Beginning at the first general election following creation of the court at which county court at law judges are regularly elected, and every fourth year thereafter, the qualified voters of Calhoun County shall elect the judge of the County Court at Law No. 1 of Calhoun County for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) The commissioners court shall appoint a person to fill a vacancy in the office of judge of the county court at law. The appointee holds office until the next succeeding general election and until his successor is elected and has qualified.

Private Practice Prohibited

Sec. 8. During his term of office, the county court at law judge may not engage in the private practice of law.

Bond; Oath; Removal

Sec. 9. The judge of the County Court at Law No. 1 of Calhoun County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

Salary; Expenses; Fees

Sec. 10. (a) The judge of the County Court at Law No. 1 of Calhoun County shall receive a salary in an amount set by the Commissioners Court of Calhoun County, to be paid by the county treasurer by order of the commissioners court. The salary shall be paid monthly in equal installments.

(b) The judge of the county court at law is entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge.

(c) The judge of the county court at law shall assess the same fees that are prescribed by law relating to the county judge's fees. The clerk of the court shall collect the fees and pay them into the county treasury on collection. Fees may not be paid to the judge, but he shall draw the salary as specified in this section.

Special Judge

Sec. 11. If the judge of the county court at law is disqualified, a special judge may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications as the judge of the county court at law and is entitled to the same rate of compensation as the regular judge.

Criminal District Attorney

Sec. 12. The criminal district attorney of Calhoun County shall represent the state in all prosecutions in the County Court at Law No. 1 of Calhoun County, as provided by law for prosecutions in the county court.

County Clerk; Sheriff

Sec. 13. The county clerk and sheriff of Calhoun County shall serve as clerk and sheriff, respectively, of the County Court at Law No. 1 of Calhoun County. The sheriff may employ an additional deputy sheriff to serve the county court at law. The deputy sheriff is entitled to the compensation fixed by the commissioners court. The deputy sheriff serves at the pleasure of the judge of the county court at law. The county clerk may employ an additional deputy clerk to serve the county court at law. The deputy clerk is entitled to the compensation fixed by the Commissioners Court of Calhoun County. The deputy clerk serves at the pleasure of the judge of the county court at law. Those officials shall perform the duties, and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices in Calhoun County.

Court Reporter

Sec. 14. The judge of the county court at law shall appoint an official court reporter, who must meet the qualifications prescribed by law for that office. The reporter is entitled to the compensation fixed by the Commissioners Court of Calhoun County. The reporter serves at the pleasure of the judge of the county court at law.

Practice

Sec. 15. Practice in the County Court at Law No. 1 of Calhoun County shall conform to that prescribed by law for the County Court of Calhoun County.

Transfer; Exchange of Benches

Sec. 16. (a) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, a case may not be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(c) In cases transferred to either of the courts by order of the judge of the other court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases are valid and binding as though originally issued out of the court to which the transfer is made.

Jurors

Sec. 17. The drawing of jury panels and selection and service of jurors shall conform to that prescribed by law for the County Court of Calhoun County. Jurors summoned for either of the courts may by order of the judge of the court in which they are summoned be transferred to the other court for service and may be used as if summoned for the court to which they are transferred. On concurrence of the judge of the County Court at Law No. 1 of Calhoun County and the judge of the County Court of Calhoun County, jurors may be summoned for service in both courts and may be used interchangeably in both courts.

Courtroom

Sec. 18. The Commissioners Court of Calhoun County shall furnish and equip a suitable courtroom and office space for the county court at law.

Seal

Sec. 19. The county court at law shall have a seal identical with the seal of the County Court of Calhoun County, except that it shall contain the words "County Court at Law No. 1 of Calhoun County."

Date of Creation

Sec. 20. The County Court at Law No. 1 of Calhoun County is created on January 1, 1988, or on an earlier date determined by the commissioners court by an order entered in its minutes.

Jurors Summoned on Creation of Court

Sec. 21. A summons for a petit juror for county court civil or criminal cases valid on the date the County Court at Law No. 1 of Calhoun County is created is valid for service in the court at law, and jurors may be used interchangeably as provided by Section 17 of this Act.

Initial Appointment of Judge

Sec. 22. The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge as provided by Section 7(c) of this Act. The appointee must have the qualifications required of the regular judge.

Effective Date

Sec. 23. This Act takes effect September 1, 1983.

[Acts 1983, 68th Leg., p. 5674, ch. 1076, eff. Sept. 1, 1983.]

JURISDICTION OF PROBATE COURTS**Art. 1970a-1. Probate Courts Specially Created; Jurisdiction as to Mentally Ill, Mentally Retarded and Persons Afflicted with Tuberculosis**

Sec. 1. In all counties of the State of Texas having Probate Courts specially created by the Legislature, such courts shall share jurisdiction concurrently with the County Courts of such counties in relation to proceedings under the Mentally Retarded Persons Act, and such Probate Courts shall have jurisdiction concurrently with the County Courts of such counties in relation to all proceedings for the commitment, temporarily or otherwise, of persons who are not charged with any criminal offense who are mentally ill, or against whom information of mental illness has been given to the judge of any such Probate Court, whether such proceeding is for the commitment of such persons for treatment or for observation and/or treatment. The judges of such Probate Courts shall have the authority to hear and determine matters relating to the foregoing proceedings in the same manner and with the same powers as are vested in the County Courts and the judges thereof under the laws of the State of Texas.

Sec. 2. The Probate Courts referred to in Section 1 hereof shall have jurisdiction, concurrently with the County Courts of their respective counties, in relation to all proceedings with respect to the treatment of persons afflicted with tuberculosis or epilepsy, and the judges of such Probate Courts shall have authority to do all things relative to the commitment of persons so afflicted which the county judges are authorized to do.

Sec. 3. Nothing in this Act shall be construed to divest or in any manner impair or reduce the jurisdiction or authority of the County Courts and the Judges thereof, or to limit the jurisdiction conferred upon Probate Courts by other laws.

[Acts 1957, 55th Leg., p. 799, ch. 334.]

TITLE 42

COURTS—PRACTICE IN DISTRICT AND COUNTY

Chapter	Article
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CHAPTER ONE. INSTITUTION, PARTIES AND VENUE

1. INSTITUTION OF SUITS

Art.

1971 to 1974. Repealed.

2. SUITS AGAINST NON-RESIDENTS

1975. Actions Maintainable.
1976. Actual Possession Not Necessary.
1977 to 1979. Repealed.

3. PARTIES TO SUITS

1980. Repealed.
1981. By Executors, etc.
1982. For Lands Against Decedents.
1983 to 1985. Repealed.
1986. Several Obligors to Contract.
1987. Parties Conditionally Liable.
1988 to 1990. Repealed.
1991. Suit in Name of State.
1992 to 1994. Repealed.

4. VENUE

1995. Venue.
1996. When Water Course or Highway is Boundary.

1. INSTITUTION OF SUITS

Arts. 1971 to 1974. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

2. SUITS AGAINST NON-RESIDENTS

Art. 1975. Actions Maintainable

Persons claiming a right to or interest in property in this State may bring and prosecute to final decree, judgment or order, actions against non-resi-

dents of this State, or persons whose place of residence is unknown, or who are transient persons, who claim an adverse estate, or interest in, or who claim any lien or incumbrance on such property, for the purpose of determining such estate, interest, lien, or incumbrance, and granting the title to said property, or settling the lien or incumbrance thereon.

[Acts 1925, S.B. 84.]

Art. 1976. Actual Possession Not Necessary

Such action as provided for in Article 1975, Title 42, Chapter 1, of the 1925 Revised Civil Statutes, of the State of Texas, may be maintained by any such person whether or not he is in actual possession of such property. Service on the defendant or defendants may be made by publication as is now or may be hereafter provided by law for publication of citation against such defendants, or by service of notice of the character and in the manner provided for by Articles 2037 and 2038, of Title 42, Chapter 3, of the 1925 Revised Civil Statutes, of the State of Texas.

[Acts 1925, S.B. 84. Amended by Acts 1934, 43rd Leg., 4th C.S., p. 68, ch. 26, § 1.]

Repeal by Rules of Civil Procedure

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 811, Vernon's Texas Rules of Civil Procedure.

Arts. 1977 to 1979. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

3. PARTIES TO SUITS

Art. 1980. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1981. By Executors, etc.

Suits for the recovery of personal property, debts or damages, and suits for title or possession of lands, or for any right attached to, or growing out of the same, or for injury or damage done thereto, may be instituted by executors, administrators or guardians appointed in this State; and judgment in such cases shall be conclusive, but may be set aside by any person interested for fraud or collusion on the part of such executor or administrator.

[Acts 1925, S.B. 84.]

Art. 1982. For Lands Against Decedents

In every suit against the estate of a decedent involving the title to real estate, the executor or administrator, if any, and the heirs shall be made parties defendant.

[Acts 1925, S.B. 84.]

Art. 1983. Repealed by Acts 1967, 60th Leg., p. 735, ch. 309, § 6, eff. Jan. 1, 1968

Art. 1984. Repealed by Acts 1965, 59th Leg., p. 1010, ch. 495, § 2, eff. Aug. 30, 1965

Art. 1985. Repealed by Acts 1967, 60th Leg., p. 735, ch. 309, § 6, eff. Jan. 1, 1968

Art. 1986. Several Obligors to Contract

The acceptor of a bill of exchange, or a principal obligor in a contract, may be sued either alone or jointly with any other party who may be liable thereon; but no judgment shall be rendered against a party not primarily liable on such bill or other contract, unless judgment be also rendered against such acceptor or other principal obligor, except where the plaintiff may discontinue his suit against such principal obligor as hereinafter provided.

[Acts 1925, S.B. 84.]

Art. 1987. Parties Conditionally Liable

The assignor, indorser, guarantor and surety upon a contract, and the drawer of a bill which has been accepted, may be sued without suing the maker, acceptor or other principal obligor, when the principal obligor resides beyond the limits of the State, or where he cannot be reached by the ordinary process of law, or when his residence is unknown and cannot be ascertained by the use of reasonable diligence, or when he is dead, or actually or notoriously insolvent.

[Acts 1925, S.B. 84.]

Arts. 1988 to 1990. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1991. Suit in Name of State

Whenever an official bond is made payable to the State of Texas, or any officer thereof, and a recovery thereon is authorized by, or would inure to the benefit of parties other than the State, suit may be brought on such bond in the name of the State alone for the benefit of all parties entitled to recover thereon.

[Acts 1925, S.B. 84.]

Arts. 1992, 1993. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1994. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

Acts 1983, 68th Leg., p. 4553, ch. 755, § 1, amended art. 1994 without reference to its repeal by Acts 1983, 68th Leg., p. 3729, ch. 576.

For text of art. 1994 as amended by Acts 1983, 68th Leg., p. 4553, ch. 755, § 1, see the italicized note following the Property Code, § 142.005.

4. VENUE**Art. 1995. Venue****General Rule**

Sec. 1. All lawsuits, except as provided in Sections 2 and 3 of this article, shall be brought in the county where the cause of action or a part thereof accrued or in the county of defendant's residence if defendant is a natural person.

Mandatory Venue

Sec. 2. (a) Lands. Actions for recovery of real property or an estate or interest in real property, or for partition of real property, or to remove encumbrances from the title to real property, or to quiet title to real property shall be brought in the county in which the property or a part of the property is located.

(b) Injunctions against suits. Actions to stay proceedings in a suit shall be brought in the county in which the suit is pending.

(c) Injunctions against executions. Actions to restrain execution of a judgment based on invalidity of the judgment or of the writ shall be brought in the county in which the judgment was rendered.

(d) Against state or head of state department. An action for mandamus against the head of a department of the state government shall be brought in Travis County.

(e) Against county. An action against a county shall be brought in that county.

(f) Other mandatory venue. An action governed by any other statute prescribing mandatory venue shall be brought in the county required by such statute.

(g) Libel, slander, or invasion of privacy. A suit for damages for libel, slander, or invasion of privacy shall be brought and can only be maintained in the county in which the plaintiff resided at the time of the accrual of the cause of action, or in the county where the defendant resided at the time of filing suit, or in the county of the residence of defendants, or any of them, or the domicile of any corporate defendant, at the election of the plaintiff.

Permissive Venue

Sec. 3. (a) Executors, administrators, etc. If the suit is against an executor, administrator, or guardian, as such, to establish a money demand against the estate which he represents, the suit may be brought in the county in which such estate is

administered, or if the suit is against an executor, administrator, or guardian growing out of a negligent act or omission of the person whose estate the executor, administrator, or guardian represents, the suit may be brought in the county where the negligent act or omission of the person whose estate the executor, administrator, or guardian represents occurred.

(b) Insurance. Suit against fire, marine, or inland insurance companies may also be commenced in any county in which the insured property was situated. Suits on policies may be brought against any life insurance company, or accident insurance company, or life and accident, or health and accident, or life, health, and accident insurance company in the county where the home office of such company is located or in the county where loss has occurred or where the policyholder or beneficiary instituting such suit resides.

(c) Breach of warranty by a manufacturer. Suits for breach of warranty by a manufacturer of consumer goods may be brought in any county where the cause of action or a part thereof accrued, or in any county where such manufacturer may have an agency or representative, or in the county in which the principal office of such company may be situated, or in the county where the plaintiff or plaintiffs reside.

(d) Railway personal injuries. Suits against railroad corporations or against any assignee, trustee, or receiver operating any railway in this state for damages arising from personal injuries, resulting in death or otherwise, shall be brought either in the county in which the injury occurred or in the county in which the plaintiff resided at the time of the injury. If the defendant railroad corporation does not run or operate its railway in or through the county in which the plaintiff resided at the time of the injury and has no agent in said county, then said suit shall be brought either in the county in which the injury occurred, or in the county nearest that in which the plaintiff resided at the time of the injury, in which the defendant corporation runs or operates its road, or has an agent. When an injury occurs within one-half mile of the boundary line dividing two counties, suit may be brought in either of said counties. If the plaintiff is a nonresident of this state then such suit shall be brought in the county in which the injury occurred or in the county in which the defendant railroad corporation has its principal office.

(e) Contract in writing. (1) Subject to the provisions of Subdivision (2), if a person has contracted in writing to perform an obligation in a particular county, expressly naming such county or a definite place therein, by such writing, suit upon or by reason of such obligation may be brought against him either in such county or where the defendant has his domicile.

(2) In an action founded upon a contractual obligation of the defendant to pay money arising out of

or based upon a consumer transaction for goods, services, loans, or extensions of credit intended primarily for personal, family, household, or agricultural use, suit by a creditor upon or by reason of such obligation may be brought against the defendant either in the county in which the defendant in fact signed the contract or in the county in which the defendant resides at the time of the commencement of the action. No term or statement contained in an obligation described in this subsection shall constitute a waiver of these provisions.

(f) Corporations and associations. Suits against a private corporation, association, partnership, or joint-stock company may be brought in the county in which its principal office is situated, or in the county in which the cause of action or part thereof arose, or in the county in which the plaintiff resided at the time the cause of action or part thereof arose, provided such corporation, association, partnership, or joint-stock company has an agency or representative in such county, or, if the corporation, association, partnership, or joint-stock company had no agency or representative in the county in which the plaintiff resided at the time the cause of action or part thereof arose, then suit may be brought in the county nearest that in which plaintiff resided at said time in which the corporation, association, partnership, or joint-stock company then had an agency or representative. Suits against a railroad corporation or against any assignee, trustee, or receiver operating its railway may also be brought in any county through or into which the railroad of such corporation extends or is operated. Suits against receivers of persons and corporations may also be brought as otherwise provided by law.

(g) Foreign corporations. Foreign corporations, private or public, joint-stock companies or associations, not incorporated by the laws of this state, and doing business within this state, may be sued in any county where the cause of action or a part thereof accrued, or in any county where such company may have an agency or representative, or in the county in which the principal office of such company may be situated, or, when the defendant corporation has no agent or representative in this state, then in the county where the plaintiffs or either of them reside.

(h) Other permissive venue. An action governed by any other statute prescribing permissive venue may be brought in the county allowed by such statute.

(i) Transient persons. A transient person may be sued in any county in which he may be found.

(j) Nonresidents; residence unknown. If one or all of several defendants reside without the state or if their residence is unknown, suit may be brought in the county in which the plaintiff resides.

General Provisions

Sec. 4. (a) Joinder of defendants or claims. When two or more parties are joined as defendants in the same action and/or two or more claims or

causes of action are properly joined in one action and the court has venue of an action or claim against any one defendant, the court also has venue of all claims or actions against all defendants unless one or more of the claims or causes of action is governed by one of the provisions of Section 2 of this article requiring transfer of such claim or cause of action, upon proper objection, to the mandatory county.

(b) Counterclaims, cross-claims, and third party claims. Venue of the main action shall establish venue of a counterclaim, cross-claim, or third party claim properly joined under the Texas Rules of Civil Procedure.

(c) Transfer. The court, upon motion filed and served concurrently with or before the filing of the answer, shall transfer an action to another county of proper venue where:

(1) the county where the action is pending is not a proper county as provided by this Act; or

(2) an impartial trial cannot be had in the county where the action is pending; or

(3) written consent of the parties to transfer to any other county is filed at any time.

(d) Hearings. (1) In all venue hearings, no factual proof concerning the merits of the case shall be required to establish venue; the court shall determine venue questions from the pleadings and affidavits. No interlocutory appeal shall lie from such determination.

(2) On appeal from the trial on the merits, if venue was improper it shall in no event be harmless error and shall be reversible error. In determining whether venue was or was not proper the appellate court shall consider the entire record, including the trial on the merits.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 197, ch. 72, §§ 1, 2; Acts 1931, 42nd Leg., p. 251, ch. 150, § 1; Acts 1935, 44th Leg., p. 503, ch. 213, § 1; Acts 1943, 48th Leg., p. 350, ch. 228, § 1; Acts 1947, 50th Leg., p. 104, ch. 71, § 1; Acts 1947, 50th Leg., p. 739, ch. 366, § 1; Acts 1953, 53rd Leg., p. 390, ch. 107, §§ 1, 2; Acts 1955, 54th Leg., p. 1031, ch. 388, § 1; Acts 1967, 60th Leg., p. 951, ch. 419, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2009, ch. 687, § 1, eff. June 12, 1969; Acts 1969, 61st Leg., p. 2606, ch. 864, § 1, eff. Sept. 1, 1969; Acts 1973, 63rd Leg., pp. 489, 490, ch. 213, §§ 1, 2, eff. Aug. 27, 1973; Acts 1977, 65th Leg., p. 856, ch. 322, § 1, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 2119, ch. 385, § 1, eff. Sept. 1, 1983.]

Section 3 of the 1983 amendatory act provides:

"This Act takes effect September 1, 1983, and shall not apply to pending appeals on venue questions. For the purpose of appeals on venue questions pending prior to September 1, 1983, the former law is continued in effect."

Art. 1996. When Water Course or Highway is Boundary

Where any part of a river, water course, highway, road or street is the boundary line between two counties, the several courts of each of said counties shall have concurrent jurisdiction in all cases over

such parts of said river, water course, highway, road or street as shall be the boundary of such county in the same manner as if such parts of said river, water course, highway, road or street were within the body of such county.

[Acts 1925, S.B. 84.]

CHAPTER TWO. PLEADING

1. PLEADING IN GENERAL

Art.

1997 to 2002. Repealed.

2002a. Filing Pleadings; Copy Delivered to Adverse Party or to Clerk; Withdrawal.

2002b. Filing Pleadings; Several Adverse Parties; Number of Copies Furnished.

2002c. Failure to Furnish Copy of Pleadings to Adverse Party; Contempt of Court.

2. PLEADINGS OF THE PLAINTIFF

2003 to 2005. Repealed.

3. PLEADINGS OF THE DEFENDANT

2006. Repealed.

2007. Plea of Privilege.

2008 to 2020. Repealed.

1. PLEADING IN GENERAL

Arts. 1997 to 2002. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2002a. Filing Pleadings; Copy Delivered to Adverse Party or to Clerk; Withdrawal

Whenever any party files a pleading of any character, he shall at the same time either deliver to the adverse party, or deposit with the Clerk for the adverse party, a copy of such pleading, which copy shall not be filed by the Clerk. All filed pleadings shall remain at all times in the Clerk's office or in the Court or in custody of the Clerk, except that the Court may by order entered on the Minutes allow a filed pleading to be withdrawn for a limited time whenever necessary, on leaving a certified copy on file. The party withdrawing such pleading shall pay the costs of such order and certified copy.

[Acts 1939, 46th Leg., p. 203, § 1.]

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective

September 1, 1941. See Rules 72, 75, Vernon's Texas Rules of Civil Procedure.

Art. 2002b. Filing Pleadings; Several Adverse Parties; Number of Copies Furnished

If there is more than one adverse party and the adverse parties are represented by different attorneys, one copy of such pleading shall on request be furnished to each attorney representing the adverse parties, but a firm of attorneys associated in the case shall count as one. Not more than four (4) copies of any pleading shall be required to be furnished to adverse parties and they shall be delivered to the first four (4) applicants entitled thereto. After a copy of a pleading is furnished to an attorney or deposited with the Clerk for him, he cannot require another copy of the same pleading to be furnished to him.

[Acts 1939, 46th Leg., p. 203, § 2.]

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 72, Vernon's Texas Rules of Civil Procedure.

Art. 2002c. Failure to Furnish Copy of Pleadings to Adverse Party; Contempt of Court

If any party fails to furnish the adverse party with a copy of any pleading in accordance with this provision, he may be required to do so by order of the Court on motion made and notice given, and if he fails to comply with any such order within five (5) days after its date, he may be punished as for contempt of Court, and a certified copy may be ordered to be furnished by the Clerk and the costs thereof charged to the party who had failed to comply with the order to furnish the same.

[Acts 1939, 46th Leg., p. 203, § 3.]

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this

(Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 73, Vernon's Texas Rules of Civil Procedure.

2. PLEADINGS OF THE PLAINTIFF

Arts. 2003 to 2005. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

3. PLEADINGS OF THE DEFENDANT

Art. 2006. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2007. Plea of Privilege

A plea of privilege to be sued in the county of one's residence shall be sufficient if it be in writing and sworn to, and shall state that the party claiming such privilege was not, at the institution of such suit, nor at the time of the service of process thereon, nor at the time of filing such plea, a resident of the county in which suit was instituted and shall state the county of his residence at the time of such plea, and that "no exception to exclusive venue in the county of one's residence provided by law exists in said cause"; and such plea of privilege when filed shall be prima facie proof of the defendant's right to change of venue; provided that such plea shall not be construed to embrace any of the matters set forth in the Revised Civil Statutes, Article 2010. If the plaintiff desires to controvert the plea of privilege, he shall within five days after appearance day file a controverting plea under oath, setting out specifically the fact or facts relied upon to confer venue of such cause on the court where the cause is pending.

[Acts 1925, S.B. 84. Amended by Acts 1939, 46th Leg., p. 204, § 1.]

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 86, Vernon's Texas Rules of Civil Procedure.

Art. 2008. Repealed by Acts 1983, 68th Leg., p. 2124, ch. 385, § 2, eff. Sept. 1, 1983

Section 3 of the 1983 repealing act provides:

"This Act takes effect September 1, 1983, and shall not apply to pending appeals on venue questions. For the purpose of appeals

on venue questions pending prior to September 1, 1983, the former law is continued in effect."

Arts. 2009 to 2020. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER THREE. CITATION

Art.

- 2021 to 2026. Repealed.
- 2027. Against Counties.
- 2028. Against Cities, Towns, Villages and School Districts.
- 2029. Against Corporations and Joint Stock Associations.
- 2030. Receiver of Railroad Company.
- 2031 to 2131a. Repealed.
- 2031b. Service of Process Upon Foreign Corporations and Nonresidents.
- 2032. Foreign Railway Corporations.
- 2033. Against Partners.
- 2033a. Service on Local Representative of Nonresident Individual or Partnership Supplying Public Utility Service.
- 2033b. Service of Process on Agent or Clerk in Office in County Other than Residence of Principal.
- 2033c. Effect of Service.
- 2034 to 2039. Repealed.
- 2039a. Citation of Nonresident Motor Vehicle Operators by Serving Chairman of State Highway Commission; Forwarding Notice to Defendant.
- 2039b. Citation of Nonresidents for Tax Purposes.
- 2040. Unknown Heirs or Stockholders of Defunct Corporation.
- 2041. Repealed.
- 2041a. Suits Against Unknown Owners or Claimants of Interest in Land; Citation by Publication.
- 2041b. Assessment of Cost of Postage for Service of Process by Mail.
- 2042 to 2050. Repealed.

Arts. 2021 to 2026. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2027. Against Counties

In suits against a county, the citation shall be served on the county judge of such county.

[Acts 1925, S.B. 84.]

Art. 2028. Against Cities, Towns, Villages and School Districts

Sec. 1. In suits against an incorporated city, town or village, the citation may be served on the mayor, clerk, secretary or treasurer thereof.

Sec. 2. In suits against a school district the citation may be served on the president of the school board or the superintendent.

[Acts 1925, S.B. 84. Amended by Acts 1977, 65th Leg., p. 1277, ch. 499, § 1, eff. June 15, 1977.]

Art. 2029. Against Corporations and Joint Stock Associations

In suits against any incorporated company or joint stock association, the citation may be served

on the President, Vice President, Secretary, Cashier, Assistant Cashier, or Treasurer of such company or association, or upon the local agent of such company or association in the county where the suit is brought, or by leaving a copy of the same at the principal office of the company during office hours. If neither the President, Vice President, Secretary, Assistant Secretary, Cashier, Assistant Cashier, or Treasurer reside in the county in which suit is brought, and such company or association has no agent in the county, then the citation may be served upon any agent representing such company, corporation, or association in the State.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 327, ch. 127.]

Art. 2030. Receiver of Railroad Company

In suits against receivers of railroad companies, service may be had either upon the receiver, the general or division superintendent, or any agent of the receiver who resides in the county in which suit is brought. If there be no agent of the receiver in the county in which suit is brought, then service may be had upon any agent of the receiver in the State.

[Acts 1925, S.B. 84.]

Arts. 2031 to 2031a. Repealed by Acts 1973, 63rd Leg., p. 125, ch. 63, § 2, eff. April 26, 1973

See, now, Article 2031b and Business Corporation Act, Article 8.10, § D.

Art. 2031b. Service of Process Upon Foreign Corporations and Nonresidents

Failure to Appoint Agent; Designation of Secretary of State as Lawful Attorney

Sec. 1. When any foreign corporation, association, joint stock company, partnership, or non-resident natural person required by any Statute of this State to designate or maintain a resident agent, or any such corporation, association, joint stock company, partnership, or non-resident natural person subject to Section 3 of this Act, has not appointed or maintained a designated agent, upon whom service of process can be made, or has one or more resident agents and two (2) unsuccessful attempts have been made on different business days to serve process upon each of its designated agents, such corporation, association, joint stock company, partnership, or non-resident natural person shall be conclusively presumed to have designated the Secretary of State of Texas as their true and lawful attorney upon whom service of process or complaint may be made.

Engaging in Business in State; Service upon Person in Charge of Business

Sec. 2. When any foreign corporation, association, joint stock company, partnership, or non-resident natural person, though not required by any Statute of this State to designate or maintain an agent, shall engage in business in this State, in any

action in which such corporation, joint stock company, association, partnership, or non-resident natural person is a party or is to be made a party arising out of such business, service may be made by serving a copy of the process with the person who, at the time of the service, is in charge of any business in which the defendant or defendants are engaged in this State, provided a copy of such process, together with notice of such service upon such person in charge of such business shall forthwith be sent to the defendant or to the defendants principal place of business by registered mail, return receipt requested.

Act of Engaging in Business in State as Equivalent to Appointment of Secretary of State as Agent

Sec. 3. Any foreign corporation, association, joint stock company, partnership, or non-resident natural person that engages in business in this State, irrespective of any Statute or law respecting designation or maintenance of resident agents, and does not maintain a place of regular business in this State or a designated agent upon whom service may be made upon causes of action arising out of such business done in this State, the act or acts of engaging in such business within this State shall be deemed equivalent to an appointment by such foreign corporation, joint stock company, association, partnership, or non-resident natural person of the Secretary of State of Texas as agent upon whom service of process may be made in any action, suit or proceedings arising out of such business done in this State, wherein such corporation, joint stock company, association, partnership, or non-resident natural person is a party or is to be made a party.

Doing Business in State; Definition

Sec. 4. For the purpose of this Act, and without including other acts that may constitute doing business, any foreign corporation, joint stock company, association, partnership, or non-resident natural person shall be deemed doing business in this State by entering into contract by mail or otherwise with a resident of Texas to be performed in whole or in part by either party in this State, or the committing of any tort in whole or in part in this State. The act of recruiting Texas residents, directly or through an intermediary located in Texas, for employment inside or outside of Texas shall be deemed doing business in this State.

Delivery of Process to Secretary of State; Forwarding Copy

Sec. 5. Whenever process against a foreign corporation, joint stock company, association, partnership, or non-resident natural person is made by delivering to the Secretary of State duplicate copies of such process, the Secretary of State shall require a statement of the name and address of the home or home office of the non-resident. Upon receipt of such process, the Secretary of State shall forthwith forward to the defendant a copy of the process by registered mail, return receipt requested.

Nonresidency after Accrual of Cause of Action; Service upon Secretary of State

Sec. 6. When any corporation, association, joint stock company, partnership or natural person becomes a non-resident of Texas, as that term is commonly used, after a cause of action shall arise in this State, but prior to the time the cause of action is matured by suit in a court of competent jurisdiction in this State, when such corporation, association, joint stock company, partnership or natural person is not required to appoint a service agent in this State, such corporation, association, joint stock company, partnership or natural person may be served with citation by serving a copy of the process upon the Secretary of State of Texas, who shall be conclusively presumed to be the true and lawful attorney to receive service of process; provided that the Secretary of State shall forward a copy of such service to the person in charge of such business or an officer of such company, or to such natural person by certified or registered mail, return receipt requested.

Cumulative Effect of Act

Sec. 7. Nothing herein contained shall be construed as repealing any statute in force in this State in reference to service of process, but this Act shall be cumulative of all existing statutes.

[Acts 1959, 56th Leg., p. 85, ch. 43. Amended by Acts 1979, 66th Leg., p. 522, ch. 245, § 1, eff. Aug. 27, 1979.]

Art. 2032. Foreign Railway Corporations

Service may also be had on foreign railway corporations by serving citation upon any train conductor who is engaged in handling trains for two or more railway corporations where one is a foreign railway corporation, and the other a domestic corporation, if said conductor handles and operates trains over such foreign and domestic corporation's tracks across the State line of Texas and on the track of the domestic corporation within this State or upon any agent who has an office in Texas who sells tickets or makes contracts for the transportation of passengers or property over any line of railway, or part thereof, of such foreign railway corporation or company. Conductors who are engaged in handling trains and employed by a foreign railway corporation and a domestic corporation, and who operate such trains across the State line of Texas, and agents engaged in selling tickets or making contracts for the transportation of property, are hereby designated as agents of such foreign corporation or companies upon whom service of citation may be had.

[Acts 1925, S.B. 84.]

Art. 2033. Against Partners

Citation served upon one member of a partnership or firm shall be sufficient to authorize a judgment against the firm and the partner actually served.

[Acts 1925, S.B. 84.]

Saved from repeal, see art. 6132b, § 46.

Art. 2033a. Service on Local Representative of Nonresident Individual or Partnership Supplying Public Utility Service

In suits against individuals and partnerships engaging in supplying gas, water, electricity or other public utility service to villages, towns, or cities in Texas, where such individuals or members of such partnerships reside out of the State of Texas, citation may be served upon the local agent, representative, superintendent or person in charge of the business of such individuals or partnerships.

[Acts 1931, 42nd Leg., p. 209, ch. 122, § 1.]

Art. 2033b. Service of Process on Agent or Clerk in Office in County Other than Residence of Principal

When an individual, partnership or unincorporated association (either being referred to herein as principal, whether one or more) has, for the transaction or doing of any business in Texas, an office, place of business, or agency in any county other than that in which the principal resides, service of citation or other civil process to bind any such principal, may be made on any agent or clerk employed in such office, place of business or agency, in all suits or actions growing out of or connected with such business and brought in the county in which such office, place of business or agency is located; and the provisions hereof shall apply as well to non-residents of the state as to non-residents of such county; and shall also apply to cases where a principal, though claiming or alleged to be a resident of the county wherein is located such office, place of business or agency, has not been found in such county for service on him of process in such suit, in which case, if the officer making return of the process unexecuted shall certify in such return that after diligent search and inquiry a principal cannot be found and served, then process in such suit to any succeeding term of court may be served on such clerk or agent as is herein provided for in case of non-residents of such county; but provided that nothing herein shall prevent or interfere with the application of the articles of the statutes relating to venue of suits.

[Acts 1935, 44th Leg., 2nd C.S., p. 1759, ch. 463, § 1.]

Art. 2033c. Effect of Service

Such service of process, made in the manner herein provided, shall have the same effect as if made personally on the principal and shall especially have effect to subject all non-exempt property in Texas of the principal so served to the jurisdiction and judgment of the court in such suit; but provided that no default judgment shall be rendered on service so obtained until after twenty days after the date of such service, and provided further that the method of service afforded by this Act shall be cumulative.

[Acts 1935, 44th Leg., 2nd C.S., p. 1759, ch. 463, § 2.]

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Arts. 2034 to 2039. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2039a. Citation of Nonresident Motor Vehicle Operators by Serving Chairman of State Highway Commission; Forwarding Notice to Defendant

Acceptance of Benefits of Highways Deemed Equivalent to Appointment of Agent; Service

Sec. 1. The acceptance by a nonresident of this State or by a person who was a resident of this State at the time of the accrual of a cause of action but who subsequently removes therefrom, or the acceptance by his agent, servant, employee, heir, legal representative, executor, administrator or guardian of the rights, privileges and benefits extended by law to such persons of operating a motor vehicle or motorcycle or having the same driven or operated within the State of Texas shall be deemed equivalent to an appointment by such nonresident and of his agent, servant, employee, heir, legal representative, executor, administrator or guardian, of the Chairman of the State Highway Commission of this State, or his successor in office, to be his true and lawful attorney and agent upon whom may be served all lawful process in any civil action or proceeding now pending or hereafter instituted against said nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, growing out of any accident, or collision in which said nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, may be involved while operating a motor vehicle or motorcycle within this State, either in person or by his agent, servant, employee, heir, legal representative, executor, administrator or guardian, and said acceptance or operation shall be a signification of the agreement of said nonresident, or his agent, servant, employee, heir, legal representative, executor, administrator or guardian, that any such process against him or against his agent, servant, employee, heir, legal representative, executor, administrator or guardian, served upon said Chairman of the State Highway Commission or his successor in office, shall be of the same legal force and validity as if served personally.

Service of such process shall be made by leaving a certified copy of the process issued in the hands of the Chairman of the State Highway Commission in Texas at least twenty (20) days prior to the return date thereof, to be stated in said process, and such service shall be sufficient upon said nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, provided, however, that notice of such service and a copy of the process be forthwith sent by registered mail by the Chairman of the State Highway Commission to the nonresident defendant, his agent, servant, employ-

ee, heir, legal representative, executor, administrator or guardian.

Forwarding Process; Notice; Return

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

Return

Sec. 3. The officer serving such process upon the Chairman of the State Highway Commission, shall in his return state the day and hour of the service upon the Chairman of the State Highway Commission of such process and such other facts as are now required to be made in his return as in the case of service of citations generally.

Certificate of Chairman of State Highway and Public Transportation Commission

Sec. 4. The Chairman of the State Highway and Public Transportation Commission shall, upon request of a party and upon the payment of a fee of \$25, certify to the court out of which said process is issued or in which any suit or action may be pending against such nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, the occurrence or performance of any of the duties, acts, omissions, transactions or happenings contemplated or required by this Act, including the wording of any registered letter received, and his certificate, as well as the wording of said registered letter receipt, shall be accepted as

prima facie evidence and proof of the statements contained therein.

Judgment by Default

Sec. 5. No judgment by default shall be taken in any such cause or action, suit or proceeding, until after the expiration of at least twenty days after such process shall have been served upon the Chairman of the State Highway Commission as herein provided, and the presumption shall obtain, unless rebutted, that such process was transmitted by the Chairman of the State Highway Commission and received by the defendant after being deposited in the mail by the Chairman of the State Highway Commission.

Continuance or Postponement

Sec. 6. The court in which the action or proceeding is pending shall have the right to continue or postpone said action or proceeding, as may be necessary to afford the defendant reasonable opportunity to defend the action.

[Acts 1929, 41st Leg., p. 279, ch. 125. Amended by Acts 1933, 43rd Leg., p. 145, ch. 70; Acts 1949, 51st Leg., p. 498, ch. 272, § 1; Acts 1953, 53rd Leg., p. 72, ch. 53, § 1; Acts 1959, 56th Leg., p. 1103, ch. 502, § 1; Acts 1981, 67th Leg., p. 1839, ch. 427, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 368, ch. 81, § 10, eff. Sept. 1, 1983.]

Art. 2039b. Citation of Nonresidents for Tax Purposes

Acceptance of Benefits Relating to Taxation Deemed Equivalent to Appointment of Agent

Sec. 1. In addition to any procedures for citation provided under Rule 117a, Texas Rules of Civil Procedure, the acceptance by a nonresident of this state, or by a person who was a resident of this state at the time of the accrual of a cause of action but who subsequently removes therefrom, of the rights, privileges, and benefits extended by law to such person(s) of owning, having, or claiming an interest in property, real or personal, subject to taxation by the State of Texas and its legal subdivisions, or any of them, shall be deemed equivalent to appointment by such nonresident of the executive director of the State Property Tax Board or his successor in office, to be his true and lawful attorney and agent upon whom may be served all lawful process in any civil action or proceeding now pending or hereafter instituted against such nonresident(s) growing out of taxation by the state and its legal subdivisions, or any of them, of property in which such nonresident(s) owned, had, or claimed a taxable interest on the first day of any tax year(s) for which taxes on such property have not been paid. Such service of process, as herein provided, shall have the same effect as if made personally on the defendant within the State of Texas.

Manner and Method of Service

Sec. 2. Service of process under this Act shall be in the same manner and method as that pre-

scribed in Chapter 125, Acts of the 41st Legislature, Regular Session, 1929, as last amended by Chapter 502, Acts of the 56th Legislature, Regular Session, 1959 (compiled as Article 2039a of Vernon's Texas Civil Statutes), which relates to citation of nonresident motor vehicle operators by serving the chairman of the state highway commission; provided, however, in the service of such process certified mail shall be used rather than registered mail.

"Nonresidents" Defined

Sec. 3. "Nonresidents" as used in this Act includes corporations, partnerships and all other legal entities or representatives owning, having, or claiming a taxable interest in such property at the time(s) specified in Section 1 hereof.

Severability Clause

Sec. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1975, 64th Leg., p. 1900, ch. 607, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 629, ch. 250, § 1, eff. May 28, 1981.]

Art. 2040. Unknown Heirs or Stockholders of Defunct Corporation

Where property in this State has been granted or has accrued to the heirs as such, of any deceased person, or to the stockholders of defunct corporation, any party having a claim or cause of action against them relative to such property, if their names be unknown to him, may bring an action against them, their heirs or legal representatives, describing them as the heirs of such named ancestor or unknown stockholder of such corporation. If the plaintiff, his agent, or attorney, shall make oath that the names of such heirs or stockholders are unknown to the affiant, the clerk shall issue a citation for such heirs or stockholders, addressed to the sheriff or any constable of the county in which such suit is pending. Such citation shall contain a brief statement of the cause of action, and shall command the officer to summon the defendant by making publication of such citation as provided in the preceding article.

[Acts 1925, S.B. 84.]

Repeal by Rules of Civil Procedure

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 111, Vernon's Texas Rules of Civil Procedure.

Art. 2041. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2041a. Suits Against Unknown Owners or Claimants of Interest in Land; Citation by Publication

Sec. 1. When land in this State or any interest of any kind in land has been or may hereafter be

conveyed, or any lease or contract with reference to land made by written instrument (a) to any person or persons as trustee or trustees and in the conveyance or instrument constituting source of title or claim of title the names of the persons taking or holding the equitable or beneficial title are not disclosed and are unknown, or (b) to any association, joint stock company or partnership, in an association, company or firm name, without disclosing the names of the members, shareholders or partners or persons owning interests in such association, company or firm, and such association, joint stock company or partnership shall thereafter be dissolved and the names of the persons holding or acquiring title to such lands after dissolution are not disclosed in such instrument and are unknown; in each of such cases any person claiming ownership of or any interest in such lands or having a claim or cause of action against such unknown owners or claimants relative to such property, may bring action or actions against such unknown owners or claimants as such. The provisions hereof shall apply to conveyances made to all character and kinds of companies, associations and organizations, and in which conveyance the names and identity of the persons taking and holding the beneficial or equitable title are not disclosed and are unknown; provided, however, that if the grantee in such conveyance is shown therein to be a corporation or if the grantee be known to be a corporation, in such event this Act shall not apply, but the rights of action shall be governed by Article 2040 of Revised Civil Statutes; but if the character of the organization as whether incorporated or unincorporated is not shown in such conveyance and such facts are unknown, then suit brought under the provisions of this Act against the unknown owners or claimants of property under such conveyance shall be sufficient to give the Court jurisdiction over such unknown owners or claimants regardless of whether the named grantee is in fact a corporation or unincorporated.

Secs. 2, 3. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1).

[Acts 1931, 42nd Leg., p. 369, ch. 216.]

Art. 2041b. Assessment of Cost of Postage for Service of Process by Mail

If a public official is required or permitted by law to serve any legal process by mail, including process in suits for delinquent taxes, the official may collect advance payment for the actual cost of the postage required to serve or deliver the process, or the official may assess the expense of postage as costs. The charges authorized by this Act are in addition to the fees allowed by law for other services performed by the official.

[Acts 1981, 67th Leg., p. 756, ch. 288, § 1, eff. Sept. 1, 1981.]

Arts. 2042 to 2050. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER FOUR. COSTS AND SECURITY THEREFOR

Art.

2051 to 2071. Repealed.

2072. No Security Required.

2072a. Banking Commissioner and Board Not Required to Give Security.

2073, 2074. Repealed.

2075. Taxing Stenographer's Fees.

2076. Taxing Interpreters' Fees.

2077. Repealed.

Arts. 2051 to 2071. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2072. No Security Required

No security for costs shall be required of the State or of any incorporated city or town in any action, suit or proceeding, or of an executor, administrator or guardian appointed by a court of this State in any suit brought by him in his fiduciary character.

[Acts 1925, S.B. 84.]

Art. 2072a. Banking Commissioner and Board Not Required to Give Security

That hereafter neither the Banking Commissioner of Texas nor the State Banking Board shall be required to give any cost bonds in trial courts in cases to which they may be a party in their official capacities, nor shall they be required to give any cost bond on appeal or supersedeas bond on appeal, or writ of error, in any civil case which they may be prosecuting, or defending in their official capacities.

[Acts 1927, 40th Leg., p. 203, ch. 135, § 1.]

Arts. 2073, 2074. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2075. Taxing Stenographer's Fees

The clerks of all courts having official reporters shall tax as costs in each civil case where an answer is filed, and a record or any part thereof is made of the evidence in said case by the official reporter, except suits to collect delinquent taxes, a stenographer's fee of Three Dollars (\$3.00). Said fee shall be paid as other costs in the case, and paid by said clerk, when collected, into the General Funds of the county in which said court sits; provided, however, that no stenographer's fee shall be taxed as costs in any civil case where no record or any part thereof is made of the evidence in the case by the official reporter.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 120, ch. 90, § 1; Acts 1955, 54th Leg., p. 1033, ch. 390, § 3.]

Art. 2076. Taxing Interpreters' Fees

In each civil suit wherein the services of an interpreter are used, three dollars shall be charged and collected as part of the costs as interpreters' fees, to be paid when collected into the general funds of the county.

[Acts 1925, S.B. 84.]

Art. 2077. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER FIVE. ABATEMENT AND DISCONTINUANCE OF SUIT

Art.

2078 to 2087. Repealed.

2088. Discontinuance as to Principal Obligor.

2089. Repealed.

2090. Discontinuance as to Defendants Served, etc.

2091. Repealed.

Arts. 2078 to 2087. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2088. Discontinuance as to Principal Obligor

Where a suit is discontinued as to the principal obligor, no judgment can be rendered therein against an indorser, guarantor, surety or drawer of an accepted bill who is jointly sued, unless it is alleged and proved that such principal obligor resides beyond the limits of the State, or in such part of the same that he cannot be reached by the ordinary process of law, or that his residence is unknown and cannot be ascertained by the use of reasonable diligence, or that he is dead or actually or notoriously insolvent.

[Acts 1925, S.B. 84.]

Art. 2089. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2090. Discontinuance as to Defendants Served, etc.

When it would not operate to the prejudice of the other defendants the court may permit the plaintiff to discontinue his suit as to one or more of several defendants who were served with process, or who have answered, but no such discontinuance shall, in any case, be allowed as to a principal obligor, except in the cases provided for in the second preceding article.

[Acts 1925, S.B. 84.]

Art. 2091. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SIX. CERTAIN DISTRICT COURTS

Art.

2092. Rules of Practice and Procedure.

2093 to 2093b. Repealed.

Art.

- 2093c. Assignment Clerks in Certain Counties Having Eight District Courts.
- 2093d. Presiding Judge and Assignment Clerk in 28th, 94th and 117th Judicial Districts.
- 2093e. Assignment Clerk of District Courts of Bexar County.
- 2093f. Assignment, Docketing and Transfer of Cases in Dallas County District Courts.

Art. 2092. Rules of Practice and Procedure

The following rules of practice and procedure shall govern and be followed in the Civil District Courts in counties having two (2) or more District Courts with civil jurisdiction only, whose terms continue three (3) months or longer and in all civil litigation in counties having five (5) or more District Courts with either civil or criminal jurisdiction or both civil and criminal jurisdiction:

1. Citation. Citations issued for personal service in the county in which the suit is pending shall command the officer to summon the defendant to appear and answer the plaintiff's petition at or before ten o'clock a.m. of the Monday next following the expiration of the twenty-five (25) days from the date of citation and shall be executed and returned by the officer twenty (20) days after date of issuance.

2. Execution and Return. Citations or notices issued for personal service on a defendant to appear at or before ten o'clock a.m. of the Monday next after the expiration of fifty-five (55) days from the date the citation or notice is issued, shall be executed or served on or before thirty-five (35) days from the date of issue and shall be made returnable thirty-five (35) days after such date.

3. Out-County Citation. Citation for defendants alleged to reside or be outside of the county in which the suit is pending, but within this State, shall be directed to the Sheriff or any constable of the county where the defendant is alleged to reside or be and shall command him to summon the defendant to appear and answer the plaintiff's petition at or before ten o'clock a.m. of the Monday next following the expiration of thirty (30) days from the date the citation is issued and shall be executed and returned to the officer within twenty (20) days after the date of issue.

4. Time for Appearance. Citations or notices issued for personal service on a defendant alleged to reside or be outside of the State but within the United States, shall notify the defendant to appear at or before ten o'clock a.m. of the Monday next after the expiration of fifty-five (55) days from the date the citation or notice is issued and shall be executed or served on or before thirty-five (35) days from the date of issue and shall be made returnable thirty-five (35) days after date of issue.

5. Citation Shall Specify Day. In each of said cases the citation or notice shall specify the day of the week, the day of the month and the time of day the defendant is required to appear and answer, and

if any defendant so served does not appear and answer at or before the time specified in such citation or notice, judgment by default may be rendered against such defendant.

6. Citation by Publication. If citation is to be served by publication it shall be returnable forty-two (42) days after the date of issue and shall command the defendant to appear at or before ten o'clock a.m. of the Monday next following the expiration of forty-two (42) days after the citation was issued, and shall specify the day of the week, the day of the month and the time of day the defendant is required to appear and answer, and shall be served by being published in the manner and for the length of time required by law for citations by publication in the same kind of cases or matters in other District Courts at the time the publication is made and the first publication shall be at least twenty-eight (28) days before the return day of the citation.

7. Service in Foreign Country. If citation is issued to be served personally on any defendant or party in any foreign country it shall be made returnable at such time as the plaintiff or person procuring its issuance shall direct, which shall not be less than thirty (30) days nor more than one hundred and twenty (120) days after the date of issue and shall notify and command the defendant or person to be served to appear and answer at or before ten o'clock a.m. of the Monday next following the expiration of twenty (20) days after the return day of the citation or notice and shall specify the day of the week, the day of the month and the time of day the defendant is required to appear and answer, and shall be served on or before the return day, and if any defendant so served does not appear and answer at or before the time specified in the citation or notice, judgment by default may be rendered against such defendant.

8. Where Citation or Service is Quashed. If the citation or service thereof is quashed on motion of the defendant, such defendant shall be deemed to have entered his appearance at ten o'clock a.m. on the Monday next after the expiration of twenty (20) days after the day on which the citation or service is quashed, and such defendant shall be deemed to have been duly served so as to require him to appear and answer at that time, and if he fails to do so, judgment by default may be rendered against him.

9. Writs of Attachment. Writs of attachment shall be executed immediately after their issuance. Every such writ shall be made returnable, on or before ten o'clock a.m. of the Monday next after the expiration of fifteen (15) days from the issuance of the writ, and the officer executing the writ shall return the same at or before that time with his action indorsed thereon or attached thereto, signed by him officially, showing how he has executed the writ.

10. Writs of Garnishment. Writs of garnishment shall be executed immediately after their issuance and every such writ shall command the officer to summon the garnishee to appear at or before ten o'clock a.m. of the Monday next following the expiration of twenty-five (25) days from the date the writ was issued and the writ shall specify when and where the garnishee is required to answer and the officer receiving the writ of garnishment shall within fifteen (15) days after the issuance of the writ make his return showing how he has executed the writ.

11. Failure of Garnishee to Answer. If the garnishee fails to make answer to the writ on or before ten o'clock a.m. of the Monday next following the expiration of twenty-five (25) days from the date of the writ, he shall be in default and it shall be lawful for the Court, at any time after judgment shall have been rendered against the defendant, to render judgment by default against such garnishee for the full amount of such judgment against the defendant, with all accruing interest and costs. The plaintiff in garnishment shall have fifteen (15) days after the garnishee's answer is filed within which to controvert the same if he so desires.

12. Other Writs and Process. All other writs and process not expressly otherwise provided for in this Article and which under the general law are now returnable to the first day of the next term of Court after the issuance thereof, and which require the defendant or person served to appear on the first day of the next succeeding term, shall be returnable fifteen (15) days after the date thereof and shall be executed and returned at or before the expiration of fifteen (15) days from the date thereof and shall require the defendant or party served to appear and answer at or before ten o'clock a.m. of the Monday next after the expiration of twenty-five (25) days after such writ or process was issued, and all such writs or process shall so specify.

13. Appealed Cases. In cases appealed to said District Courts from inferior Courts, the appeal, including transcript, shall be filed in the District Court within thirty (30) days after the rendition of the judgment or order appealed from, and the appellee shall enter his appearance on the docket or answer to said appeal on or before ten o'clock a.m. of the Monday next after the expiration of twenty (20) days from the date the appeal is filed in the District Court.

14. Pleas of Privilege. Pleas of privilege shall be filed at or before the time the defendant is required to answer and a contest thereof if any, shall be filed within twenty (20) days after the appearance day, and if a contest is filed, the same shall, when filed, be set for hearing by the Court within not exceeding thirty (30) days after being filed and shall be determined by the Court within not exceeding ten (10) days after the date for which the same is set unless postponed or continued without prejudice, by order or leave of the Court, by

agreement of the parties, and shall not be postponed longer than sixty (60) days after being filed unless by order of the Court entered by agreement of the parties.

15. Amended Pleadings. Whenever any party files a pleading of any character, he shall at the same time either deliver to the adverse party, or deposit with the Clerk for the adverse party, a copy of such pleading, which copy shall not be filed by the Clerk. All filed pleadings shall remain at all times in the Clerk's office or in the Court or in custody of the Clerk, except that the Court may by order entered on the Minutes allow a filed pleading to be withdrawn for a limited time whenever necessary on leaving a certified copy on file. The party withdrawing such pleading shall pay the costs of such order and certified copy.

16. Where More Than One Adverse Party. If there is more than one adverse party and the adverse parties are represented by different attorneys, one copy of each pleading shall on request be furnished to each attorney representing the adverse parties, but a firm or attorneys associated in the case shall count as one. Not more than four (4) copies of any pleading shall be required to be furnished to adverse parties and they shall be delivered to the first four (4) applicants entitled thereto. After a copy of a pleading is furnished to an attorney or deposited with the Clerk for him, he cannot require another copy of the same pleading to be furnished to him.

17. Failure to Furnish Copy. If any party fails to furnish the adverse party with a copy of any pleading in accordance with this Article, he may be required to do so by order of the Court on motion made and notice given, and if he fails to comply with any such order within five (5) days after its date, he may be punished for contempt of Court, and the Court may order the Clerk to furnish a certified copy, the costs thereof to be charged against the party who failed to comply with the order to furnish it.

18. Setting Cases for Trial, Etc. On the first Monday in each calendar month the Judge of each Court may, and as far as practicable shall, set for trial during the calendar month next after the month during which the setting is made, all contested cases which are requested to be set, and by agreement of the parties, or on motion of either party, or on the Court's own motion with notice to the parties, the Court may set any case for trial at any time so as to allow the parties reasonable time for preparation. Non-contested cases may be tried or disposed of at any time whether set or not, and may be set at any time for any other time.

18a. Assignment Clerks. In all counties having a population of more than three hundred thousand (300,000) inhabitants and less than three hundred and fifty thousand (350,000) inhabitants, according to the preceding Federal Census, a majority of the District Judges of the District Courts with civil

jurisdiction only may appoint an Assignment Clerk to serve under the Presiding Judge of said District Courts in the setting and disposing of cases on the general Jury Docket. The salary of said Clerk shall be fixed by the Commissioners Court of the county and paid in monthly installments on voucher approved by the Presiding Judge of said Courts. His appointment shall be for a term of two (2) years, but he shall be subject to dismissal by a majority of said Judges for inefficiency or misconduct.

19. Postponement or Continuance. Cases may be postponed or continued by agreement with the approval of the Court, or upon the Court's own motion or for cause. When a case is called for trial and only one party is ready, the Court may for good cause either continue the case for the term or postpone and reset it for a later day in the same or succeeding term.

20. Cases May Be Reset. A case that is set and reached for trial may be postponed for a later day in the term or continued and reset for a day certain in the succeeding term on the same grounds as an application for continuance would be granted in other District Courts. After any case has been set and reached in its due order and called for trial two (2) or more times and not tried, the Court may dismiss the same unless the parties agree to a postponement or continuance but the Court shall respect written agreements of counsel for postponement and continuance if filed in the case when or before it is called for trial unless to do so will unreasonably delay or interfere with other business of the Court.

21. Exchange and Transfer. The Judges of such Courts may, in their discretion, exchange benches or districts from time to time, and may transfer cases and other proceedings from one Court to another, and any of them may in his own courtroom try and determine any case or proceeding pending in another Court without having the case transferred, or may sit in any other of said Courts and there hear and determine any case there pending, and every judgment and order shall be entered in the Minutes of the Court in which the case is pending and at the time the judgment or order is rendered, and two (2) or more Judges may try different cases in the same Court at the same time, and each may occupy his own courtroom or the room of any other Court. The Judge of any such Court may issue restraining orders and injunctions returnable to any other Judge or Court, and any Judge may transfer any case or proceeding pending in his Court to any other of said Courts, and the Judge of any Court to which a case or proceeding is transferred shall receive and try the same, and in turn shall have power in his discretion to transfer any such case to any other of said Courts and any other Judge may in his courtroom try any case pending in any other of such Courts.

22. Cases Transferred to Judges not Occupied. When the Judge of any such Court shall become

disengaged, he shall notify the Presiding Judge, and the Presiding Judge shall transfer to the Court of the disengaged Judge the next case which is ready for trial in any of said Courts. Any Judge not engaged in his own Court may try any case in any other Court.

23. Judge Disqualified. If a Judge of any Court is disqualified in any case pending in his Court, and his disqualification is certified to the Governor, the Governor may require the Judge of any other of such Courts to exchange benches or districts with the disqualified Judge, and may, at any time, require any of such Judges to exchange districts with each other or with any other District Judge. In case of the absence, sickness, or disqualification of any Judge, any other of said Judges may hold Court for him or may transfer from his Court to any other of said Courts any case or proceeding then pending in the Court of said absent, sick, or disqualified Judge and in such circumstances the practicing lawyers of the Court may elect a special Judge of said Court in the same manner as provided in Chapter 1 of Title 40 of the Revised Civil Statutes of 1925,¹ and such special Judge when so elected shall have and exercise all the powers and duties which the regular Judge of said Court could have and exercise.

24. Judge May Hear Only Part of Case. Any Judge may hear any part of any case or proceeding pending in any of said Courts and determine the same, or may hear and determine any question in any case, and any other Judge may complete the hearing and render judgment in the case.

25. Any Judge May Hear Dilatory Pleas, Etc. Any Judge may hear and determine demurrers, motions, petitions for injunction, applications for appointment of receivers, interventions, pleas of privilege, pleas in abatement, all dilatory pleas, motions for new trial and all preliminary matters, questions and proceedings and may enter judgment or order thereon in the Court in which the case is pending without having the case transferred to the Court of the Judge acting, and the Judge in whose Court the case is pending may thereafter proceed to hear, complete, and determine the case or other matter, or any part thereof, and render final judgment therein. Any judgment rendered or action taken by any Judge in any of said Courts in the county shall be valid and binding.

26. Selection of Presiding Judge. The Judges of such Courts shall twice a year, in January and July, select one of their number as Presiding Judge and may at any time cancel and annul such selection and select any other Judge as Presiding Judge. Each such proceeding shall be by majority vote. Each Judge shall enter on his Minutes an order reciting the selection of the Presiding Judge. The Presiding Judge may assign any case in his Court or any of such Courts in the county to any other Judge or Court, or may assign any Judge to try any case in any of the Courts, and the Judge in whose Court an

assigned case is pending shall transfer the case to the Court to which it is assigned, and the Judge of the Court to which it is assigned shall receive and try the case, and such Judge shall hold any other Court or try any case which he is requested by the Presiding Judge to try.

27. **Judges May Make Rules.** The Judges may by a majority vote make rules for the calling of the docket, for the setting and postponement of cases, for the hearing and acting upon motions, questions of law, applications for injunctions and receivers, and for classifying and distributing cases and for having one calendar for all set cases in all Courts and for prescribing when the different Courts shall have jury trials and when they shall have nonjury trials, and such other rules as they deem advisable to facilitate the dispatch of business. All rules made by said Judges shall be adopted by order of each Judge and spread upon the Minutes of his Court, but such rules shall not be inconsistent with any rule adopted or prescribed by the Supreme Court, nor in conflict with any law of this State.

28. **Motion for New Trial.** A motion for new trial filed during one term of Court may be heard and acted on at the next term of Court. If a case or other matter is on trial or in process of hearing when the term of Court expires, such trial, hearing, or other matter may be proceeded with at the next term of the Court. No motion for new trial or other motion or plea shall be considered as waived or overruled, because not acted on at the term of Court at which it was filed, but may be acted on at the succeeding term or at any time which the Judge may fix or to which it may have been postponed or continued by agreement of the parties with leave of the Court. All motions and amended motions for new trials must be presented within thirty (30) days after the original motion or amended motion is filed and must be determined within not exceeding forty-five (45) days after the original or amended motion is filed, unless by written agreement of the parties in the case, the decision of the motion is postponed to a later date.

29. **Time to File Motion for New Trial.** A motion for new trial where required shall be filed within ten (10) days after the judgment is rendered or other order complained of is entered, and may be amended by leave of the Court at any time before it is acted on within twenty (20) days after it is filed.

30. **Judgment Final, When.** Judgments of such civil District Courts shall become as final after the expiration of thirty (30) days after the date of judgment or after a motion for a new trial is overruled as if the term of Court had expired. After the expiration of thirty (30) days from the date the judgment is rendered or motion for new trial is overruled, the judgment cannot be set aside except by bill of review for sufficient cause, filed within the time allowed by law for the filing of bills of review in other District Courts.

31. **Appeal Bonds Filed, When.** In appeals from such civil District Courts the appeal bond shall be filed within thirty (30) days after the judgment or order appealed from is rendered, if no motion for new trial is filed, and if a motion for new trial is filed, the appeal bond shall be filed within thirty (30) days after the motion for new trial is overruled. In such appeals the statement of facts and bills of exception shall be filed within ninety (90) days after the judgment is rendered if there is no motion for new trial, but if there is a motion for new trial then ninety (90) days after motion for new trial is overruled. When a statement of facts or bills of exception is presented to the adverse party, or his attorney, it shall be returned within five (5) days signed by the attorney of such adverse party if found correct, and if found incorrect shall be returned within that time with a written statement of the objections thereto.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 476, ch. 222, § 1; Acts 1930, 41st Leg., 5th C.S., p. 227, ch. 70, § 1; Acts 1934, 43rd Leg., 3rd C.S., p. 58, ch. 33, § 1; Acts 1935, 44th Leg., p. 636, ch. 249, § 1; Acts 1939, 46th Leg., p. 205, § 1.]

¹ Articles 1812 to 1826.

Repeal by Rules of Civil Procedure

Subdivisions 1 to 18, 19 to 22, 24 to 31 of this article were included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rules of Civil Procedure, rules 114, 116, 122, 330.

Arts. 2093 to 2093b. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2093c. Assignment Clerks in Certain Counties Having Eight District Courts

In all counties having at least eight (8) District Courts, at least two (2) of which are Criminal District Courts, and at least four (4) County Courts, at least two (2) of which are County Courts at Law and at least one (1) is a County Criminal Court, a majority of the Judges of the District Courts with civil jurisdiction may appoint an assignment clerk to serve under the Judges of said Courts in disposing and setting of cases on the General Jury Docket.

The salary of said clerk shall be set by the Commissioners Court upon recommendation of the District Judges and paid in monthly installments on voucher approved by the presiding Judge of said Courts. His appointment shall be for a term of two

(2) years, but he shall be subject to dismissal by a majority vote of said Judges for inefficiency or misconduct.

[Acts 1941, 47th Leg., p. 156, ch. 118, § 1. Amended by Acts 1949, 51st Leg., p. 147, ch. 91, § 1.]

Art. 2093d. Presiding Judge and Assignment Clerk in 28th, 94th and 117th Judicial Districts

The Judges of the three (3) District Courts included within the provisions of this Act may from time to time, as they may see fit, elect a Presiding Judge, who shall attend to the administration of this Act¹ and the setting and assignment of cases in said Courts, in accordance with this Act, and in all other matters not provided for by this Act or some other Law or Rules of Civil Procedure. Such Presiding Judge shall be elected by said Judges for such term as they see fit. A majority of the Judges of the District Courts within the provisions of this Act may appoint an Assignment Clerk to serve said Courts in Nueces County under the Presiding Judge of said District Courts in the setting and disposing of cases on the general docket. Such Assignment Clerk shall perform such duties as are assigned to him by said Judges in connection with the setting and disposing of cases. The salary of such Clerk shall be set by the Commissioners Court of Nueces County and paid in monthly installments out of the General Fund or the Jury Fund of such County, as the Commissioners Court may provide, on voucher approved by the Presiding Judge of said Courts; provided, such salary shall not exceed Three Thousand Dollars (\$3,000) per annum. The appointment shall be for a term of two (2) years, but he shall be subject to dismissal by a majority of said Judges for inefficiency or misconduct.

[Acts 1947, 50th Leg., p. 776, ch. 385, § 4.]

¹This article and art. 199, subsds. 28, 94 and 117.

Art. 2093e. Assignment Clerk of District Courts of Bexar County

A majority of the Judges of the 37th, 45th, 57th, 150th, 131st, 166th, 144th, 175th, 186th, 187th, 73rd, 224th, 225th, 226th, and 227th District Courts may appoint an Assignment Clerk to serve said Courts in Bexar County under the presiding Judge of said District Courts in the coordination, setting and disposing of cases on the general docket. Such Assignment Clerk shall perform such duties as are assigned to him by said Judges in connection with the coordination, setting and disposing of cases. The Assignment Clerk shall receive reasonable compensation to be determined by the Judges of those Courts, not to exceed 70 percent of the salary paid by the state to the Judges of those Courts. The Commissioners Court of such County shall provide for the payment of the salary of the Assignment Clerk out of the general fund or the jury fund of said County. The appointment shall be for a term of two (2) years, but he shall be subject to dismissal

by a majority of said Judges for inefficiency or misconduct.

[Acts 1949, 51st Leg., p. 965, ch. 532. Amended by Acts 1975, 64th Leg., p. 1936, ch. 633, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1762, ch. 710, § 1, eff. Aug. 29, 1977.]

Art. 2093f. Assignment, Docketing and Transfer of Cases in Dallas County District Courts

The district judges of Dallas County shall have authority to adopt by majority vote, rules governing the assignment, docketing, and transfer of all cases in the district courts of Dallas County, including criminal district courts, and in the juvenile and domestic relations courts, subject to jurisdictional limitations. The presiding judge of the district courts of Dallas County, acting in accordance with the Rules, shall have authority to assign and transfer cases and to direct the manner in which they are docketed. The district clerk of Dallas County shall assign, docket, and transfer cases as the presiding judge shall direct.

[Acts 1969, 61st Leg., p. 2128, ch. 732, § 1, eff. June 12, 1969.]

CHAPTER SEVEN. THE JURY

1. JURIES IN CERTAIN COUNTIES

- Art.**
2094. Selecting Names for Jury Wheel.
2094a. Removal of Prospective Jurors for Cause; Dismissal from Service; Counties of Not Less Than 1,100,000.
2095. Cards Put in Wheel; Typists and Expenses.
2096. Cards Drawn from Wheel.
2097. List Certified.
2098. List Delivered to Clerk.
2099. Cards to be Used Again.
2100. Loss of Wheel.
2100a. Selection in Counties with Aid of Mechanical or Electronic Means; Adoption of Plan.
2101. Interchangeable Juries.
2102. Jury Quarters.
2103. Reducing Number in General Panel.
2103a. County Judges and Judges of County Courts-at-Law, in Certain Counties; Drawing Additional Jurors.
2103b. Repealed.

2. JURY COMMISSIONERS

- 2104 to 2116. Repealed.
2116a, 2116b. Unconstitutional.
2116c. Repealed.
2116d. Summons to Report for Jury Service; Sufficiency; Service.
2116d. Notification by the Sheriff.
2116e. Repealed.

3. JURY FOR THE WEEK

2117. Summoning Jurors.
2118. Selection of Jurors.
2119. Repealed.
2120. Excuses of Jurors.
2120a. Excuse From Jury Service for Physical or Mental Impairment or Inability to Comprehend English.

Art.

2121. Defaulting Juror.
2122. Pay of Jurors.

4. THE JURY IN THE COURT

2123. Right to Jury.
2124 to 2132. Repealed.
2133. Qualifications.
2134. Disqualification.
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2137. Filing of Exemptions.
2137a. Permanent Exemption for Elderly.
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1. JURIES IN CERTAIN COUNTIES

Art. 2094. Selecting Names for Jury Wheel

Between the first and fifteenth days of August of each year, in each county in this State, the tax collector, sheriff, county clerk, and district clerk of the county, each in person or represented by one of his deputies, shall meet at the county courthouse and reconstitute the jury wheel, using as the sole and mandatory source, all names on the voter registration lists from all precincts in the county and the register of permanently exempt persons maintained by the tax collector under Article 2137a.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 89, ch. 43, § 1, Acts 1949, 51st Leg., p. 868, ch. 467, § 1; Acts 1950, 51st Leg., 1st C.S., p. 47, ch. 6, § 1; Acts 1957, 55th Leg., p. 327, ch. 147, § 1; Acts 1963, 58th Leg., p. 142, ch. 84, § 1; Acts 1963, 58th Leg., p. 1357, ch. 515, § 1; Acts 1965, 59th Leg., p. 373, ch. 180, § 2, eff. July 1, 1965; Acts 1965, 59th Leg., p. 1095, ch. 527, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 300, ch. 143, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 363, ch. 174, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 452, ch. 205, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 524, ch. 228, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1218, ch. 548, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1846, ch. 718, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 1593, ch. 487, § 1, eff. June 11, 1969; Acts 1971, 62nd Leg., p. 948, ch. 159, § 1, eff. May 11, 1971; Acts 1971, 62nd Leg., p. 953, ch. 163, § 1, eff. May 11, 1971; Acts 1971, 62nd Leg., p. 1291, ch. 333, § 1, eff. May 24, 1971; Acts 1971, 62nd Leg., p. 2797, ch. 905, § 1, eff. July 15, 1971; Acts 1979, 66th Leg., p. 253, ch. 131, § 2, eff. Aug. 27, 1979.]

Section 1 of Acts 1965, 59th Leg., p. 373, ch. 180, provided:

"Purpose. The 58th Legislature amended Article 2094, Revised Civil Statutes of Texas, 1925, by two separate Acts with different provisions. The purpose of this amendment is to clarify the law by combining all of the provisions of both amendments, and to facilitate future amendment."

Section 2 of Acts 1971, 62nd Leg., p. 948, ch. 159 provided:

"As used in this Act, 'the last preceding federal census' means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes."

Acts 1971, 62nd Leg., p. 2801, ch. 905, amending this article and various other articles of this chapter, in sections 13, 14, and 16 to 19 provided:

"Sec. 13. [providing for the court's equalization of the number of peremptory challenges of prospective jurors allotted to the parties, appears as article 2151a].

"Sec. 14. Repealed by Acts 1973, 63rd Leg., p. 475, ch. 204, § 2. [See, now, article 2094a.]

"Sec. 16. All statutes, rules of civil procedure, or case laws in conflict herewith are hereby repealed or modified to the extent of such conflict.

"Sec. 17. For all counties under 10,000 population not presently using the jury wheel system for selection of jurors, the district judge of the county or of the judicial district of which the county is a part, may determine whether the county should come under the provisions of this law or may choose to adopt the jury commissioners system for selection of jurors in that county. If the district judge should determine to adopt the jury commissioners system for selection of jurors in a particular county, he must do so by July 15, 1971, otherwise, the county will come under the provisions of this Act. If, pursuant to the passage of this Act, this section is held to be unconstitutional by a court of this State or of the United States, then the jury wheel system for selection of jurors as provided by this Act shall be applicable to all counties of the State.

"Sec. 18. The provisions of this Act shall become effective on July 15, 1971.

"Sec. 19. If any article, section, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such invalid portion shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed the valid portions of the Act irrespective of the fact that any one or more portions be declared unconstitutional."

Art. 2094a. Removal of Prospective Jurors for Cause; Dismissal from Service; Counties of Not Less Than 1,100,000

In all counties of this state having a population of not less than 1,100,000 inhabitants, once a prospective juror has been removed from a jury panel for cause, by peremptory challenge, or for any reason, he shall be immediately dismissed from jury service and shall not be placed on another jury panel until his name is returned to the jury wheel and drawn again as a prospective juror.

[Acts 1973, 63rd Leg., p. 475, ch. 204, § 1, eff. Aug. 27, 1973.]

Section 2 of the 1973 Act repealed Acts 1971, 62nd Leg., p. 2801, ch. 905, § 14, which prior thereto read:

"Once a prospective juror has been removed from a jury panel for cause, by peremptory challenge, or for any reason, he shall be immediately dismissed from jury service and shall not be placed on another jury panel until his name is returned to the jury wheel and drawn again as a prospective juror."

Art. 2095. Cards Put in Wheel; Typists and Expenses

Said officers shall write the names of all persons on said precinct lists, residing in their respective counties, on separate cards of uniform size and color, writing also on said cards, whenever possible, the post-office address of each juror so selected, except that in counties having a population of one hundred forty thousand (140,000) or more, according to the last preceding federal census, the Commissioners Court shall provide out of the jury fund a sum sufficient for the employment of typists and payment of other expenses. The typists, under the direction, control and supervision of the district clerk, shall type the names and addresses of qualified jurors upon the cards as herein described. The expenses so incurred shall be authorized, reported, paid and accounted for under the same laws, rules and regulations as govern the payment of other

expenses of the office of the district clerk in such counties, except as otherwise herein specifically provided. The cards containing said names shall be deposited in a jury wheel, to be provided for such purpose by the Commissioners Court of the county. Said wheel shall be constructed of any durable material and shall be so constructed as to freely revolve on its axle; and may be equipped with a motor capable of revolving said wheel in such a manner as to thoroughly mix said cards; and shall be kept locked at all times, except when in use as hereinafter provided, by the use of two separate locks, so arranged that the key to one will not open the other lock; and said wheel, and the clasps thereto attached into which the locks shall be fitted, shall be so arranged that the wheel cannot be opened unless both of said locks are unlocked at the time the wheel is opened. The keys to such locks shall be kept, one by the sheriff and the other by the district clerk. The sheriff and the clerk shall not open such wheel, nor permit the same to be opened by any person, except at the time and in the manner and by the persons herein specified; but said sheriff and clerk shall keep such wheel, when not in use, in a safe and secure place, where the same cannot be tampered with.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 263, ch. 116, § 1; Acts 1949, 51st Leg., p. 720, ch. 383, § 1; Acts 1959, 56th Leg., p. 27, ch. 17, § 1; Acts 1963, 58th Leg., p. 110, ch. 61, § 1; Acts 1971, 62nd Leg., p. 2797, ch. 905, § 2, eff. July 15, 1971.]

Art. 2096. Cards Drawn from Wheel

(a) Not less than 10 days prior to the first day of a term of court, the district clerk or one of his deputies, and the sheriff, or one of his deputies, in the presence and under the direction of the district judge, if the jurors are to be drawn for district court, or the clerk of the county court, or one of his deputies, and the sheriff, or one of his deputies, in the presence and under the direction of the county judge, if the jurors are to be drawn for the county court, shall draw from the wheel containing the names of the jurors, after the same has been well turned so that the cards therein are thoroughly mixed, one by one the names of those jurors where such judge has so directed to compose as many lists as the term of the district or county courts may require, and shall record the names upon as many lists as the judge shall deem necessary to insure an adequate number of jurors for each session of the court. At such drawing, no person other than those above named shall be permitted to be present, except as hereinafter provided. The officers attending such drawing shall not divulge the names of any person that may be drawn as a juror to any person. If at any time during the term it appears that lists already drawn will be exhausted before the expiration of the term, additional jurors as are needed may be drawn in the same manner.

(b) Drawing of names observed. Upon the application in writing of any party to any suit pending upon the docket of a court for which a jury is

required, said party, or his duly authorized representative, shall have the right to be present and observe the drawing of names from the jury wheel and the placement thereof upon the jury lists for the time period in which his case is set, provided, however, that the identity of the names so drawn and placed upon the lists at such time shall not be made known to such observer.

[Acts 1925, S.B. 84. Amended by Acts 1959, 56th Leg., p. 871, ch. 396, § 1; Acts 1971, 62nd Leg., p. 2800, ch. 905, § 7, eff. July 15, 1971.]

Art. 2097. List Certified

The several lists of names so drawn shall be certified under the hand of the clerk or the deputy doing the drawing, and the district or county judge in whose presence the names were drawn from the wheel, to be the lists drawn by him for that term, and shall be sealed up in separate envelopes indorsed, "List No. _____ of the petit jurors drawn on the _____ day of _____, 19____, for the _____ Court of _____ County," (filling in the blanks properly and numbering the envelopes consecutively from one up). The clerk doing the drawing shall write his name across the seals of the envelopes and deliver them to the judge, who shall inspect the envelopes to see that they are properly indorsed and shall then deliver them to the clerk or deputy, and the clerk shall then immediately file them away in some safe and secure place in his office.

[Acts 1925, S.B. 84. Amended by Acts 1959, 56th Leg., p. 870, ch. 395, § 1.]

Art. 2098. List Delivered to Clerk

The judge shall deliver such envelopes to the clerk, or one of his deputies, and shall in his discretion instruct the clerk to indorse on any of such envelopes that the jury for that week shall be summoned for some other day than Monday of said week, and the judge shall, at the same time, administer to the clerk and to each of his deputies an oath in substance as follows: "You and each of you do solemnly swear that you will not open the jury lists now delivered to you, nor permit them to be opened, until the time prescribed by law, nor communicate to any one the name or names of the men appearing on any of the jury lists, that you will not, directly or indirectly, converse or communicate with any one selected as juror concerning any case pending for trial in this court at its next term. So help you God."

[Acts 1925, S.B. 84.]

Art. 2099. Cards to be Used Again

When the names are drawn for jury service, the cards containing such names shall be sealed in separate envelopes, indorsed "Cards containing the names of jurors on List No. _____ of the petit jurors drawn on the _____ day of _____, 19____, for the _____ Court of _____ County," (filling in the

blanks properly). Each envelope shall be retained securely by the clerk, unopened, until after the jury selected from the corresponding list has been impaneled; and after such jurors so impaneled have served four (4) or more days, the envelope containing the cards bearing the names of the jurors on that list shall then be opened by the clerk, or his deputy, and those cards bearing the names of persons who have not been impaneled and who have not served as many as four (4) days shall be immediately returned to the wheel by the clerk, or his deputy; and the cards bearing the names of the persons serving as many as four (4) days shall be put in a box provided for that purpose for the use of the officers who shall next select the jurors for the wheel; provided that the clerk may withhold from the jury wheel all cards so selected, unless ordered by the judge to return such cards to the wheel. If any of the lists drawn for a term of court are not used, the clerk or his deputy shall open the envelopes containing the cards bearing the names on the unused lists immediately after the expiration of the term and return the cards to the wheel.

[Acts 1925, S.B. 84. Amended by Acts 1959, 56th Leg., p. 870, ch. 395, § 2; Acts 1971, 62nd Leg., p. 2830, ch. 925, § 1, eff. June 15, 1971; Acts 1983, 68th Leg., p. 4679, ch. 816, § 1, eff. Sept. 1, 1983.]

Art. 2100. Loss of Wheel

If the wheel containing the names of jurors be lost or destroyed, with the contents thereof, or if all the cards in said wheel be drawn out, such wheel shall immediately be refurnished, and cards bearing the names of jurors shall be placed therein immediately in accordance with the laws of the State.

[Acts 1925, S.B. 84. Amended by Acts 1971, 62nd Leg., p. 2798, ch. 905, § 3, eff. July 15, 1971.]

Art. 2100a. Selection in Counties with Aid of Mechanical or Electronic Means; Adoption of Plan

Sec. 1. In lieu of any other procedure now provided by law, the Commissioners Court of any county in the State, upon recommendation of the district judge or a majority of the district judges of said courts, by order entered upon its minutes, may adopt a plan for the selection of persons for jury service with the aid of mechanical or electronic means.

Sec. 2. Any such plan so adopted shall conform to the following requirements:

(a) It shall be proposed in writing to the Commissioners Court by a majority of the judges of the district courts in such county, including criminal district courts, at a meeting of the district judges called for that purpose.

(b) It shall specify that the sources from which names are to be taken for jury purposes are all voter registration lists from all precincts in the county and the register of permanently exempt

persons maintained by the county tax collector under Article 2137a.

(c) It shall provide a fair, impartial, and objective method of selecting persons for jury service with the aid of mechanical or electronic equipment.

(d) It shall designate the clerk of the district courts as the official to be in charge of the selection process and shall define his duties.

(e) It shall specify that a true and complete written list showing the names and addresses of the persons summoned to begin jury service on a particular date shall be filed of record with the county clerk at least 10 days prior to the date such persons are to begin such jury service.

Sec. 2a. A jury plan prepared under this Act must provide either for the use of the same list for the selection of persons for jury service until the list is exhausted or for the use of the same list for a specific period of time.

Sec. 3. In any county where such a plan is adopted, as above provided, the laws relating to the selection of petit juries by jury wheel shall not apply.

[Acts 1969, 61st Leg., p. 1666, ch. 529, eff. June 10, 1969. Amended by Acts 1971, 62nd Leg., p. 1408, ch. 386, § 1, eff. May 26, 1971; Acts 1971, 62nd Leg., p. 2799, ch. 905, § 5, eff. July 15, 1971; Acts 1979, 66th Leg., p. 253, ch. 131, § 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 505, ch. 212, § 1, eff. May 28, 1981.]

Sections 2 and 3 of the 1981 amendatory act provided:

"Sec. 2. If on the effective date of this Act a plan for selection of persons for jury service is in effect in a county, the plan may not be continued in use after December 31, 1981, unless, before that date, it is amended to include a provision complying with the requirements of Section 2a, Chapter 529, Acts of the 61st Legislature, Regular Session, 1969 (Article 2100a, Vernon's Texas Civil Statutes), as added by this Act.

"Sec. 3. Section 1, Chapter 529, Acts of the 61st Legislature, Regular Session, 1969, as amended by Section 5, Chapter 905, Acts of the 62nd Legislature, Regular Session, 1971 (Article 2100a, Vernon's Texas Civil Statutes), is continued in effect. Chapter 386, Acts of the 62nd Legislature, Regular Session, 1971, is repealed."

Art. 2101. Interchangeable Juries

The provisions of this article shall be applicable only to such counties of this State as may now maintain three or more district courts, or in which three or more district courts may be hereafter established. A criminal court in any county with jurisdiction in felony cases shall be considered a district court within the meaning of this article. The "Interchangeable Jury Law" shall not apply to a selection of jurors in lunacy cases or in capital cases.

1. Jury Wheel Law governs.—The provisions of the statutes governing jury wheels shall remain in full force and effect, except as modified by the special provisions of this law.

2. Organization and supervision.—In each county under this law, the district judges shall meet together and determine approximately the number

of jurors that are reasonably necessary for jury service in all the county courts at law, county courts and district courts of such county, for each week during the time said courts may hold during the year, and shall thereupon order the drawing of such number of jurors from the wheel for each of said weeks, said jury to be known as the general panel of jurors for service in all such courts of such county for the respective weeks for which they are designated to serve. A majority of said district judges are authorized to act in carrying out the provisions of this law; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the judge to whom the general panel shall report for duty, and said judge, for such time as he is chosen to so act shall organize said juries and have immediate supervision and control of them. The said jurors so limited in number shall, after being regularly drawn from the wheel, be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear the excuses of the said jury and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said courts.

3. Used interchangeably.—Said jurors, when impaneled shall constitute a general jury panel for service as jurors in all county and district courts in said county, and shall be used interchangeably in all of said courts. In the event of a deficiency of jurors at any given time to meet the requirement of all said courts, the judge having control of the said general panel shall order such additional jurors to be drawn from the wheel as may be sufficient to meet the emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no longer needed. Resort to the wheel shall be had in all cases to fill out the general panel.

4. Provided, however, that in any county of this state having a population in excess of nine hundred thousand (900,000) according to the last preceding or any future United States Census, it shall be permissible, after having been approved by a majority of the judges for the district courts of any such county, to draw from said jury wheel two separate jury panels for the week; one of which said jury panels for the week shall be drawn and be in attendance upon those criminal district courts and county courts which have a criminal docket, and the other said jury panel for the week shall be drawn and be in attendance upon those courts which have a civil docket.

5. This Article is also applicable to a county that has two district courts and a domestic relations court.

6. A. Notwithstanding any other provision of this article, in a county in which two district courts have jurisdiction, both district judges may meet

together at such times as they may agree upon and determine approximately the number of jurors that are reasonably necessary for jury service in the district courts of the county for each week for as many weeks in advance as they deem proper, and may order the drawing of such number of jurors for each of said weeks, which jury is known as the general panel of jurors for service in both district courts for the respective weeks for which they are designated to serve. Both judges shall act together in carrying out the provisions of this section. They may increase or diminish the number of jurors to be selected for any week and may order the jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the judge to whom the general panel shall report for duty, and the designated judge, for the time he is chosen to act, shall organize the juries and have immediate supervision and control of them. The jurors, after being regularly drawn from the wheel, shall be served by the sheriff to appear and report for jury service before the judge so designated, who shall hear the excuses of the jury and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in either of the district courts. The jurors, when impaneled, constitute a general jury panel for service as jurors in both district courts in the county and shall be used interchangeably. In the event of a deficiency of jurors at any given time to meet the requirement of either court, the judge having control of the general panel shall order such additional jurors to be drawn from the wheel as may be sufficient to meet the emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no longer needed. Resort to the wheel shall be had in all cases to fill out the general panel.

B. With the approval of both district judges, jurors impaneled under the provisions of Subdivision A of this subsection may constitute a general jury panel for service as jurors in all county courts and statutory county courts in the county, in addition to service as jurors in both district courts, and in such event, shall be used interchangeably in all district and county courts.

C. The provisions of this subsection are cumulative of and in addition to the methods now authorized by law for the selection of a jury panel in the counties herein named, and the adoption of the method provided in this subsection is entirely optional with and in the discretion of the district judges of any such county coming under the terms of this law.

[Acts 1925, S.B. 84. Amended by Acts 1961, 57th Leg., p. 882, ch. 385, § 1; Acts 1967, 60th Leg., p. 520, ch. 224, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 2798, ch. 905, § 4, eff. July 15, 1971; Acts 1975, 64th Leg., p. 330, ch. 137, § 1, eff. May 8, 1975.]

Art. 2102. Jury Quarters

The Commissioners Court of each such county shall set apart for the use and convenience of said general panel or panels some room or rooms or place or places in or near to the court house, which shall be comfortably furnished and fitted up for them to stay when not required for actual jury service. Said quarters shall be occupied by said panel or panels when not in service and they shall remain in or conveniently near thereto so as to be at all times subject to duty in any court in accordance with the preceding Article when called for, without delaying the proceedings of such court. The sheriff shall assign one of his deputies to look after said panel, call them when needed by the judges, provide for their wants and to have general custody and control of them when not in actual service.

[Acts 1925, S.B. 84. Amended by Acts 1961, 57th Leg., p. 883, ch. 386, § 1.]

Art. 2103. Reducing Number in General Panel

When it becomes necessary to diminish the general panel for the week of its selection on account of lack of work in any court or for any other cause, the judge having supervision of said jury for the week shall designate the number to remain. He shall cause the clerk to draw from the names of the general panel the number required, and those jurors whose names are so drawn shall continue in service for the remainder of the week and the others excused.

[Acts 1925, S.B. 84.]

Art. 2103a. County Judges and Judges of County Courts-at-Law in Certain Counties; Drawing Additional Jurors

In all counties having two or more County Courts-at-Law, when a panel of jurors shall not have been drawn by one of the district judges as directed by Article 2101, or when the number of jurors drawn shall be deemed insufficient by the county judge or either of the judges of the County Courts-at-Law, the county judge or judge of either County Court-at-Law may order the drawing of such additional jurors from the jury wheel for service in any of such courts for so long a period of time as the trials in such courts may reasonably require. Such jurors when drawn shall be available for service in either of such courts. All of the provisions of law now otherwise governing the drawing of jurors in the courts in such counties by the district judge shall govern so far as applicable, except as herein otherwise expressly provided. The county judge and the judge of any of the County Courts-at-Law shall concurrently have the same authority with respect to determining and remedying a deficiency in the number of jurors as is now conferred on the judge having control of the general jury panel by Section

3, Article 2101, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1947, 50th Leg., p. 214, ch. 122, § 1. Amended by Acts 1971, 62nd Leg., p. 2799, ch. 905, § 6, eff. July 1, 1971.]

Art. 2103b. Repealed by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

2. JURY COMMISSIONERS

Arts. 2104 to 2116. Repealed by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

See, now, article 2094 et seq.

Art. 2116a. Unconstitutional

This article, Acts 1921, 41st Leg., 1st C.S., p. 63, ch. 29, as amended by Acts 1931, 42nd Leg., p. 820, ch. 339, was declared unconstitutional by the Court of Criminal Appeals as a special law in violation of Const. art. 3, § 56. See *Smith v. State*, 120 Cr.R. 431, 49 S.W.2d 739.

Art. 2116b. Unconstitutional

This article, Acts 1929, 41st Leg., 1st C.S., p. 176, ch. 67, §§ 1 to 14, was declared unconstitutional by the Court of Criminal Appeals as being discriminatory. See *Randolph v. State*, 117 Cr.R. 80, 36 S.W.2d 484.

Art. 2116c. Repealed by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

Art. 2116d. Summons to Report for Jury Service; Sufficiency; Service

Text as amended by Acts 1971, 62nd Leg., p. 1676, ch. 475, § 1

(a) A summons to report for jury service shall be served on the jurors verbally, or if the judge drawing the jury so directs, by registered mail, return receipt requested, or by first class mail to the address shown on the source from which the names of the jurors were taken.

(b) The summons to report for jury service shall be sufficient if it states the time and place for the juror to report, the purpose for which he is to report, and the penalty for failure to report as required.

[Acts 1937, 45th Leg., p. 677, ch. 338, § 1. Amended by Acts 1971, 62nd Leg., p. 1676, ch. 475, § 1, eff. May 27, 1971.]

For text as amended by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 9, see art. 2116d, post

Art. 2116d. Notification by the Sheriff

Text as amended by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 9

The sheriff shall notify the several persons named for jury service by mailing notice thereof, which notice shall include the time and place at

which said juror is to report, to the juror at the address shown by the card placed in the jury wheel, or the address shown by the last voter registration list in said county, and if said letter be received by some person authorized by the United States mail to receive said letter, said service shall be sufficient.

[Acts 1937, 45th Leg., p. 677, ch. 338, § 1. Amended by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 9, eff. July 15, 1971.]

For text as amended by Acts 1971, 62nd Leg., p. 1676, ch. 475, § 1, see art. 2116d, ante

Art. 2116e. Repealed by Acts 1971, 62nd Leg., p. 1676, ch. 475, § 2, eff. May 27, 1971; Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

3. JURY FOR THE WEEK

Art. 2117. Summoning Jurors

At any time when the Judge of the County or District Court needs a jury for any particular week of such Court, he shall notify the Clerk of such Court to open the next consecutive unopened list of jurors in his possession, and shall direct him as to the date for which such jurors shall be summonsed. Such notice shall be given to the Clerk within a reasonable time prior to the time when such jurors are to be summonsed. The Clerk shall immediately note on the list the date for which the jurors are to be summonsed, and deliver said list to the sheriff. On receipt of such list, the sheriff shall immediately notify the several persons named therein to be in attendance on Court on the date so designated by the Judge.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 175, ch. 100, § 1.]

Art. 2118. Selection of Jurors

On any day when a jury has been summoned and there are jury trials the court shall select a sufficient number of qualified jurors, in his discretion, to serve as jurors. Such jurors shall be selected from the names included in the jury lists, if there be the requisite number of such in attendance who are not excused by the court, but if such number be not in attendance at any time, the court shall direct the sheriff to summon a sufficient number of qualified persons to make up the requisite number of jurors which is to be drawn from the jury wheel for jury trials in the district and county courts, under order of the court, to fill the panel. The names of such jurors to be summoned by the sheriff shall be drawn from the jury wheel as herein provided. All said extra jurors summonsed shall be discharged when their services are no longer needed. The court may adjourn the whole number of jurors or any part thereof, to any subsequent day of the

term, but the jurors shall not be paid for the time they may stand adjourned.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 314, ch. 229, § 1; Acts 1971, 62nd Leg., p. 2800, ch. 905, § 8, eff. July 15, 1971.]

Art. 2119. Repealed by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

Art. 2120. Excuses of Jurors

The court may hear any reasonable sworn excuse of a juror, and may release him entirely or until some other day of the term; provided, however, the court shall not excuse any juror for economic reasons unless all parties of record are present and approve such excuse.

[Acts 1925, S.B. 84. Amended by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 10, eff. July 15, 1971.]

Art. 2120a. Excuse From Jury Service for Physical or Mental Impairment or Inability to Comprehend English

(a) The judge of a district court may, by order, permanently or for a specified period, excuse from service as a juror in all the county and district courts in the county a person with a physical or mental impairment or with an inability to comprehend or communicate the English language that makes it impossible or very difficult for the person to serve on a jury.

(b) An affidavit stating the name and address of the person and the reason for and duration of the requested excuse shall be submitted to a district court by the person requesting the excuse, as provided herein. A statement from a physician shall be attached to an affidavit requesting excuse from service for physical or mental impairment.

(c) The clerk of the district court shall promptly notify the county tax assessor-collector of the name and address of each person excused from jury service by a district judge under this article and whether the excuse is permanent or for a specified period. The tax assessor-collector shall maintain a current register showing separately the name and address of each person permanently excused from jury service and the name and address of each person excused from jury service for a specified period.

(d) Persons listed on the register provided by Section (c) of this article shall not be summoned for jury service during the period for which the person is excused. The names of persons listed on the register shall not be placed in the jury wheel, or otherwise used in preparing the record of names from which a jury list is selected, during the period for which the person is excused.

(e) A person excused from jury service under this article may rescind the excuse at any time by filing a signed request for rescission with the county tax assessor-collector.

(f) Contents of Affidavit. (1) An affidavit based upon an exclusion from jury service because of

physical or mental impairment may be presented by the affiant or a friend or relative and shall:

(A) contain the name and address of the physician who submitted the statement;

(B) contain a statement as to whether the request for exclusion from service is permanent or temporary, and if temporary, state the period of time for which exclusion is requested;

(C) state therein that as a direct result of the physical or mental impairment, it is impossible or very difficult for the person to serve on a jury.

(2) An affidavit based upon exclusion from jury service because of an inability to comprehend or communicate the English language shall be presented in person and shall:

(A) be sworn to by the affiant in person before the district clerk or a deputy district clerk;

(B) be subscribed with a statement by a third party that the affidavit was read to the affiant before signing, and the affiant stated that it was his request to be permanently excluded from jury service in the county.

(g) The affidavit and physician's statement, if any, may be presented to a district judge at the time the juror is summoned or at any other time.

(h) The name and address of the person excluded from jury service under this article shall be added or deleted from the list or register at any time permitted by law, and when the names and addresses of eligible jurors are regularly deleted or added to the list or register.

[Acts 1983, 68th Leg., p. 620, ch. 134, § 3, eff. Sept. 1, 1983.]

Art. 2121. Defaulting Juror

Any juror lawfully notified who without reasonable excuse fails to be in attendance on the court in obedience to such notice or who files a false claim of exemption from jury service shall be fined not less than ten nor more than one hundred dollars.

[Acts 1925, S.B. 84. Amended by Acts 1971, 62nd Leg., p. 1560, ch. 421, § 2, eff. May 26, 1971.]

Art. 2122. Pay of Jurors

(a) Each grand juror and each petit juror in a civil or criminal case in a district or criminal district court, county court, county court at law, or justice court is entitled to receive not less than \$6 nor more than \$30 for each day or fraction of a day that he serves as a juror. The commissioners court of each county shall determine annually, within the minimum and maximum prescribed in this subsection, the amount of per diem for jurors, which shall be paid out of the jury fund of the county. A person who responds to the process of a court, but who is excused from petit jury service by the court for any cause after being tested on voir dire, is entitled to receive not less than \$6 nor more than \$30 for each

day or fraction of a day that he attends court in response to such process.

(b) A check drawn on the jury fund by the clerk of the district court of a county may be transferred by endorsement and delivery and is receivable at par from the holder for all county taxes.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 371, ch. 239, § 3; Acts 1953, 53rd Leg., p. 917, ch. 379, § 1; Acts 1965, 59th Leg., p. 484, ch. 246, § 1; Acts 1975, 64th Leg., p. 1353, ch. 510, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 881, ch. 401, § 1, eff. Aug. 27, 1979.]

4. THE JURY IN COURT

Art. 2123. Right to Jury

The right to trial by jury shall remain inviolate, subject to the following rules and regulations.

[Acts 1925, S.B. 84.]

Arts. 2124 to 2132. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2133. Qualifications

All persons both male and female eighteen years of age or older are competent jurors, unless disqualified under some provision of this Article. No person shall be qualified to serve as a juror who does not possess the following qualifications:

1. He must be a citizen of the State and of the county in which he is to serve and qualified under the Constitution and laws to vote in said county.

2. He must be of sound mind and good moral character.

3. He must be able to read and write, except as otherwise provided herein.

4. He must not have served as a juror for six (6) days during the preceding six (6) months in the District Court, or during the preceding three (3) months in the County Court.

5. He must not have been convicted of a felony.

6. He must not be under indictment or other legal accusation of theft or of any felony.

A person who is legally blind is not disqualified to serve as a juror in a civil case solely by reason of his legal blindness unless, in the opinion of the court, his legal blindness renders him unfit to act as a juror in that particular case.

Whenever it shall be made to appear to the court that the requisite number of jurors able to read and write cannot be found within the county, the court may dispense with the exception provided for in the third subdivision; and the court may in like manner dispense with the exception provided for in the fourth subdivision, when the county is so sparsely populated as to make its enforcement seriously inconvenient.

Where the word "he" is used in this Article it shall be used in the generic term so as to include both male and female persons.

In this Article, "legally blind" shall mean having not more than 20/200 of visual acuity in the better eye with correcting lenses, or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

[Acts 1925, S.B. 84. Amended by Acts 1955, 54th Leg., p. 795, ch. 288, § 1; Acts 1969, 61st Leg., p. 1364, ch. 412, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 2801, ch. 905, § 11, eff. July 15, 1971; Acts 1973, 63rd Leg., p. 175, ch. 85, § 1, eff. Aug. 27, 1973; Acts 1975, 64th Leg., p. 474, ch. 202, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 617, ch. 134, § 1, eff. Sept. 1, 1983.]

Art. 2134. Disqualification

The following persons shall be disqualified to serve as jurors in any particular case:

1. Any witness in the case.
2. Any person interested, directly or indirectly, in the subject matter of the suit.
3. Any person related by consanguinity or affinity within the third degree to either of the parties to the suit.
4. Any person who has a bias or prejudice in favor of or against either of the parties.
5. Any person who has sat as a petit juror in a former trial of the same, or of another case, involving the same questions of fact.

[Acts 1925, S.B. 84.]

Art. 2135. Jury Service

All competent jurors are liable to jury service, except the following persons:

1. All persons over sixty-five (65) years of age.
2. All persons who have legal custody of a child or children under the age of ten (10) years if jury service by that person would necessitate leaving the child or children without adequate supervision.
3. All students of public or private secondary schools.
4. Every person who is enrolled and in actual attendance at an institution of higher education.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 88, ch. 63, §§ 1, 2; Acts 1931, 42nd Leg., p. 375, ch. 221; Acts 1933, 43rd Leg., 1st C.S., p. 291, ch. 106, § 1; Acts 1953, 53rd Leg., p. 781, ch. 310, § 1; Acts 1955, 54th Leg., p. 795, ch. 288, § 2; Acts 1957, 55th Leg., p. 802, ch. 337, § 1; Acts 1965, 59th Leg., p. 455, ch. 232, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 2044, ch. 753, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 2801, ch. 905, § 12, eff. July 15, 1971; Acts 1973, 63rd Leg., p. 175, ch. 85, § 2, eff. Aug. 27, 1973; Acts 1979, 66th Leg., p. 804, ch. 363, § 1, eff. Aug. 27, 1979.]

Art. 2136. Repealed by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

Art. 2137. Filing of Exemptions

Sec. 1. Any person summoned as a juror who is exempt by law from jury service may establish his exemption without appearing in person by filing a signed statement of the ground of his exemption with the clerk of the court at any time before the date upon which he is summoned to appear.

Sec. 2. Any person wishing to claim any statutory exemption under Article 2135 in counties employing the jury wheel system may do so by filing a sworn statement stating the nature of and claiming such exemption with the sheriff, the tax assessor-collector, or the district or county clerk of the county of his residence, in which event no card for such person shall be placed in the jury wheel for the ensuing year.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 1107, ch. 489, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1560, ch. 421, § 1, eff. May 26, 1971.]

Art. 2137a. Permanent Exemption for Elderly

Eligibility for Permanent Exemption

Sec. 1. A person who is exempt from jury service on the ground of being over 65 years of age may establish a permanent exemption from jury service on that ground by claiming the exemption as provided by this article.

Claim Filed with Tax Assessor-Collector

Sec. 2. (a) A person may claim the permanent exemption by filing with the county tax assessor-collector at any time a signed statement affirming that he or she is over 65 years of age and desires a permanent exemption on that ground.

(b) The statement may be filed by mail or by personal delivery.

Claim Filed with Court Clerk

Sec. 3. (a) A person summoned for jury service who files a statement with the court clerk under Section 1, Article 2137, claiming an exemption from jury service on the ground of being over 65 years of age, may claim the permanent exemption by including in the statement a declaration that he or she desires a permanent exemption on that ground.

(b) Promptly after a statement claiming the permanent exemption is filed, the court clerk with whom it is filed shall have a copy delivered to the county tax assessor-collector.

Register of Permanently Exempt Persons

Sec. 4. The county tax assessor-collector shall maintain a current register indicating the name of each claimant who is entitled to the permanent exemption from jury service.

Permanently Exempt Persons Excluded from Jury List

Sec. 5. The names of persons listed on the register of persons permanently exempt from jury service may not be placed in the jury wheel or otherwise used in preparing the record of names from which a jury list is selected.

Rescission of Permanent Exemption

Sec. 6. (a) The claimant of a permanent exemption from jury service under this article may rescind the exemption at any time by filing a signed request for rescission with the county tax assessor-collector.

(b) Rescission does not affect a person's right to claim the permanent exemption at a later time.

[Acts 1979, 66th Leg., p. 252, ch. 131, § 1, eff. Aug. 27, 1979.]

Arts. 2138 to 2151a. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER EIGHT. TRIAL OF CAUSES

1. APPEARANCE AND PROCEDURE

Art.

2152 to 2166. Repealed.

2166a. Priorities in Setting Matters for Hearing and Trial.

2. CONTINUANCE AND CHANGE OF VENUE

2167, 2168. Repealed.

2168a. Attendance on Legislature.

2169 to 2172. Repealed.

2172a. County in Which Case Filed Liable for Juror's Pay on Change of Venue; Exceptions.

2173, 2174. Repealed.

3. THE TRIAL

2175 to 2183. Repealed.

4. CHARGE OF THE COURT

2184 to 2190. Repealed.

5. CASE TO JURY

2191. Number of Jurors.

2191a. Alternate Jurors.

2192 to 2194. Repealed.

2194a. Bringing Meals into Jury Room.

2195 to 2198. Repealed.

2199. Disagreement as to Evidence.

2200, 2201. Repealed.

6. VERDICT

2202 to 2207. Repealed.

7. FINDINGS BY COURT

2208 to 2210. Repealed.

1. APPEARANCE AND PROCEDURE

Arts. 2152 to 2166. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2166a. Priorities in Setting Matters for Hearing and Trial

Hearing and Trial Priorities

Sec. 1. (a) The trial courts of this state shall regularly and frequently make settings for the hearings and trials of pending matters, giving preference to hearings and trials of the following:

(1) temporary injunctions;

(2) criminal actions, with criminal actions against defendants who are detained in jail pending trial given preference over other criminal actions;

(3) contents of election and suits under the Texas Election Code; and

(4) appeals of final rulings and decisions of the Industrial Accident Board.

(b) Insofar as practicable, the trial courts shall observe the preference provided by Subsection (a) of this section in ruling on, hearing, and trying the matters pending before the courts.

Secondary Priorities

Sec. 2. A matter not included in Section 1 of this Act shall be set at the discretion of the trial court in which the matter is pending, observing the following priorities:

(1) precedence should be given to matters where delay will cause physical or economic injury or harm to either the parties or the public;

(2) matters involving substantial substantive or constitutional rights should take precedence over matters involving permits, licenses, or privileges; and

(3) precedence should be given matters involving important issues that greatly concern the public or materially affect the public welfare.

General Repealer

Sec. 3. All laws or parts of laws that provide for preference or priority in conflict with this Act for the hearing or trial of pending matters in the trial courts of this state are repealed to the extent of the conflict. This Act does not repeal any provision of the law by which the legislature directs a specific court to give preference to cases involving that court's criminal jurisdiction, family law jurisdiction, or other specified jurisdiction.

[Acts 1981, 67th Leg., p. 2626, ch. 707, §§ 1 to 3, eff. Aug. 31, 1981.]

2. CONTINUANCE AND CHANGE OF VENUE
 Arts. 2167, 2168. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2168a. Attendance on Legislature

In all suits, either civil or criminal, or in matters of probate, pending in any court of this State, and in all matters ancillary to such suits which require action by or the attendance of an attorney, including appeals but excluding temporary restraining orders, at any time within thirty (30) days of a date when the Legislature is to be in Session, or at any time the Legislature is in Session, or when the Legislature sits as a Constitutional Convention, it shall be mandatory that the court continue such cause if it shall appear to the court, by affidavit, that any party applying for such continuance, or any attorney for any party to such cause, is a Member of either branch of the Legislature, and will be or is in actual attendance on a Session of the same. If the member of the Legislature is an attorney for a party to such cause, his affidavit shall contain a declaration that it is his intention to participate actively in the preparation and/or presentation of the case. Where a party to any cause or an attorney for any party to such cause is a Member of the Legislature, his affidavit need not be corroborated. On the filing of such affidavit, the court shall continue the cause until thirty (30) days after the adjournment of the Legislature and such affidavit shall be proof of the necessity for such continuance, and such continuance shall be deemed one of right and shall not be charged against the party receiving such continuance upon any subsequent application for continuance. It is hereby declared to be the intention of the Legislature that the provisions of this Section shall be deemed mandatory and not discretionary.

Notwithstanding the foregoing, the right to such continuance, where such continuance is based upon an attorney in such cause being a member of the Legislature, shall be discretionary with the Court in the following situations and under the following circumstances, and none other, to wit:

(1) Where such attorney was employed within 10 days of the date such suit is set for trial.

[Acts 1929, 41st Leg., p. 17, ch. 7, § 1. Amended by Acts 1941, 47th Leg., p. 69, ch. 56, § 1; Acts 1949, 51st Leg., p. 1111, ch. 569, § 1; Acts 1973, 63rd Leg., p. 1130, ch. 428, § 1, eff. Aug. 27, 1973.]

Repeal by Rules of Civil Procedure

This article, as to civil actions, was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was

approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 254, Vernon's Texas Rules of Civil Procedure.

Sections 2 and 3 of the 1973 amendatory act provided:

"Sec. 2. Rule 254, Texas Rules of Civil Procedure, is hereby repealed to the extent of any inconsistency with the provisions of this Act, and said Rule is hereby conformed to the provisions hereof.

"Sec. 3. All laws and rules, or parts of laws or parts of rules, in conflict herewith are hereby repealed to the extent of such conflict; and in the event of conflict between this Act and any other statute or rule, the provisions of this Act shall prevail."

Arts. 2169 to 2172. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2172a. County in Which Case Filed Liable for Juror's Pay on Change of Venue; Exceptions

Sec. 1. In any Civil case which has been filed in one county and removed by change of venue to another county and tried therein by a Jury, the county in which such case was filed shall be liable for the pay for jurors incurred in the trial thereof.

Sec. 2. The County Commissioners of each county, at each regular meeting, shall ascertain whether, since the last regular meeting, any Civil case has been tried by jury upon change of venue from any other county. If they find such to be the case, they shall make out an account against the county in which said case was originally filed showing the number of days the jury in such case was employed in the trial thereof, and setting forth the amount paid for such jury service. Such account shall then be certified to as correct by the County Judge of such county, under his hand and seal, and be, by him, forwarded to the county in which said case was originally filed; and said account shall be paid from the Jury fund of said county made liable therefor by this Act.

Sec. 3. This Act shall not apply to any Civil case transferred by reason of the Order of any Court based upon a plea of privilege filed in said case. [Acts 1931, 42nd Leg., p. 131, ch. 88.]

Arts. 2173, 2174. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

3. THE TRIAL

Arts. 2175 to 2183. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

4. CHARGE OF THE COURT

Arts. 2184 to 2190. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

5. CASE TO JURY

Art. 2191. Number of Jurors

The jury in the district courts shall be composed of twelve men; but the parties may by consent

agree, in a particular case, to try with a less number. In county courts the jury shall be composed of six men.

[Acts 1925, S.B. 84.]

Art. 2191a. Alternate Jurors

(a) In district courts, the judge may direct that not more than four jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. In county courts, the judge may direct that not more than two jurors in addition to the regular jury be called and impaneled to sit as alternate jurors.

(b) Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn and selected in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, security, and privileges as regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict.

(c) Each side is entitled to one peremptory challenge in addition to those otherwise allowed by law or by rule if one or two alternate jurors are to be impaneled and two peremptory challenges if three or four alternate jurors are to be impaneled. The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed by law or by rules may not be used against an alternate juror.

[Acts 1983, 68th Leg., p. 4593, ch. 775, § 1, eff. Aug. 29, 1983.]

Arts. 2192 to 2194. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2194a. Bringing Meals into Jury Room

(a) Whenever the judge deems it advisable, in order to expedite the final disposition of any district court civil case for which a jury is empaneled, to keep the jury together for deliberation rather than to dismiss it for meals, he shall have the power to draw a warrant on the jury fund or other appropriate fund of the county in which the case is being tried, to cover the cost of buying meals and bringing same into the jury room. However, not more than Three Dollars (\$3) may be spent per meal for any juror.

(b) The provisions of this Act shall not apply in any county unless the Commissioners Court has approved jury meals in civil cases as a proper expense of the county.

[Acts 1963, 58th Leg., p. 419, ch. 144, § 1. Amended by Acts 1977, 65th Leg., p. 670, ch. 253, § 1, eff. Aug. 29, 1977.]

Arts. 2195 to 2198. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2199. Disagreement as to Evidence

If the jury disagree as to the statement of any witness, they may, upon applying to the Court, have read to them from the Court Reporter's notes that part of such witness' testimony on the point in dispute; but if there be no such Reporter, or if his notes cannot be read to the jury, the Court may cause such witness to be again brought upon the stand and the Judge shall direct him to repeat his testimony to the point in dispute, and no other, and as nearly as he can in the language used on the trial; and on their notifying the Court that they disagree as to any portion of a deposition or other paper not carried with them in their retirement, the Court may, in like manner, permit such portion of said deposition or paper to be again read to the jury.

[Acts 1939, 46th Leg., p. 213, § 1.]

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 287, Vernon's Texas Rules of Civil Procedure.

Arts. 2200, 2201. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

6. VERDICT

Arts. 2202 to 2207. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

7. FINDINGS BY COURT

Arts. 2208 to 2210. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER NINE. JUDGMENTS AND REMITTITUR

1. JUDGMENT

- Art. 2211. Repealed.
- 2212. Contribution Between Tort Feasors.
- 2212a. Comparative Negligence; Contribution Among Joint Tort-feasors.

- Art.**
 2212b. Indemnity Provisions in Mineral Agreements Where Negligence Attributable to Indemnitee.
 2213. Repealed.
 2214. May Pass Title.
 2215 to 2218. Repealed.
 2218a. Unconstitutional.
 2218b. Expired.
 2219 to 2222. Repealed.
 2223. Against Partners.
 2224. Contract to Waive or Confess.
 2225. Repealed.
 2226. Attorney's Fees.
 2226a. Effect of Adjudications in Lower Trial Courts on Proceedings in Higher Courts.
 2226b. Costs and Attorney's Fees in Defense of Frivolous Action by State Agency.

2. REMITTITUR AND CORRECTION

2227 to 2231. Repealed.

1. JUDGMENT

Art. 2211. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2212. Contribution Between Tort Feasors

Any person against whom, with one or more others, a judgment is rendered in any suit on an action arising out of, or based on tort, except in causes wherein the right of contribution or of indemnity, or of recovery, over, by and between the defendants is given by statute or exists under the common law, shall, upon payment of said judgment, have a right of action against his co-defendant or co-defendants and may recover from each a sum equal to the proportion of all of the defendants named in said judgment rendered to the whole amount of said judgment. If any of said persons co-defendant be insolvent, then recovery may be had in proportion as such defendant or defendants are not insolvent; and the right of recovery over against such insolvent defendant or defendants in judgment shall exist in favor of each defendant in judgment in proportion as he has been caused to pay by reason of such insolvency.

[Acts 1925, S.B. 84.]

Supersedure

Acts 1973, 63rd Leg., p. 41, ch. 28, §§ 1, 2, classified as article 2212a, provides for a system of comparative negligence and contribution among joint tort-feasors. Section 2(h) thereof reads: "This section prevails over Article 2212, Revised Civil Statutes of Texas, 1925, and all other laws to the extent of any conflict."

Art. 2212a. Comparative Negligence; Contribution Among Joint Tort-feasors

Modified Comparative Negligence

Sec. 1. Contributory negligence shall not bar recovery in an action by any person or party or the

legal representative of any person or party to recover damages for negligence resulting in death or injury to persons or property if such negligence is not greater than the negligence of the person or party or persons or parties against whom recovery is sought, but any damages allowed shall be diminished in proportion to the amount of negligence attributed to the person or party recovering.

Contribution Among Joint Tort-feasors

Sec. 2. (a) In this section:

(1) "Claimant" means any party seeking relief, whether he is a plaintiff, counter-claimant, or cross-claimant.

(2) "Defendant" includes any party from whom a claimant seeks relief.

(b) In a case in which there is more than one defendant, and the claimant's negligence does not exceed the total negligence of all defendants, contribution to the damages awarded to the claimant shall be in proportion to the percentage of negligence attributable to each defendant.

(c) Each defendant is jointly and severally liable for the entire amount of the judgment awarded the claimant, except that a defendant whose negligence is less than that of the claimant is liable to the claimant only for that portion of the judgment which represents the percentage of negligence attributable to him.

(d) If an alleged joint tort-feasor pays an amount to a claimant in settlement, but is never joined as a party defendant, or having been joined, is dismissed or nonsuited after settlement with the claimant (for which reason the existence and amount of his negligence are not submitted to the jury), each defendant is entitled to deduct from the amount for which he is liable to the claimant a percentage of the amount of the settlement based on the relationship the defendant's own negligence bears to the total negligence of all defendants.

(e) If an alleged joint tort-feasor makes a settlement with a claimant but nevertheless is joined as a party defendant at the time of the submission of the case to the jury (so that the existence and amount of his negligence are submitted to the jury) and his percentage of negligence is found by the jury, the settlement is a complete release of the portion of the judgment attributable to the percentage of negligence found on the part of that joint tort-feasor.

(f) If the application of the rules contained in Subsections (a) through (e) of this section results in two claimants being liable to each other in damages, the claimant who is liable for the greater amount is entitled to a credit toward his liability in the amount of damages owed him by the other claimant.

(g) All claims for contribution between named defendants in the primary suit shall be determined in the primary suit, except that a named defendant may proceed against a person not a party to the

primary suit who has not effected a settlement with the claimant.

(h) This section prevails over Article 2212, Revised Civil Statutes of Texas, 1925, and all other laws to the extent of any conflict.

[Acts 1973, 63rd Leg., p. 41, ch. 28, §§ 1, 2, eff. Sept. 1, 1973.]

Section 3 of the 1973 Act amended section 1 of article 6701b; §§ 4, 5 thereof provided:

"Sec. 4. Saving clause. This Act does not apply to any cause of action arising before its effective date.

"Sec. 5. Severability clause. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 2212b. Indemnity Provisions in Mineral Agreements Where Negligence Attributable to Indemnitee

Sec. 1. The legislature finds that an inequity is fostered on certain contractors by the indemnity provisions contained in some agreements pertaining to wells for oil, gas, or water, or mines for other minerals. It is the intent of the legislature and the purpose of this Act to declare provisions for indemnity in certain agreements where there is negligence attributable to the indemnitee to be against the public policy of the State of Texas.

Sec. 2. Except as specified in Section 4 of this Act, a covenant, promise, agreement, or understanding contained in, collateral to, or affecting an agreement pertaining to a well for oil, gas, or water, or mine for any mineral, is void and unenforceable if it purports to indemnify the indemnitee against loss or liability for damages arising from either death or bodily injury to persons, or injury to property, or any other loss, damage, or expense arising from either death or bodily injury, injury to property, or loss, damage, or expense, which is caused by or results from the sole or concurrent negligence of the indemnitee, or an agent or employee of the indemnitee, or an independent contractor who is directly responsible to the indemnitee.

Sec. 3. The term "agreement pertaining to a well for oil, gas, or water, or mine for any mineral" as used in Section 2 of this Act, means any agreement, or understanding, written or oral, concerning any operations related to drilling, deepening, reworking, repairing, improving, testing, treating, perforating, acidizing, logging, conditioning, altering, plugging, or otherwise rendering services in or in connection with any well drilled for the purpose of producing or disposing of oil, gas, or other minerals, or water, or designing, excavating, constructing, improving, or otherwise rendering services in or in connection with any mine shaft, drift, or other structure intended for use in the exploration for or production of any mineral, or an agreement to perform any portion of any such work or services or any act collateral thereto, including the furnishing or rental of equipment, incidental transportation,

and other goods and services furnished in connection with any such service or operation.

Sec. 4. (a) The provisions of this Act do not apply to loss or liability for damages, or any other expenses, arising from:

(1) death or bodily injury to persons or injury to property resulting from radioactivity;

(2) injury to property resulting from pollution;

(3) injury to property resulting from reservoir or underground damage; or

(4) death or bodily injury or injury to property resulting from the performance of services to control a wild well so as to protect the safety of the general public and/or to prevent depletion of vital natural resources. The term "wild well" as used in this section means any well from which the escape of oil and/or gas is unintended and cannot be controlled by the equipment used in normal drilling practice.

(b) The provisions of this Act do not affect the validity of any insurance contract or any benefit conferred by the Workmen's Compensation Law of this state and do not deprive an owner of the surface estate of the right to secure an indemnity from any lessee, operator, contractor, or other person conducting operations for the exploration or production of minerals of the owner's land.

(c) The provisions of Section 2 of this Act shall not apply to any agreement providing for indemnity with respect to claims for personal injury or death to indemnitor's employees or agents, or the employees or agents of indemnitor's sub-contractors if the parties agree in writing that such indemnity obligation will be supported by available liability insurance coverage to be furnished by indemnitor; provided, however, that such indemnity obligation shall be only to the extent of the coverages and dollar limits of insurance agreed to be furnished; but in no event shall said insurance be required in an amount in excess of twelve times state basic limits for bodily injury, approved by the Board of Insurance Commissioners in accordance with Article 5.15 of the Texas Insurance Code.

(d) The provisions of this Act apply only to agreements or contracts made on or after the effective date of this Act.

Sec. 5. Each party to an agreement defined in Section 3 of this Act shall be responsible for the results of his own actions and for the actions of those persons over whom he exercises control.

[Acts 1973, 63rd Leg., p. 1767, ch. 646, eff. Aug. 27, 1973. Amended by Acts 1979, 66th Leg., p. 511, ch. 237, § 1, eff. May 17, 1979.]

Art. 2213. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2214. May Pass Title

Where the judgment is for the conveyance of real estate, or for the delivery of personal property, the

decree may pass the title to such property without any act to be done on the part of the party against whom the judgment is rendered.

[Acts 1925, S.B. 84.]

Arts. 2215 to 2218. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2218a. Unconstitutional

This article, Acts 1933, 43rd Leg., p. 225, ch. 102, providing for limitation of action on note after sale of real estate security and process to enforce deficiency judgment, was held unconstitutional in *Langever v. Miller*, 124 T. 80, 76 S.W.2d 1025, 96 A.L.R. 836, followed in *Farm & Home Savings & Loan Ass'n of Missouri v. Robertson*, Civ.App., 82 S.W.2d 155; *Lisenbee v. Wichita Falls Building & Loan Ass'n*, Civ.App., 82 S.W. 688; *Texas Nat. Securities Co. v. Oldham*, Civ.App., 82 S.W.2d 621; *Stahlman v. McManus*, Civ.App., 93 S.W.2d 470; *Currie v. First Nat. Bank*, Civ.App., 96 S.W.2d 731; *National Loan & Investment Co. of Detroit, Mich. v. Browne*, Civ.App., 98 S.W.2d 271.

Art. 2218b. Expired

Arts. 2219 to 2222. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2223. Against Partners

Where the suit is against several partners jointly indebted upon contract, and the citation has been served upon some of such partners but not upon all, judgment may be rendered therein against such partnership and against the partners actually served, but no personal judgment or execution shall be awarded against those not served.

[Acts 1925, S.B. 84.]

Saved From Repeal

Acts 1961, 57th Leg., p. 289, ch. 158, enacting the Texas Uniform Partnership Act (Article 6132b), provides in Section 46(C) that the Act should not be deemed to repeal Acts 1858, p. 110, P.D. 1514; G.L. Vol. 4, p. 982, incorporated in this article.

Art. 2224. Contract to Waive or Confess

No acceptance of service and waiver of process, nor entry of appearance in open court, nor a confession of judgment shall be authorized in any case by the contract or writing sued on, or any other instrument executed prior to the institution of such suit, nor shall such acceptance or waiver be made until after suit brought.

[Acts 1925, S.B. 84.]

Art. 2225. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2226. Attorney's Fees

Any person, corporation, partnership, or other legal entity having a valid claim against a person or corporation for services rendered, labor done, material furnished, overcharges on freight or express,

lost or damaged freight or express, or stock killed or injured, or suits founded upon a sworn account or accounts, or suits founded on oral or written contracts, may present the same to such persons or corporation or to any duly authorized agent thereof; and if, at the expiration of 30 days thereafter, payment for the just amount owing has not been tendered, the claimant may, if represented by an attorney, also recover, in addition to his claim and costs, a reasonable amount as attorney's fees. The usual and customary fees in such cases shall be presumed to be reasonable, but such presumption may be rebutted by competent evidence. In a proceeding before the court, or in a jury case where the issue of amount of attorney's fees is submitted to the court for determination by agreement, the court may in its discretion take judicial knowledge of the usual and customary fees in such matters and of the contents of the case file without receiving further evidence. The provisions hereof shall not apply to contracts of insurers issued by insurers subject to the provisions of the Unfair Claim Settlement Practices Act (Article 21.21-2, Insurance Code), nor shall it apply to contracts of any insurer subject to the provisions of Article 3.62, Insurance Code, or to Chapter 387, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 3.62-1, Vernon's Texas Insurance Code), or to Article 21.21, Insurance Code, as amended, or to Chapter 9, Insurance Code, as amended, and each such article or chapter shall be and remain in full force and effect. This Act shall be liberally construed to promote its underlying purposes.

[Acts 1925, S.B. 84. Amended by Acts 1949, 51st Leg., p. 915, c. 494, § 1; Acts 1953, 53rd Leg., p. 101, c. 67, § 1; Acts 1971, 62nd Leg., p. 1073, ch. 225, § 1, eff. May 17, 1971; Acts 1977, 65th Leg., p. 153, ch. 76, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 718, ch. 314, § 1, eff. June 6, 1979.]

Section 2 of the 1979 amendatory act provided:

"This Act is remedial in character and is intended to apply to all pending and future actions, regardless of the time of institution thereof or of the accrual of any cause of action asserted."

Art. 2226a. Effect of Adjudications in Lower Trial Courts on Proceedings in Higher Courts

Sec. 1. A determination of fact or law or a judgment in any proceeding in the Small Claims Court, Justice of the Peace Court, County Court, County Civil Court at Law, County Criminal Court at Law, or County Court at Law shall not be res judicata and shall not constitute a basis for estoppel by judgment in any proceeding in a District Court, except that any such judgment shall be binding on the parties thereto as to the recovery or denial thereof rendered in that particular case, and further except that all judgments in probate, guardianship, lunacy and other matters over which said inferior courts shall have exclusive jurisdiction of the subject matter, on a basis other than the amount in controversy, shall not be affected thereby.

Sec. 2. A determination of fact or law or a judgment in any proceeding in the Small Claims Court or Justice of the Peace Court shall not be res judicata and shall not constitute a basis for estoppel by judgment in any proceeding in a County Court, County Civil Court at Law, County Criminal Court at Law or County Court at Law, except that any such judgment shall be binding on the parties thereto as to the recovery or denial thereof rendered in that particular case.

[Acts 1965, 59th Leg., p. 1539, ch. 675, eff. June 18, 1965.]

Art. 2226b. Costs and Attorney's Fees in Defense of Frivolous Action by State Agency

Definitions

Sec. 1. In this Act:

(1) "State agency" means a department, commission, board, office, or other agency that:

(A) is in the executive branch of state government;

(B) has authority that is not limited to a geographical portion of the state; and

(C) was created by the constitution or a statute of this state.

(2) "Party" means an individual, partnership, corporation, association, or a public or private organization other than a state agency.

(3) "Fees and other expenses" means the reasonable expenses of witnesses incurred in preparing to testify or in attending or testifying, a reasonable fee for the professional services of an expert witness, and the reasonable costs of a study, analysis, engineering report, test, or other project the court finds to be necessary for the preparation of the party's case.

Motion of Frivolous Claim

"Sec. 2. In a civil suit in a court of this state brought by or against a state agency in which the agency asserts a cause of action against a party, either originally or as a counterclaim or cross-claim, the party, at any time after the filing of the pleadings in which the cause of action is alleged, may file a motion with the court stating that the agency's claim is frivolous, unreasonable, or without foundation.

Contents of Motion

Sec. 3. The written motion filed with the court shall set forth the facts justifying the party's claim that the action is frivolous, unreasonable, or without foundation, and shall state that if the action is dismissed or judgment is awarded to the party, the defendant intends to submit a motion to the court to require the agency to pay all reasonable fees, expenses, and attorney's fees incurred by the party in defending against the action.

Award of Costs

Sec. 4. In a civil action brought by or against a state agency in which the agency asserts a cause of action against a party, either originally or as a counterclaim or cross-claim, on the dismissal of that action or the award of judgment to the party, the court, on motion of that party and on a finding by the court that the agency's action was frivolous, unreasonable, or without foundation, shall order the agency that brought the action to pay, in addition to all other costs allowed by law or by rule, the party's fees, expenses, and reasonable attorney's fees, in an amount determined by the court.

Payment of Costs

Sec. 5. The agency shall pay the fees and expenses from funds appropriated for operation of the agency, funds appropriated for the payment of fees and expenses under this Act, or other funds available for that purpose.

[Acts 1981, 67th Leg., p. 2675, ch. 727, eff. Aug. 31, 1981. Amended by Acts 1983, 68th Leg., p. 3884, ch. 620, §§ 1, 2, eff. Sept. 1, 1983.]

Section 3 of the 1983 amendatory act provides:

"The amendments made by Section 1 of this Act apply to a cause of action against a party filed on or after the effective date of this Act. A cause of action filed before the effective date of this Act is governed by the amended provisions as they existed on the date the cause of action was filed, and this law is continued in effect for that purpose."

2. REMITTITUR AND CORRECTION

Arts. 2227 to 2231. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER TEN. NEW TRIALS AND ARREST OF JUDGMENT

Arts. 2232 to 2236. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER ELEVEN. BILLS OF EXCEPTION AND STATEMENT OF FACTS

Art.

2237. When Taken; Rules.

2238 to 2241. Repealed.

2241a. Return of Bills of Exceptions and Statement of Facts by Attorney.

2241b to 2245. Repealed.

2246. Time for Filing.

2247, 2247a. Repealed.

2248. Successor to Trial Judge.

Art. 2237. When Taken; Rules

If either party during the progress of a cause is dissatisfied with any ruling, opinion or other action of the Court, he may except thereto at the time the said ruling is made, or announced or such action taken, and at his request time shall be given to embody such exceptions in a written bill. The prep-

aration and filing of bills of exceptions shall be governed by the following rules:

1. No particular form of words shall be required in a bill of exception; but the objection to the ruling or action of the Court shall be stated with such circumstances, or so much of the evidence as may be necessary to explain, and no more, and the whole as briefly as possible.

2. Where the statement of facts contains all the evidence requisite to explain the bill of exception evidence need not be set out in the bill; but it shall be sufficient to refer to the same as it appears in the statement of facts.

2a. All objections to the admission or exclusion of evidence and exceptions to the ruling of the Court upon the admission or exclusion of evidence or other matters may be shown by the official stenographer's transcript of the evidence, known as a statement of facts in question and answer form, all as hereinafter provided in Article 2239,¹ and no formal bill of exception to the admission or exclusion of evidence or to any of the Court's rulings shall be required where the matters complained of, the objections, the Court's rulings, and exceptions thereto clearly appear of record in said transcript of evidence, or statement of facts in question and answer form; provided, however, that in any case where such matters do not clearly appear of record the parties may, if they so desire, prepare and have approved and filed, as otherwise provided by law, a formal bill of exception.

3. The ruling of the court in the giving, refusing or qualifying of instructions to the jury shall be regarded as approved unless excepted to.

4. Where the ruling or other action of the Court appears otherwise of record, no bill shall be necessary to reserve an exception thereto; and all motions and answers thereto, the orders thereon and any exceptions shown in such orders shall, for the purpose of this Article, be considered a part of the record without the necessity of bills of exception, provided that if testimony is heard upon a motion, such testimony may be preserved only by bill of exception or in the statement of facts.

5. The party taking a bill of exception shall reduce the same to writing and present it to the Judge for his allowance and signature.

6. The Judge shall submit such bill to the adverse party or his counsel, if in attendance on the Court, and if found to be correct, the Judge shall sign it without delay and file it with the Clerk.

7. If the Judge finds such bill incorrect, he shall suggest to the party or his counsel, such corrections as he deems necessary therein, and if they are agreed to, he shall make such corrections, sign the bill and file it with the Clerk.

8. Should the party not agree to such corrections, the Judge shall return the bill to him with his refusal indorsed thereon, and shall prepare, sign

and file with the Clerk such bill of exception, as will, in his opinion, present the ruling of the court as it actually occurred.

9. Should the party be dissatisfied with said bill filed by the Judge, he may, upon procuring the signatures of three respectable by-standers, citizens of this State, attesting to the correctness of the bill as presented by him, have the same filed as part of the record of the cause; and the truth of the matter in reference thereto may be controverted and maintained by affidavits, not exceeding five in number on each side, to be filed with the papers of the cause, within ten days after the filing of said bill and to be considered as a part of the record relating thereto.

10. This Act shall not serve to repeal other laws regarding or dispensing with exceptions or bills of exception.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., 1st C.S., p. 75, ch. 34, § 1; Acts 1939, 46th Leg., p. 215, § 1.]

¹ Repealed.

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 372, Vernon's Texas Rules of Civil Procedure.

Arts. 2238 to 2241. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2241a. Return of Bills of Exceptions and Statement of Facts by Attorney

Whenever within the sixty (60) days that are provided by law for filing bills of exceptions and statements of fact in the trial court, the appellant or his attorney shall present bills of exceptions and statements of fact to the appellee or his attorney for the purpose of procuring an agreement thereto as provided in Articles 2239 and 2240, it shall be the duty of the appellee and his attorney to return to the appellant or his attorney the bills of exceptions and statements of fact within ten (10) days after having received said bills of exceptions and statements of fact, with his approval or disapproval of the same. The failure of the attorney for appellee to return such statements of fact or bills of exceptions within such ten-day period shall entitle the appellant to have such bills of exceptions and statements of fact approved by the court without having

first obtained the approval thereof by the attorney for appellee.

[Acts 1927, 40th Leg., p. 67, ch. 44, § 1. Amended by Acts 1939, 46th Leg., p. 214, § 1.]

Arts. 2241b to 2245. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2246. Time for Filing

When an appeal is taken from a judgment rendered in a civil cause tried in either the District Court, County Court, or County Court at Law, the party appealing shall have fifty (50) days after final judgment or order overruling motion for new trial, if such motion is filed, or perfection of writ of error, within which to prepare and file his statement of facts and bills of exception in the Trial Court.

Sec. 2. Upon application of the party appealing, the Judge of the Court may, in term-time or vacation, for good cause shown, extend the time for filing such statement of facts and bills of exception; but the time shall not be extended in any case so as to delay the filing thereof beyond the time for filing the transcript, bills of exceptions, and statement of facts in the Court of Civil Appeals, as prescribed by law, or as such time has been extended by said Court.

[Acts 1931, 42nd Leg., p. 100, ch. 67. Amended by Acts 1939, 46th Leg., p. 217, § 1.]

Arts. 2247, 2247a. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2248. Successor to Trial Judge

Any judge of a district or county court whose term of office expires before the adjournment of the term of such court at which a cause may be tried, or during the period prescribed for the filing of the statement of facts and bills of exception, or conclusions of law and fact, may approve such statement of facts and bills of exception, or file such findings of fact and conclusions of law in such cause, as provided in this title, and where any such judge shall die before the time for such approval or filing, the same may be approved or filed by his successor, as provided by article 2288.¹

[Acts 1925, S.B. 84.]

¹ Repealed; see, now, Vernon's Texas Rules of Civil Procedure, rule 18.

CHAPTER TWELVE. APPEAL AND WRIT OF ERROR

Art.

- 2249. To Court of Appeals.
- 2249a. Repealed.
- 2250. Appeal from Interlocutory Order.
- 2251. Appeals in Injunctions.
- 2252 to 2254. Repealed.
- 2255. Writ of Error Sued Out.
- 2256 to 2275. Repealed.
- 2276. No Bond Required.

Art.

- 2276a. Exemption from Appeal Bond of Water Improvement and Other Districts.
- 2277 to 2285. Repealed.

Art. 2249. To Court of Appeals

An appeal or Writ of Error may be taken to the Court of Appeals from every final judgment of the district court in civil cases, and from every final judgment in the county court in civil cases of which the county court has original jurisdiction, and from every final judgment of the county court in civil cases in which the court has appellate jurisdiction, where the judgment or amount in controversy exceeds one hundred dollars exclusive of interest and costs.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 75, ch. 52, § 1; Acts 1981, 67th Leg., p. 785, ch. 291, § 55, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides, in part:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction."

Art. 2249a. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2250. Appeal from Interlocutory Order

An appeal shall lie from an interlocutory order of the District, County Court at Law, or County Court:

1. Appointing a receiver or trustee in any cause;
2. Overruling a motion to vacate an order appointing a receiver or trustee in any case; or
3. Certifying or refusing to certify a class in a suit brought pursuant to Rule 42 of the Texas Rules of Civil Procedure.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 456, ch. 305, § 1; Acts 1979, 66th Leg., p. 348, ch. 159, § 1, eff. Aug. 27, 1979.]

Art. 2251. Appeals in Injunctions

Appeals from orders of the district and county courts granting or dissolving temporary injunctions shall lie in the cases and in the manner provided in the title "Injunctions."

[Acts 1925, S.B. 84.]

Arts. 2252 to 2254. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2255. Writ of Error Sued Out

The writ of error, in cases where the same is allowed, may be sued out at any time within six months after the final judgment is rendered.

[Acts 1925, S.B. 84.]

Arts. 2256 to 2275. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2276. No Bond Required

Neither the State of Texas, nor any county in the State of Texas, nor the Railroad Commission of Texas, nor the head of any department of the State of Texas, prosecuting or defending in any action in their official capacity, shall be required to give bond on any appeal or writ of error taken by it, or either of them, in any civil case.

Executors, administrators and guardians appointed by the courts of this State shall not be required to give bond on any appeal or writ of error taken by them in their fiduciary capacity.

[Acts 1925, S.B. 84.]

Art. 2276a. Exemption from Appeal Bond of Water Improvement and Other Districts

No water improvement district, nor any water control and improvement district, nor any water control and preservation district, nor any levee improvement district, nor any drainage district, organized under the laws of this State, prosecuting or defending in any action in its official capacity, shall be required to give bond on any appeal or writ of error taken by it, or either of them, in any civil case.

[Acts 1933, 43rd Leg., p. 131, ch. 62, § 1.]

Arts. 2277 to 2285. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER THIRTEEN. GENERAL PROVISIONS

1. MISCELLANEOUS

- Art.
2286. Repealed.
2286a. Citations and Notices Improperly Directed; Validation of Proceedings.
2287. Neglect by Officers.
2288, 2289. Repealed.
2290. Deposits Pending Suit.
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2292a. Appointment of Bailiff for 24th, 135th, and 267th Judicial Districts.
2292b. Bailiffs in Certain Counties with Eight Districts and Four County Courts; Duties; Compensation.
2292c. Bailiffs in Counties of 200,000 to 300,000; Compensation and Expenses.
2292d. Bailiffs in Counties of 300,000 to 425,000; Monthly Car Allowance.
2292e. Bailiffs and Assistants or Deputy Bailiffs in Counties with Nine District Courts; Duties; Terms; Compensation.
2292f. Bailiffs in Counties with Population of 250,000 or More; Appointment; Compensation; Removal.
2292g. Bailiffs in Counties of 190,000 to 200,000; Appointment; Compensation.

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2292h. Bailiffs in Counties Comprising Part of Two Judicial Districts of Four Counties of 136,000 or More Combined Population.
2292i. Grand Jury Riding Bailiffs in Counties Below 250,000 Population; Compensation.
2292j. Bailiffs in the 22nd, 70th and 161st District Courts.
2292k. Bailiff in the 71st District Court.
2292l. Bailiff in the 34th District Court.
2292m. Bailiff in the 30th, 78th, and 89th District Courts.
2292n. Bailiff of County Court of Harrison County.
2292o. Bailiff in the 65th, 120th, 142nd, 205th, 210th, 238th, 243rd, 318th, and 327th District Courts.
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2292-2. Tarrant County; Adult Probation and Parole Officer.
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2294. Qualifications.
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2298. Investing Funds.
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2316. Preference Claims.
2317. Receivership of Corporation Limited; Certain Corporations Excepted.
2318. Application for Receiver.
2319. Rules of Equity Shall Govern.
2320. Repealed.
2320a. Unconstitutional.
2320b. Receivers of Mineral Interests Owned by Nonresidents or Absentees.
2320c. Contingent Interests; Receiver to Make Mineral, Oil or Gas Lease; Pooling.

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2323a. Deputy Court Reporter for 70th Judicial District.
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| 2326j-13a. | Compensation of Reporter for 23rd Judicial District. | 2326j-40. | Compensation of Reporter for 97th Judicial District. |
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- 2326j-46. Compensation of Reporter for 69th Judicial District.
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- 2326j-52. Appointment and Compensation of Reporters for 17th, 48th, 67th, 96th, 141st and 153rd Judicial District Courts, for Criminal District Courts Nos. 1 to 4, for County Court at Law, for County Criminal Courts Nos. 1 to 3, and for Courts of Domestic Relations Nos. 1 to 4, in Tarrant County.
- 2326j-53. Repealed.
- 2326j-53a. Appointment and Compensation of Reporter for 84th Judicial District.
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- 2326j-74. Compensation of Reporters for 5th, 71st, 76th and 102nd Judicial Districts.
- 2326j-75. Compensation of Reporter for 26th Judicial District.
- 2326j-76. Compensation of Reporters for 30th, 50th, 78th, 89th, 100th and 110th Judicial Districts.
- 2326j-77. Compensation of Reporter for 97th Judicial District.
- 2326j-78. Appointment and Compensation of Reporters for County and District Courts of Bexar County.
- 2326j-79. Appointment and Compensation of Reporter for 196th Judicial District.
- 2326j-80. Compensation of Reporter for 235th Judicial District.
- 2326j-81. Compensation of Reporter for 149th Judicial District.
- 2326j-81a. Compensation of Reporter for 149th Judicial District.
- 2326k. Combined with Article 2326.
- 2326l. Shorthand Reporters in District Courts and County Courts at Law in Counties of 613,000 or More Population.
- 2326l-1. Shorthand Reporters in District Courts and County Courts at Law in Counties of 900,000 or More Population.
- 2326l-2. Shorthand Reporters in District Courts and County Courts at Law in Counties of 650,000 to 900,000.
- 2326m. Shorthand Reporters in County Courts at Law in Counties of 360,000 to 612,000.
- 2326n. Reporters in Counties of 1,000,000, or More Population.
- 2326o. Shorthand Reporters in Counties of 2,000,000 or More; Appointment and Compensation. In County Court.
2327. Repealed.
- 2327a. Apportionment of Reporter's Salary Among Counties.
- 2327b. County Court Reporter in Counties of 40,905 to 41,000 Population.
- 2327b-1. County Court Reporter in Counties of 22,100 to 22,500 Population.
- 2327c. Shorthand Reporters for County Courts at Law and County Criminal Courts in Certain Counties.
- 2327d. Shorthand Reporters for County Judges and for Certain Judges of Probate Court.

4. MANDAMUS

2328. Repealed.

5. JUDICIAL COUNCIL

- 2328a. Judicial Council.
- 2328b. Office of Court Administration of the Texas Judicial System.

6. ENFORCEMENT OF SUPPORT

- 2328b-1 to 2328b-3. Repealed.
- 2328b-4. Repealed.

7. FOREIGN JUDGMENTS

- Art.
2328b-5. Uniform Enforcement of Foreign Judgments Act.
2328b-6. Uniform Foreign Country Money-Judgment Recognition Act.

1. MISCELLANEOUS

Art. 2286. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2286a. Citations and Notices Improperly Directed; Validation of Proceedings

Sec. 1. All citations and notices in all cases of lunacy, guardianship, or estates of decedents, or of any other probate proceedings directed to the sheriff or any constable of the county in which the proceedings were instituted instead of to any sheriff or constable within the State of Texas as provided in Rule 15 of the Rules of Civil Procedure, which have been duly served and returned in the manner provided by law by the sheriff or constable within the county in which the proceedings were instituted, together with all uncontested orders, decrees, sales, leases and judgments grounded on such citations or notices are hereby validated and made as effective to support proceedings in the respective county courts in lunacy, guardianship and probate as if directed to any sheriff or constable within the State of Texas, as provided in said Rule 15.

Sec. 2. In all cases where personal service is required in lunacy, guardianship, or estates of decedents, or any other probate proceedings where any citation or notice therein has been directed to the sheriff or constable of the county in which the person named in the citation or notice was located instead of to any sheriff or constable within the State of Texas as provided in Rule 15 of the Rules of Civil Procedure, and such citations or notices have been duly served on the person named therein by the sheriff or constable of the county in which the person named in the citation or notice was located, together with all uncontested orders, decrees, sales, leases and judgments grounded on such citations or notices are hereby validated and made as effective to support proceedings in the respective county courts in lunacy, guardianship and probate as if directed to any sheriff or constable in the State of Texas, as provided in said Rule 15.

Sec. 3. The provisions of this Act shall not be applicable to the issues in any law suit or in any contested probate proceedings pending in any court of this State on the effective date of this Act.

[Acts 1949, 51st Leg., p. 1112, ch. 570.]

Art. 2287. Neglect by Officers

Any clerk, sheriff, or other officer who neglects or refuses to perform any duty required of him under any provision of this title shall be liable to

damages at the suit of any person injured, and may be punished for contempt of court.

[Acts 1925, S.B. 84.]

Arts. 2288, 2289. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2290. Deposits Pending Suit

The officer having custody of any money, debt, script, instrument of writing, or other article paid or deposited in court during the progress of any cause to abide the result of any legal proceeding, shall seal up in a secure package the identical money or other article so received and deposit it in some safe or bank vault, keeping it always accessible and subject to the control of the court; and he shall also keep in his office as a part of the records thereof a correct itemized statement of such deposit, on what account received, and the disposition made of the same. When his term of office expires, such officer shall turn over to his successor all of such trust funds and other property and the record book thereof, taking his receipt therefor. This article shall not exempt any officer or his surety from any liability on his official bond for any neglect or other default in regard to said property.

[Acts 1925, S.B. 84.]

Arts. 2291, 2292. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2292a. Appointment of Bailiff for 24th, 135th, and 267th Judicial Districts

The District Judges of the 24th Judicial District, the 135th Judicial District, and the 267th Judicial District may appoint, with the approval of the Commissioners Court, an officer of the Court to act as bailiff, whose primary duty shall be to act as interpreter. Such bailiff shall be paid a reasonable salary not to exceed the highest salary paid to any deputy, clerk or assistant employed by the County.

[Acts 1963, 58th Leg., p. 786, ch. 303 § 1. Amended by Acts 1981, 67th Leg., p. 57, ch. 25, § 14, eff. April 8, 1981.]

Art. 2292b. Bailiffs in Certain Counties with Eight Districts and Four County Courts; Duties; Compensation

Sec. 1. In all counties having eight (8) District Courts, including two (2) Criminal District Courts, and four (4) County Courts, including two (2) County Courts at Law and one County Criminal Court, the District Judges of each such county shall appoint a bailiff to be in charge of the Central Jury Room and the general panel. Such bailiff is hereby authorized to summon jurors, whose names have been drawn from the jury wheel, and to serve notices upon absent jurors, as directed by the District Judges having supervision and control over the general jury panel. Such bailiff shall look after the said panel and perform such duties in connection with the general supervision of the Central Jury

Room and the general panel as are required by the District Judges of such county. He shall serve for a term of two (2) years, from January first of the odd years, and his salary shall be set by the Commissioners Court upon recommendation of the District Judges.

Sec. 2. It is hereby declared to be the legislative intent that if any sentence of this Act shall be held to be invalid or unconstitutional, such invalidity shall not be held to affect the validity or constitutionality of any other paragraph or sentence of this Act.

[Acts 1947, 50th Leg., p. 394, ch. 223.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292c. Bailiffs in Counties of 200,000 to 300,000; Compensation and Expenses

In all counties of this State having a population of more than two hundred thousand (200,000) and less than three hundred thousand (300,000) inhabitants, according to the last preceding Federal Census, Grand Jury Bailiffs shall receive compensation of Seven Dollars and Fifty Cents (\$7.50) per day, and in addition thereto One Dollar (\$1) per day for the expenses of their automobile, or a total of Eight Dollars and Fifty Cents (\$8.50) per day which shall be paid on the basis of a six (6) day week. Such compensation may be paid out of the General Fund or the Jury Fund of such counties, as the Commissioners Court of such counties may determine. Said compensation and expenses shall be paid monthly.

[Acts 1947, 50th Leg., p. 964, ch. 418, § 1.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292d. Bailiffs in Counties of 300,000 to 425,000; Monthly Car Allowance

Sec. 1. The Commissioners Court shall have the right and the authority to provide for and establish a monthly car allowance for the grand jury bailiff or bailiffs in their respective counties.

Sec. 1A. This Act shall apply to counties having a population of not less than three hundred thousand (300,000) nor more than four hundred twenty-five thousand (425,000).

[Acts 1949, 51st Leg., p. 211, ch. 116.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292e. Bailiffs and Assistants or Deputy Bailiffs in Counties with Nine District Courts; Duties; Terms; Compensation

Sec. 1. (a) In all counties having nine (9) or more District Courts, a majority of the District Judges of each such county may appoint a bailiff, and the assistants or deputy bailiffs that are deemed necessary by the District Judges, with approval of the Commissioners Court, to be in charge of the central jury room and the general panel. In such counties, if the District Judges of such county do not appoint a bailiff to be in charge of the central jury room and the general panel, the sheriff of that county shall perform all the duties in connection with the central jury room and the general panel, as provided by law. In any or all of such counties in which the District Judges thereof appoint a bailiff, and the necessary assistants or deputy bailiffs, in charge of the central jury room and the general panel, the sheriff of any such county shall not assign a deputy to the central jury room as is now provided by law. The bailiff and the assistants or deputy bailiffs appointed by the said District Judges are authorized to summon jurors whose names have been drawn from the jury wheel or selected by other means provided by law, and to serve notices upon absent jurors as directed by the District Judge having supervision and control of the general panel.

(b) Said bailiff and assistants and deputy bailiffs appointed by the District Judges shall look after the said panel and perform such duties in connection with the general supervision of the central jury room and the general panel as is required by the District Judges of such county. The bailiff and assistants and deputy bailiffs shall serve for a term of two (2) years from January 1st of the odd year, and the salary of each shall be set by the Commissioners Court upon the recommendation of the District Judges.

Sec. 2. In counties having nine (9) or more District Courts, the jurors in each of such counties may be summoned by the bailiff or the assistants or deputy bailiffs in charge of the central jury room and the general panel of such county or by the sheriff of such county, as the District Judges thereof may direct. Such service on the jurors may be made verbally in person, by registered mail, by ordinary mail or in any other manner or by any other method as may be determined upon the District Judges of such county. Jurors so selected and summoned for service on the central jury panel shall serve in criminal as well as civil cases, and no additional service shall be required in criminal cases.

[Acts 1950, 51st Leg., 1st C.S., p. 4, ch. 7. Amended by Acts 1981, 67th Leg., p. 619, ch. 243, § 1, eff. May 28, 1981.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292f. Bailiffs in Counties with Population of 250,000 or More; Appointment; Compensation; Removal

Sec. 1. In all counties having a population of two hundred and fifty thousand (250,000) or more inhabitants, according to the last preceding or any future Federal Census, the judges of the district courts to whom the grand jury reports may, with the approval of the Commissioners Court, appoint grand jury bailiffs not exceeding seven (7), whose compensation shall be fixed by order of the Commissioners Court; such compensation to be paid out of the general fund or jury fund in twelve (12) equal monthly installments, plus an automobile allowance to be set by the Commissioners Court of said counties.

Sec. 2. Bailiffs thus appointed are subject to removal without cause at the will of the judge or judges appointing them.

[Acts 1951, 52nd Leg., p. 208, ch. 123.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292g. Bailiffs in Counties of 190,000 to 200,000; Appointment; Compensation

In all counties of this State having a population of not less than one hundred and ninety thousand (190,000) and not more than two hundred thousand (200,000) inhabitants, according to the last Federal Census, the Judge of a District Court impaneling a Grand Jury shall appoint grand jury bailiffs not to exceed six (6), each of whom shall receive Seven Dollars and Fifty Cents (\$7.50) per day compensation for his services; such payment to be made out of the general fund of such county.

[Acts 1955, 54th Leg., p. 516, ch. 152, § 1.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292h. Bailiffs in Counties Comprising Part of Two Judicial Districts of Four Counties of 136,000 or More Combined Population

In every county in this state which comprises a part of two judicial districts, each of which districts consists of four and the same four counties, which four counties have a combined population of not less than one hundred thirty-six thousand (136,000) according to the last preceding Federal Census, the District Judges of such two judicial districts shall appoint officers of the said courts to act as bailiffs for said courts. The bailiffs shall be paid a salary out of the general fund of the county of such court as set by the District Courts of such judicial districts with the approval of the Commissioners Court of the county of such court. The bailiffs shall

perform any and all duties imposed upon bailiffs in this state under the General Laws. In addition thereto, bailiffs shall perform such duties as are required by the District Judges. Bailiffs thus appointed are subject to removal without cause at the will of the judge or judges appointing them. Bailiffs thus appointed shall be duly deputized by the Sheriff of such county in addition to all other deputies now authorized by law, upon the request of the District Judges.

[Acts 1957, 55th Leg., p. 437, ch. 211, § 1.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292i. Grand Jury Riding Bailiffs in Counties Below 250,000 Population; Compensation

Grand jury riding bailiffs in counties having a population below two hundred and fifty thousand (250,000) according to the last preceding Federal Census shall receive compensation of not to exceed Seven Dollars and Fifty Cents (\$7.50) per day, and in addition thereto Seven (7c) per mile for the expenses of their automobile when used pursuant to official duties. Such compensation may be paid out of the General Fund or the Jury Fund of such counties, as the Commissioners Court of such counties may determine. Such compensation and expenses may be paid monthly.

[Acts 1959, 56th Leg., p. 859, ch. 385, § 1.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2282j. Bailiffs in the 22nd, 70th and 161st District Courts

Bailiff Appointed by Judge

Sec. 1. The judges of the 22nd, 70th and 161st District Courts shall each appoint a person to serve his court as bailiff.

Evidence of Appointment

Sec. 2. An order signed by the appointing judge entered upon the minutes of the court, shall be evidence of appointment of a bailiff.

Oath

Sec. 3. The following oath shall be administered each bailiff appointed under this Act: "You solemnly swear that you will faithfully and impartially perform all such duties as may be required of you by Law, so help you God."

Qualifications

Sec. 4. To be eligible for appointment to the office of bailiff, a person must be a resident of the

county in which he serves the court and must be at least 21 years old.

Term of Office

Sec. 5. A bailiff holds office at the will of the judge of the court served by the bailiff.

Duties; May be Deputized

Sec. 6. (a) A person appointed bailiff is an officer of the court. He shall perform in the county of his appointment all duties imposed upon bailiffs under the general laws of Texas, and shall perform other duties required by the judge of the court which he serves.

(b) The sheriff of a county shall, upon request of the judge, deputize a person who is bailiff of any district court or criminal district court in the sheriff's county, in addition to other deputies authorized by law.

Compensation

Sec. 7. A bailiff shall be paid out of the General Fund of the county in which he serves the court a salary in an amount set by the judge, not more than that paid the chief deputy sheriff of the county.

[Acts 1969, 61st Leg., p. 2694, ch. 880, eff. Sept. 1, 1969.]

Art. 2292k. Bailiff in the 71st District Court

Bailiff Appointed by Judge

Sec. 1. The judge of the 71st District Court shall appoint a person to serve his court as bailiff.

Evidence of Appointment

Sec. 2. An order signed by the judge entered in the minutes of the court shall be evidence of appointment of the bailiff.

Qualifications

Sec. 3. To be eligible for appointment to the office of bailiff, a person must be a resident of Harrison County and at least 21 years old.

Term of Office

Sec. 4. The bailiff holds office at the will of the judge.

Duties; May be Deputized

Sec. 5. (a) A person appointed bailiff is an officer of the court. He shall perform in the 71st District Court all duties imposed on bailiffs under the general laws of Texas and shall perform other duties required by the judge of the court.

(b) The sheriff of Harrison County on the request of the judge, shall deputize the person who is bailiff of the district court, in addition to other deputies authorized by law.

Compensation

Sec. 6. The bailiff shall be paid out of the general fund of Harrison County a salary set by the judge and approved by the commissioners court.

[Acts 1971, 62nd Leg., p. 1325, ch. 351, eff. Aug. 30, 1971.]

Art. 2292L. Bailiff in the 34th District Court

Bailiff Appointed by Judge

Sec. 1. The judge of the 34th Judicial District may appoint a person to serve his court as bailiff.

Evidence of Appointment; Notification

Sec. 2. An order signed by the appointing judge entered upon the minutes of the court shall be evidence of appointment of a bailiff, and the judge shall notify in writing of the appointment, date of employment and compensation to be paid by each county in which the court sits.

Oath

Sec. 3. The following oath shall be administered by the appointing judge to each bailiff appointed under this Act: "You solemnly swear that you will faithfully and impartially perform all duties as may be required of you by law, so help you God."

Qualifications

Sec. 4. To be eligible for appointment to the office of bailiff, a person must be a resident of a county in which he serves the court and must be at least 21 years old.

Term of Office

Sec. 5. A bailiff holds office at the will of the judge of the court served by the bailiff.

Duties; May be Deputized

Sec. 6. (a) A bailiff is an officer of the court, and shall perform in each county in which the court sits all duties imposed upon bailiffs under the general laws of Texas, and shall perform other duties required by the judge of the court which he serves, and no other duties assigned by any other person.

(b) The sheriff of each county where the court sits shall, upon written notice from the judge, deputize the bailiff in addition to other deputies authorized by law.

Compensation

Sec. 7. Each county in which the court sits may compensate the bailiff out of the general fund in an amount set in writing by the judge, but not more than each county pays the chief deputy sheriff.

[Acts 1971, 62nd Leg., p. 2494, ch. 817, eff. Aug. 30, 1971.]

Art. 2292m. Bailiffs in the 30th, 78th, and 89th District Courts

Bailiffs Appointed by Judges

Sec. 1. The judges of the 30th, 78th, and 89th District Courts shall appoint a person to serve their respective courts as bailiff.

Evidence of Appointment

Sec. 2. An order signed by the appointing judge entered in the minutes of the court shall be evidence of appointment of the bailiff.

Qualifications

Sec. 3. To be eligible for appointment to the office of bailiff, a person must be a resident of Wichita County and at least 21 years old.

Term of Office

Sec. 4. The bailiff holds office at the will of the judge.

Duties

Sec. 5. A person appointed bailiff is an officer of the court. Such person shall perform in the 30th, 78th, or 89th District Court, as the case may be, all duties imposed on bailiffs under the general laws of Texas and shall perform other duties required by the judge of the court.

Compensation

Sec. 6. The bailiff shall be paid out of the general fund of Wichita County a salary set by the judge and approved by the commissioners court. [Acts 1977, 65th Leg., p. 744, ch. 278, eff. Aug. 29, 1977.]

Art. 2292n. Bailiff of County Court of Harrison County

Bailiff Appointed by Judge

Sec. 1. The judge of the County Court of Harrison County shall appoint a person to serve his court as bailiff.

Evidence of Appointment

Sec. 2. An order signed by the judge entered in the minutes of the court shall be evidence of the appointment of the bailiff.

Qualifications

Sec. 3. To be eligible for appointment to the office of bailiff, a person must be a resident of Harrison County and at least 21 years old.

Term of Office

Sec. 4. The bailiff holds office at the will of the judge.

Duties; May be Deputized

Sec. 5. (a) A person appointed bailiff is an officer of the court. He shall perform in the County

Court of Harrison County all duties imposed on bailiffs under the general laws of Texas and shall perform other duties required by the judge of the court.

(b) The sheriff of Harrison County, on the request of the judge, shall deputize the person who is bailiff of the county court, in addition to other deputies authorized by law.

Compensation

Sec. 6. The bailiff shall be paid a salary in an amount to be set by the judge, not to exceed the salary of a deputy sheriff of the county, and to be paid out of the general fund of Harrison County. [Acts 1977, 65th Leg., p. 1527, ch. 620, eff. Aug. 29, 1977.]

Art. 2292o. Bailiff in the 65th, 120th, 142nd, 205th, 210th, 238th, 243rd, 318th, and 327th District Courts

Bailiff Appointed by Judge

Sec. 1. The judges of the 65th, 120th, 142nd, 205th, 210th, 238th, 243rd, 318th, and 327th district courts may each appoint a person to serve his court as bailiff.

Evidence of Appointment

Sec. 2. An order signed by the appointing judge and entered on the minutes of the court shall be evidence of the appointment of a bailiff. The judge shall give each commissioners court in the district written notification of the appointment, the date of employment, and the compensation to be paid by each county.

Oath

Sec. 3. The following oath shall be administered by the appointing judge to each bailiff appointed under this Act: "You solemnly swear that you will faithfully and impartially perform all duties as may be required of you by law, so help you God."

Qualifications

Sec. 4. To be eligible for appointment to the office of bailiff, a person must be a resident of a county in which he serves the court and must be at least 21 years of age.

Term of Office

Sec. 5. A bailiff holds office at the will of the judge of the court served by the bailiff.

Duties

Sec. 6. A bailiff is an officer of the court and shall perform in each county in which the court sits all duties imposed on bailiffs under the general laws of Texas. The bailiff shall perform other duties required by the judge of the court that he serves but shall have no duties assigned by any other person.

Bailiff Deputized

Sec. 7. The sheriff of each county where the court sits shall, on written notice of the judge, deputize the bailiff in addition to other deputies authorized by law.

Compensation

Sec. 8. Each county in which the court sits shall compensate the bailiff out of the general fund in an amount set in writing by the judge, but not in an amount greater than the amount that the county pays the chief deputy sheriff.

[Acts 1981, 67th Leg., p. 2236, ch. 532, eff. Aug. 31, 1981.]

Art. 2292p. Bailiff in 341st District Court

(a) The judge of the 341st District Court shall appoint a person to serve as bailiff.

(b) An order signed by the judge and entered on the minutes of the court shall be evidence of the appointment of the bailiff. The judge shall give written notification to the commissioners court of the appointment, the date of employment, and the compensation to be paid by the county.

(c) The bailiff shall swear to the following oath, to be administered by the judge: "I solemnly swear that I will faithfully and impartially perform all duties as may be required of me by law, so help me God."

(d) To be eligible for appointment to the office of bailiff, a person must be a resident of Webb County and must be at least 21 years of age.

(e) A bailiff holds office at the will of the judge of the court served by the bailiff.

(f) A bailiff is an officer of the court and shall perform in the county in which the court sits all duties imposed on bailiffs under the general laws of Texas. The bailiff shall perform other duties required by the judge that he serves but shall have no duties assigned by any other person.

(g) The county sheriff shall, on written notice of the judge, deputize the bailiff in addition to other deputies authorized by law.

(h) The county shall compensate the bailiff out of the general fund in an amount set in writing by the judge, but not in an amount greater than the amount that the county pays any full-time deputy sheriff.

[Acts 1983, 68th Leg., p. 4974, ch. 889, § 25, eff. Sept. 1, 1983.]

Art. 2292-1. Travis County; Adult Probation Officer; Secretary; Appointment, Compensation, etc.

Sec. 1. The Judge of the 53rd Judicial District Court of Travis County, Texas; the Judge of the 98th Judicial District Court of Travis County, Texas; and the Judge of the 126th Judicial District Court of Travis County, Texas, for the purpose of effectively carrying out the adult probation laws of this State,

shall be and are hereby authorized to appoint one Adult Probation Officer for Travis County where a probation and parole officer has not been assigned to any court and/or district in said county, in accordance with the provisions of Chapter 452, Acts of the Fiftieth Legislature, 1947, known as the Adult Probation and Parole Law and codified as Article 781b in Vernon's Texas Code of Criminal Procedure.¹

The Judges of the several Judicial District Courts of Travis County, Texas, shall be and are hereby further authorized to appoint one Secretary to serve in the Adult Probation Office.

The salaries of the above mentioned persons shall be set by the Commissioners Court in accordance with the laws governing the salaries permitted to be paid to deputies and assistants of elected county officers.

All such salaries are to be paid out of the General Fund of the county. All necessary and reasonable expenses, including an automobile allowance of Six Cents (6c) per mile for use of personal automobile on official business, for the Adult Probation Officer shall be paid by the Commissioners Court out of the General Fund of the county whenever such expenses are incurred by the Adult Probation Officer in the performance of his duties and the conduct of his office.

The Adult Probation Officer should be of good moral character and acquainted with the Adult Probation and Parole Law. The authority and duties of such Officer shall be the same as those prescribed for probation and parole officers by the Adult Probation and Parole Law. Such Officer and Secretary shall be subject to removal at the will of the majority of the Judges of the several Judicial District Courts of Travis County, Texas.

Sec. 2. The Commissioners Court of Travis County is hereby authorized to amend the county budget for the fiscal year of 1955, from and at the effective date of this Act for the balance of the said fiscal year in order to provide for the salaries of the employees named in this Act and for all reasonable and necessary expenses of such office as herein provided.

Sec. 3. Nothing in this Act shall be construed as repealing Chapter 452, Acts of the Fiftieth Legislature, 1947, except as to provide an alternate method of appointment of an Adult Probation Officer where such officer has not been assigned to any court and/or district in Travis County as provided in this Act.

[Acts 1955, 54th Leg., p. 531, ch. 164.]

¹ See, now, Code of Criminal Procedure, Art. 42.12.

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292-2. Tarrant County; Adult Probation and Parole Officer

Sec. 1. The Judges of the District Courts and Criminal District Courts in Tarrant County, for the purpose of effectively carrying out the adult probation and parole laws of this State, are hereby authorized to appoint an Adult Probation and Parole Officer for Tarrant County, where a probation and parole officer has not been assigned to a court and/or district in Tarrant County in accordance with the provisions of Chapter 452, Acts of the Fiftieth Legislature, 1947, known as the Adult Probation and Parole Law and codified as Article 781b in Vernon's Texas Code of Criminal Procedure.¹ The salary of such Probation and Parole Officer shall be set by the Commissioners Court of Tarrant County and shall be paid out of the general fund of the county.

Upon approval of such expenditures by the Commissioners Court, the aforesaid Judges may appoint assistant probation and parole officers and such other employees as they deem necessary to serve in the Adult Probation Office. The salaries of all such employees shall be paid from the general fund of the county. All necessary and reasonable expenses, including an automobile allowance for use of personal automobiles on official business, of the Adult Probation and Parole Officer or other employees incurred in the performance of their duties and the conduct of the Adult Probation Office, may be paid out of the general fund, upon approval of the Commissioners Court.

The Adult Probation and Parole Officer and all assistant probation and parole officers shall be of good moral character and acquainted with the Adult Probation and Parole Law. The authority and duties of such officer shall be the same as those prescribed for probation and parole officers by the Adult Probation and Parole Law. Such officer and all other employees of the Adult Probation Office shall be subject to removal at the will of the majority of the Judges of the several District Courts and Criminal District Courts of Tarrant County.

The Commissioners Court is hereby authorized to provide office space and equipment for the Probation Office and to pay all other necessary office expenses out of the general fund of the county.

Sec. 2. The Commissioners Court of Tarrant County is hereby authorized to amend the county budget for the fiscal year 1955, from and at the effective date of this Act for the balance of the said fiscal year, in order to provide for the salaries of the employees authorized in this Act and for all reasonable and necessary expenses of such office as herein provided.

Sec. 3. Nothing in this Act shall be construed as repealing Chapter 452, Acts of the Fiftieth Legislature, 1947, except as to provide an alternate method of appointment of Chief and Assistant Probation and Parole Officers where such an Officer has not

been assigned to any court and/or district in Tarrant County as provided in this Act.

[Acts 1955, 54th Leg., p. 1140, ch. 428.]

¹ See, now, Code of Criminal Procedure, art. 42.12.

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292-3. Anderson County; Probation Officer

The county judge of Anderson County may employ a probation officer to serve the county court. The duties and responsibilities of the probation officer shall be prescribed by the county judge. The probation officer shall receive a salary set by the commissioners court.

[Acts 1971, 62nd Leg., p. 2678, ch. 875, eff. June 9, 1971.]

Art. 2292-4. Montague County Probation Department**Establishment**

Sec. 1. There is hereby established the Montague County Probation Department upon affirmative order of the Commissioners Court and so reflected in the minutes of the Court.

Composition and Authority of Board

Sec. 2. The Montague County Probation Board is composed of the district judge and county judge of Montague County, Texas. The board shall have authority to adopt such rules and regulations, not inconsistent with the law, necessary for the operation of the probation board.

Probation Officer; Appointment; Powers and Duties; Term

Sec. 3. The probation board shall appoint a probation officer, who shall have such authority, duties, and powers as now given to probation officers by general laws of the State of Texas, and such authority, duties, and powers as may be given him by the probation board. The probation officer shall be appointed, or reappointed, for two year terms, or unexpired portions thereof. The first term of the probation officer shall expire on December 31, 1974.

Service as Juvenile Officer

Sec. 4. The probation officer shall also serve as juvenile officer of Montague County, Texas, and shall have such authority, duties, and powers as now given juvenile officers by general laws of the State of Texas, and such authority, duties, and powers as may be given him by the probation board.

Salary and Office of Probation Officer

Sec. 5. The salary of the probation officer shall be set by the probation board with the approval of the Commissioners Court, and may be paid by the county treasurer, upon an order of the probation

board, from fees collected by the probation department under authority of this Act. The Commissioners Court of Montague County may furnish the probation officer with a suitable office, including necessary office equipment and supplies, which shall be paid for by the county from its general fund.

Secretarial Help; Expenses

Sec. 6. The probation board may employ such secretarial help, and pay such additional expenses, including automobile expenses, as may be necessary, and as may be paid from the fees collected by the probation department under authority of this Act.

Bond of Officer

Sec. 7. The probation board shall have authority to require and approve a good and sufficient bond of the probation officer, in an amount not to exceed the sum of \$3,000, for the faithful performance of his duties.

Probation Fees; Payment, Collection and Deposit

Sec. 8. For the purpose of providing adequate funds for the proper supervision of the probationers of Montague County, the probation board shall have authority to set probation fees, to be paid to the district court or to the county court in an amount not to exceed the sum of \$10 per month, such fees to be paid to the courts by such probationers as a condition of their respective probations. All probation fees collected by the clerk of the court shall be paid over to the county treasurer on the last day of each calendar month. The county treasurer shall deposit all of such fees in an account to be styled "Probation Fund."

Child Support Division

Sec. 9. There is hereby established in the Montague County Probation Department a child support division. It shall be the duty of the division to assist the district clerk of Montague County in the collections of child support payments, alimony payments, separate maintenance payments, and in the enforcement of child visitation privileges, ordered by the district court of Montague County. The child support division shall initiate contempt proceedings for the enforcement of such orders of the district court.

Service Fees; Payment, Collection and Deposit

Sec. 10. (a) Each month for which a person has been ordered by the district court of Montague County to pay child support, alimony, or separate maintenance into the district clerk's office, the recipient (payee) of such child support, alimony, or separate maintenance shall pay into said district clerk's office a service fee of \$1 per month. The \$1 fee shall be deducted from the payment by the district clerk. If such payments are ordered to be paid semi-monthly or weekly, then the sum of 50

cents shall be deducted from each semi-monthly or weekly payment.

(b) All service fees collected by the district clerk shall be paid over by the district clerk to the county treasurer on the last day of each calendar month. The county treasurer shall deposit all of such fees in an account to be styled "Probation Fund."

(c) The service fees authorized by Subsection (a), Section 10, shall be applicable to all child support, alimony, and separate maintenance payments ordered after the effective date of this Act, and to all other such payments (even though ordered prior to the effective date of this Act) when the person ordered to make such payments has defaulted and has been cited for contempt of court. The service fee shall become due and payable for each month following the hearing on the contempt citation.

County Attorney as Legal Officer; Attorney's Fees; Payment, Collection and Deposit

Sec. 11. For the purpose of providing legal services to the Montague County Probation Department, the county attorney of Montague County is hereby designated as the legal officer of the department. There shall be assessed, as attorney's fees, a fee of \$15 in all matters involving contempt of court for failure or refusal to pay child support, alimony, separate maintenance, or temporary alimony payments, when such contempt action is initiated by the probation department. The fees shall be taxed against the contemner as costs, and shall be collected as under contempt. The attorneys fees shall be paid to the district clerk, and by the district clerk paid over to the county treasurer on the last day of each month. The county treasurer shall deposit the fees in the probation fund. The attorneys fees shall be paid by the county treasurer to the county attorney on order of the probation board.

Appointment of Other Attorney as Legal Officer

Sec. 12. Should the county attorney of Montague County fail, refuse, or decline to perform the duties of legal officer for the probation department, the probation board shall appoint some other suitable attorney as legal officer of the probation department.

Adoption Investigation Fees; Payment, Collection and Deposit

Sec. 13. For the purpose of maintaining adoption investigation services, there shall be taxed, collected, and paid as other costs, the sum of \$25 in each adoption case hereafter filed in district court of Montague County. Such adoption investigations shall be made by the probation officer and findings filed with the judge of the district court as provided by law, and as may be otherwise ordered by the judge of the court. The investigation fees shall be collected by the district clerk, and paid over to the county treasurer by the district clerk on the last day of each month. The county treasurer shall deposit the fees in the probation fund.

Juvenile Investigations

Sec. 14. The juvenile officer shall make such investigation in juvenile cases as is directed by the judge of the juvenile court of Montague County.

Judge; Requiring Probationer to Pay Supervision Fee

Sec. 15. The district judge may in any probation pending in district court on the effective date of this Act, and the county judge may in any probation pending in the county court on the effective date of this Act, upon a motion to revoke such probation, and where such motion is denied, require such probationer to pay the set monthly supervision fee, applicable to such probationer's case, for the remainder of such probationer's period of probation.

[Acts 1973, 63rd Leg., p. 1371, ch. 525, eff. June 14, 1973.]

2. RECEIVERS**Art. 2293. Appointment**

Receivers may be appointed by any judge of a court of competent jurisdiction of this State, in the following cases:

1. In an action by a vendor to vacate a fraudulent purchase of property; or by a creditor to subject any property or fund to his claim; or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff or any party whose right to or interest in the property or fund or the proceeds thereof is probable, and where it is shown that the property or fund is in danger of being lost, removed or materially injured.

2. In an action by a mortgagee for the foreclosure of his mortgage and sale of the mortgaged property, when it appears that the mortgaged property is in danger of being lost, removed or materially injured; or that the condition of the mortgage has not been performed and the property is probably insufficient to discharge the mortgage debt.

3. In cases where a corporation is insolvent or in imminent danger of insolvency; or has been dissolved or has forfeited its corporate rights.

4. In all other cases where receivers have heretofore been appointed by the usages of the court of equity.

[Acts 1925, S.B. 84.]

Art. 2293a. Appointment for Church or Congregation

Sec. 1. That the judge of any district court, or other court having jurisdiction, is hereby authorized and required in term, time,¹ or on vacation, to appoint a receiver or receivers for any defunct or disorganized church or congregation when the fact of such condition is brought to the attention of such court by an application for the appointment of a receiver or receivers for such defunct or disorganized church or congregation.

Sec. 5. The term "church or congregation" is meant to refer to a local congregation of believers in Christ, and not to a denomination or communion as a whole.

Sec. 6. The terms "defunct or disorganized" are meant to apply to an organization which formerly maintained regular forms of work and worship in a given community such as the Bible School, Communion Services, Preaching Services, etc., a regular interval,² and which has ceased to function in these and similar capacities as a church for a period of one or more years.

[Acts 1927, 40th Leg., p. 68, ch. 45 §§ 1, 5, 6.]

¹ So in enrolled bill. Should probably read "termtime".

² So in enrolled bill. Should probably read "at regular intervals,".

Sections 2 to 4 of Acts 1927, 40th Leg., p. 68, ch. 45, enacts arts. 2294a, 2297a, and 4331a, respectively.

Art. 2294. Qualifications

A receiver for property within or partly within and partly without this State must, when appointed, be a bona fide citizen and qualified voter of this State, and if so qualified and appointed he shall keep and maintain actual residence in this State during the pendency of such receivership; if not so qualified, his appointment as such receiver shall be void in so far as the property within this State is concerned. No party, attorney, or any person interested in any way in an action for the appointment of a receiver shall be appointed receiver therein.

[Acts 1925, S.B. 84.]

Art. 2294a. Member of Church or Congregation

That the receiver or receivers appointed for any such defunct or disorganized church or congregation, shall be a member or members of an active church or congregation of like faith and order, or shall be a recognized missionary or ecclesiastical body of like faith and order, denomination or communion; and in case any such denomination or communion of like faith and order, shall have a State Missionary Society, or shall hereafter appoint, elect or organize, or cause to be appointed, elected or organized, such a State Missionary Society, and shall authorize the same to act as a receiver or trustee for such denomination or communion, then such State Missionary Society, or other similar organization so formed and named, shall be appointed to serve as receiver or trustee by said court.

[Acts 1927, 40th Leg., p. 68, ch. 45, § 2.]

Art. 2295. Quo Warranto

Where a domestic corporation owning property in this State shall have a receiver of such property appointed who is not a bona fide citizen and qualified voter of this State, said corporation shall thereby forfeit its charter; and the Attorney General shall at once prosecute a suit by quo warranto against said corporation so offending to forfeit its charter. The court trying the cause shall forfeit the

charter of said corporation upon proof that a person has been appointed receiver of its property situated in this State who is not so qualified.

[Acts 1925, S.B. 84.]

Art. 2296. Oath and Bond

When a receiver is appointed, he shall, before he enters upon his duties, be sworn to perform them faithfully, and shall execute a good and sufficient bond, to be approved by the court appointing him, in the sum fixed by the court, conditioned that he will faithfully discharge his duty as receiver in the action (naming it) and obey the orders of the court therein.

[Acts 1925, S.B. 84.]

Art. 2297. Receiver's Power

The receiver shall have power, under the control of the court, to bring and defend actions in his own name as receiver, to take charge and keep possession of the property, to receive rents, collect, compound for, compromise demands, make transfers, and generally to do such acts respecting the property as the court may authorize.

[Acts 1925, S.B. 84.]

Art. 2297a. Receiver of Church or Congregation

That it shall be the duty of such trustee or trustees when so appointed, to take charge of all property, real, personal or mixed, and choses in action, belonging to such defunct or disorganized church or congregation and administer the same under the direction of the court making the appointment, for the best interest of such defunct or disorganized church or congregation; and where necessary to preserve the property, to sell the same under the order of said court; and in case said court shall be of the opinion that said church or congregation may not be revived or reorganized within a reasonable time, it shall be the duty of said court to order all of said property sold at public or private sale, and the proceeds received from such sale or sales shall be turned over and delivered to said trustee or trustees to be used by them for a church or congregation, denomination or communion or organization of like faith and order.

[Acts 1927, 40th Leg., p. 68, ch. 45, § 3.]

Art. 2298. Investing Funds

The funds in the hands of a receiver may be invested upon interest by order of the court, but no such order shall be made except upon consent of all the parties to the action.

[Acts 1925, S.B. 84.]

Art. 2299. Application of Funds

All moneys that come into the hands of a receiver as such receiver shall be applied as follows, to the payment:

1. Of all court costs of the suit.

2. Of all wages of employes due by the receiver.

3. Of all debts due by the receiver for materials and supplies purchased during receivership by the receiver for the improvement of the property in his hands as receiver.

4. Of all debts due for betterments and improvements done during receivership to the property in his hands as such receiver.

5. Of all claims and accounts against the receiver on contracts made by the receiver during the receivership, and of personal injury claims and claims for stock against said receiver accruing during said receivership, and all judgments rendered against said receiver for personal injuries and for stock killed.

6. Of all judgments recovered against persons or corporations in suits brought before the receiver in the action.

As to all money coming into the hands of a receiver which are the earnings of the property in his hands, said claims shall have a preference lien on the same, and the receiver shall pay the same on the claims against him in the order of preference named above, and the court shall see that he does so.

[Acts 1925, S.B. 84.]

Art. 2300. Discharge of Receiver

If a receiver is discharged pending suits against him for causes of action growing out of and arising during the receivership, the cause of action shall not abate, but may be prosecuted to final judgment against the receiver; and the plaintiff may make the party or corporation to whom the receiver has delivered the property a party to the suit. If judgment is finally rendered in favor of the plaintiff against the receiver, the court shall also enter judgment in favor of the plaintiff against the party to whom the property was delivered by the receiver.

[Acts 1925, S.B. 84.]

Art. 2301. When Property Subject to Execution

Where there is a judgment against a receiver and he shall have in possession moneys subject to the payment of such judgment, and the plaintiff owning the judgment shall apply to the court appointing the receiver for an order to pay said judgment, and if said court should refuse to order said judgment paid, when there is money in the hands of said receiver subject to the payment of the judgment, then the court rendering the judgment shall order an execution to issue on said judgment against said receiver upon the filing by the plaintiff in the court where the judgment was rendered an affidavit reciting that the plaintiff had applied to the court appointing the receiver for an order for said receiver to pay said judgment, and that it was shown to the court that there was money in the hands of the receiver at that time which was subject to the payment of the judgment, and that said court refus-

ed to order him to pay the judgment. Said execution when so issued shall be levied upon any property in the hands of the receiver and the same shall be sold as under ordinary execution; and a sale of the property will convey the title of the same to the purchaser.

[Acts 1925, S.B. 84.]

Art. 2302. Judgments First Lien on Property

All judgments rendered against a receiver for causes of action arising during the receivership shall be a lien upon all property in the hands of the receiver superior to the mortgage lien. If the property should be turned back into the possession of the party or corporation owning same at the time of the appointment of a receiver, or any one for them, or to their assigns or purchasers, the party or corporation so receiving said property from said receiver shall take said property charged with all of the unpaid liabilities of the receiver occurring during the receivership, to the value of the property delivered by the receiver.

[Acts 1925, S.B. 84.]

Art. 2303. Persons Liable for Debts

If a receiver is discharged by the court before all of the liabilities of the receiver arising during the receivership are settled in full, then the person, persons, or corporation to whom the receiver delivers the property that was in his hands as receiver shall be liable to the persons having claims against said receiver for the full amount of the liabilities.

[Acts 1925, S.B. 84.]

Art. 2304. Effect of Discharge

The discharge of a receiver shall not work an abatement of the suit against a receiver nor in any way affect the right of the party to sue the receiver if he sees proper.

[Acts 1925, S.B. 84.]

Art. 2305. Property Liable for Debts

When property has been returned to the original owner without any sale of said property, such owner shall be liable for all of the unpaid liabilities of the receiver in causes of action arising out of and during the receivership, and the plaintiff may make such owner to whom the property was delivered a party defendant along with the receiver; and, if judgment is rendered against the receiver upon a cause of action arising out of and during the receivership, then the court shall also, at the same time, render judgment against such defendants for the amount so found for plaintiff; and plaintiff shall have the right to foreclose his lien on the property so returned.

[Acts 1925, S.B. 84.]

Art. 2306. Outstanding Liabilities at Discharge

If at the date of the discharge of a receiver there exists against him any judgments or unpaid claims

not sued on which arose during the receivership, then such claims and judgments shall be a preference lien on all of the property that was in the receiver's hands as such at said date superior to the mortgage lien; and the person or corporation to whom the receiver has delivered such property shall be liable for such claims and judgments to the value of such property.

[Acts 1925, S.B. 84.]

Art. 2307. Liability of Receiver and Person to Whom Property is Delivered

Any person having a claim against a receiver not sued on at the date of the discharge of the receiver, shall have the right to sue said receiver, either alone or jointly, with the person or corporation to whom the receiver delivered said property that was in his hands as such receiver; and, if any judgment is rendered against said receiver, a judgment shall also be rendered against the person or corporation for the same amount that is rendered against the receiver, not to exceed the value of the property so received by said person or corporation.

[Acts 1925, S.B. 84.]

Art. 2308. Receiver to Give Bond on Appeal

In a suit against a receiver, if the receiver desires to appeal or apply for a writ of error from judgment rendered against him, before such appeal or writ of error shall be perfected or allowed, such receiver shall enter into bond with two or more good and sufficient sureties, to be approved by the clerk of the court or justice of the peace, payable to the appellee or the defendant in error, in a sum at least double the amount of the judgment, interest and costs, conditioned that such receiver shall prosecute his appeal or writ of error with effect; and, in case the judgment of the court to which such appeal or writ or error be taken shall be against him, that he will perform its judgment, sentence, or decree, and pay all such damages and costs as said court may award against him. If the judgment of the appellate court shall be against such receiver, judgment shall, at the same time, be entered against the sureties on his said bond, and execution thereon may issue against such sureties within twenty days after such judgment is rendered.

[Acts 1925, S.B. 84.]

Art. 2309. Deposit of Railroad Funds

When a line of railroad operated by a receiver lies wholly within this State, all money which comes into the hands of the receiver, whether from operating the road or otherwise, shall be kept and deposited in such place within this State as the court may direct, until properly disbursed; but, if any portion of the road lies in another State, the receiver shall be required to deposit in this State at least such share of the funds in his hands as is proportioned to the

value of the property of the company within this State.

[Acts 1925, S.B. 84.]

Art. 2310. Suit By or Against

When property within the limits of this State has been placed in the hands of a receiver who has taken charge of such property, such receiver may, in his official capacity, sue or be sued in any court of this State having jurisdiction of the cause of action, without leave of the court appointing him. If judgment is recovered against said receiver, the court shall order said judgment paid out of any funds in the hands of said receiver as such receiver.

[Acts 1925, S.B. 84.]

Art. 2311. Venue of Suit Against

Actions may be brought against the receiver of the property of any person where said person resides; and against receivers of a corporation in the county where the principal office of said corporation may be located, and against receivers of railroad companies in any county through or into which the road is constructed. Service of summons may be had upon the receiver, or upon the general or division superintendent of the road, or upon any agent of said receiver who resides in the county where the suit is brought.

[Acts 1925, S.B. 84.]

Art. 2312. Venue to Appoint

If the property sought to be placed in the hands of a receiver is a corporation whose property lies within this State, or partly within this State, then the action to have a receiver appointed shall be brought in this State in the county where the principal office of said corporation is located.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 20, ch. 13, § 1.]

Art. 2313. Jurisdiction to Appoint

When a person resides in this State and a receiver is applied for, or if the property sought to be placed in the hands of a receiver is situated within the limits of this State, no court other than one within the limits of this State, shall have power to appoint any receiver of said property.

[Acts 1925, S.B. 84.]

Art. 2314. Inventory by Receiver

The receiver as soon after his appointment as possible, shall return to the court appointing him a true and correct inventory of all property received by him as such receiver.

[Acts 1925, S.B. 84.]

Art. 2315. Where There are Betterments, etc.

When a receiver of a corporation has, under the order of the court appointing him, made improvements upon the property and purchased rolling

stock, machinery, and made other improvements whereby the value of the property of said corporation has been increased, or has extended a road, or acquired any property in connection with said road, and has paid for same out of the current receipts of the corporation that came into his hands as receiver, then, if there be any floating debts against said corporation, said corporation shall be made to contribute to the floating indebtedness to the full value of the money so spent by said receiver as aforesaid. When there are liens of any kind upon the property of said corporation in the hands of such receiver, and said property is sold under the order of the court, and said liens foreclosed, then the court appointing such receiver, if there be any unpaid debts or judgments, or claims against the corporation itself, shall detain in the hands of the clerk of the court money to the full value of the improvements made by the receiver of the property sold, and pay the same over to whoever has or may have a claim, debt, or judgment against said corporation; and the court, in ordering the sale of the property, shall require sufficient cash to be paid in at date of sale to cover the full value of the improvements so made by said receiver out of the current funds received by him from the property while receiver.

[Acts 1925, S.B. 84.]

Art. 2316. Preference Claims

All judgments, claims, or causes of action when determined, existing against any corporation at the time of the appointment of a receiver, shall be paid out of the earnings of such corporation while in the hands of the receiver, to the exclusion of mortgage action; and the same shall be a lien on such earnings.

[Acts 1925, S.B. 84.]

Art. 2317. Receivership of Corporation Limited; Certain Corporations Excepted

No corporation shall be administered in any court more than three years from the date of such appointment except as hereinafter provided; and within three years such court shall wind up the affairs of such corporation, unless prevented by litigation, or unless, at said time, the Receiver shall be conducting and operating the affairs of such corporation as a going concern, in which event the court, upon application, by proper order entered upon the minutes, after hearing held after due notice to all attorneys of record, may extend, from time to time, such receivership for such term and upon such conditions as in its judgment the best interests of all parties concerned may require; provided, that no continuance of a receivership shall be for more than five years additional to the original three years; and provided further, that corporations organized and existing under Section 68 of Article 1302, Chapter 1 of Title 32,¹ and under Title 112, of Revised Civil Statutes of Texas,² shall not be subject to the above provision limiting receiverships to five additional years, but as to such exempted corporations, the

time in which to close any such receivership shall be determined by the court, and it may extend the same, from time to time, for such additional period or periods of time as it may determine.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 58, ch. 29; Acts 1935, 44th Leg., p. 297, ch. 111, § 1; Acts 1935, 44th Leg., p. 698, ch. 298, § 1; Acts 1937, 45th Leg., p. 222, ch. 119, § 1.]

¹ Repealed. See, now, article 1302-3.05.

² Article 6259 et seq.

Art. 2318. Application for Receiver

No receiver of a joint stock or incorporated company, co-partnership or private person shall ever be appointed on the petition of such joint stock or incorporated company, partnership or person. A stockholder or stockholders of such joint stock or incorporated company may have his or their action against such company, and may have a receiver appointed as in ordinary cases. Nothing herein shall prevent a member of any co-partnership from having a receiver appointed whenever a cause of action arises between the co-partners.

[Acts 1925, S.B. 84.]

Art. 2319. Rules of Equity Shall Govern

In all matters relating to the appointment of receivers, and to their powers, duties and liabilities, and to the powers of the court in relation thereto, the rules of equity shall govern whenever the same are not inconsistent with any provision of this chapter and the general laws of the State.

[Acts 1925, S.B. 84.]

Art. 2320. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2320a. Unconstitutional

Article 2320a, which provided for the reorganization and adjustment of the affairs of distressed debtors and was derived from Acts 1934, 43rd Leg., 3rd C.S., p. 43, ch. 24, § 2, was held unconstitutional on the ground of impairment of obligations of contract in violation of Const. art. 1, § 16, and U.S.C.A. Const. art. 1, § 10, in *Cattle Raisers Loan Co. v. Doan* (Civ.App.1935) 86 S.W.2d 252, error denied 127 T. 1, 86 S.W.2d 1082.

Art. 2320b. Receivers of Mineral Interests Owned by Nonresidents or Absentees

Claimants or Owners of Undivided Mineral and Leasehold Interests; Appointment of Receiver; Petition

Sec. 1. To encourage the exploration and development of mineral resources, in an action filed in the District Court by any person, firm or corporation having, claiming or owning an undivided mineral interest in any tract of land in the State of Texas, or any person, firm or corporation having, claiming or owning an undivided leasehold interest granted under a mineral lease covering any tract of land in the State of Texas, in which it is made to appear that one or more of the defendants in such action are nonresidents of the State of Texas, or persons whose identity or place of residence is unknown and

that such nonresidents of Texas or persons whose identity or place of residence is unknown have, claim or own an undivided mineral interest in said land and have not paid taxes on said mineral interests or rendered same for taxes within the five successive years immediately preceding the filing of the action, the District Court shall have power to appoint the county judge of the particular county in which the land is located, and his successors in office or the county clerk of the particular county in which the land is located and his successors in office or any resident of said county, as the receiver of said undivided mineral interest owned by any one or more of such defendants, such receiver to serve without the necessity of his posting bond, provided a duly verified petition, naming the last known owner or the last record owner of the interest as defendants, is filed and satisfactory proof is made to the Court that the plaintiff or plaintiffs have made diligent but unsuccessful effort to locate such defendants, and that the plaintiff or plaintiffs will suffer substantial damage or injury unless such receiver is appointed. Such receivership shall continue so long as any of such defendants, or his heirs, assigns or personal representatives, shall have failed to appear, either in person or by agent or attorney, in such court to claim his interest in the ownership of the minerals dealt with in the action.

Claimants or Owners of Undivided Leasehold Interest under Mineral Lease; Appointment of Receiver; Petition

Sec. 2. In an action filed in the District Court by any person, firm or corporation having, claiming or owning an undivided leasehold interest granted under a mineral lease covering any tract of land in the State of Texas in which it is made to appear that one or more of the defendants in such action are nonresidents of the State of Texas, or persons whose identity or place of residence is unknown, and who have, claim or own an undivided leasehold interest granted under a mineral lease covering said land and have not paid taxes on said leasehold interest or rendered same for taxes within the five successive years immediately preceding the filing of the action, the District Court shall have power to appoint a receiver of said undivided leasehold interest owned by any one or more of such defendants, provided a duly verified petition is filed and satisfactory proof is made that the plaintiff or plaintiffs have made diligent but unsuccessful effort to locate such defendants, and that the plaintiff or plaintiffs will suffer substantial damages or injury unless such receiver is appointed. The receivership continues as long as the defendant or his heir, assign, or personal representative fails to appear, either in person or by agent or attorney, in the court to claim the interest in the ownership of the leasehold interest.

Execution of Mineral Leases; Assignment of Outstanding Undivided Mineral Leasehold Interest; Unitization Agreements; Payment and Application of Consideration

Sec. 3. Such receiver, under the orders of the court, shall have power, authority and duty, subse-

quent to his appointment and from time to time thereafter, to (1) execute and deliver to a lessee, or successive lessees, mineral leases on such outstanding mineral interests, (2) to execute and deliver to a lessee, or successive lessees, an assignment of any such outstanding undivided mineral leasehold interest, and (3) to enter into any unitization agreement which has been duly authorized by the Railroad Commission of Texas. Such receiver shall execute such leases or assignments, or enter into such unitization agreements forthwith upon the entry of any such decree by the District Court. The money consideration, if any, to be paid for the execution of the aforementioned leases, assignments and/or unitization agreements by such receiver, shall be paid over to the clerk of the District Court in which the cause is pending, prior to the execution of the instrument by the receiver, and thereafter, after applying such money consideration, if any, to costs that may have accrued in such cause, the district clerk shall retain the balance of such funds for the use and benefit of such nonresident or unknown owners of such mineral interests or leasehold interests, as the case may be, and any future payments paid under such mineral lease, assignment of leasehold interest or unitization agreement, shall be paid directly into the registry of the court and impounded for the use and benefit of such nonresident and unknown owners.

Definitions

Sec. 4. When used in this Act

(1) the term "mineral lease" shall be deemed to include oil and gas leases and oil, gas and mineral leases of every kind and nature containing any and all provisions necessary or incident to the orderly exploration, development and recovery of oil, gas and other minerals including provision authorizing lessee to pool and unitize the lands subject thereto with adjacent lands into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10% tolerance provided that should any governmental authority having jurisdiction prescribe or permit larger units, then such units may conform substantially in size with those prescribed by government regulations;

(2) the term "leasehold interest" shall be deemed to include any and all ownerships created under a mineral lease or carved out of a leasehold estate granted under a mineral lease and without limiting the foregoing shall include production payments, overriding royalty interests and working interests;

(3) the term "lessee" shall be deemed to include an assignee under an assignment or a mineral lease as that term is defined under Subsection 1 above.

Cumulative Effect of Law

Sec. 5. This Act shall not have the effect of altering or changing any laws now in effect relating to suits for the removal of cloud from title or the

appointment of receivers under any other law, but is cumulative thereof.

[Acts 1945, 49th Leg., p. 449, ch. 281. Amended by Acts 1951, 52nd Leg., p. 460, ch. 287, § 1; Acts 1965, 59th Leg., p. 1413, ch. 626, § 1, eff. June 17, 1965; Acts 1973, 63rd Leg., p. 1670, ch. 603, § 1, eff. Aug. 27, 1973; Acts 1979, 66th Leg., p. 374, ch. 169, § 1, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 115, ch. 25, §§ 1, 2, eff. April 13, 1983.]

Art. 2320c. Contingent Interests; Receiver to Make Mineral, Oil or Gas Lease; Pooling

Sec. 1. Where lands or any estate therein are subject to contingent future interests, legal or equitable, whether arising by way of remainder, reversion, possibility of reverter, executory devise, upon the happening of a condition subsequent, or otherwise, and it is made to appear that such lands or estate are liable to drainage of oil, gas and other minerals, or either of them, or that lease thereof for oil, gas and mineral development and the safe and proper investment of the proceeds will inure to the benefit and advantage of the persons entitled thereto, or that it is otherwise necessary for the conservation, preservation or protection of the property or estate or of any present or contingent or future interest therein, that such lands or estate be leased for the production of oil, gas and other minerals, or either of them, upon application of any person having a vested, contingent, or possible interest in said lands or estate, any District Court of the county in which the lands or a part thereof lie shall have power, pending the happening of the contingency and the vesting of such future interests, to appoint a receiver for such lands or estate and to authorize and direct the lease of such property for development of oil, gas and other minerals, or either of them, either at public sale or at private sale, and upon such terms and conditions as the Court may direct; and in such case to authorize a receiver to make such lease and to receive, hold and invest the proceeds thereof under the direction of the Court for the benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests, and to that end may confer all necessary powers on the receiver.

Sec. 2. Where lands or any estate therein, including any contingent future interests described in Section 1 of this Act, are subject to an existing oil, gas and mineral lease which fails to provide for pooling or contains pooling provisions which are ineffective as to the contingent future interests covered by the lease, and it is made to appear that pooling of the contingent future interests is necessary to protect correlative rights, or to prevent the physical or economic waste of oil, gas and other minerals, or any of them, or that pooling of the contingent future interests will inure to the benefit and advantage of the persons entitled thereto, or that pooling is otherwise necessary for the conservation, preservation or protection of the property or estate or of any present or contingent or future interest therein, upon application of any person

having a vested, contingent or possible interest in the lands subject to the lease, including the lessee therein and any assignee of the lessee, any district court of the county in which the lands or part thereof lie shall have power, pending the happening of the contingency and the vesting of the future interests, to appoint a receiver for the contingent interests covered by the lease and to authorize and direct the amendments of the lease to authorize pooling of the contingent future interests, upon the terms and conditions and for additional consideration, if any, as the court may direct; and in such case to authorize a receiver to make such an amendment to the lease and to receive, hold and invest the additional consideration therefor, if any, under the direction of the court for the benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests, and to that end may confer all necessary powers on the receiver.

Sec. 2A. Any lease given pursuant to Section 1 of this Act or any amendment of an existing lease made pursuant to Section 2 of this Act may authorize the lessee and his assigns to pool all or any part of the lands subject to the lease with adjacent lands into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10% tolerance. Provided that should any governmental authority having jurisdiction prescribe or permit larger units, than¹ the units may conform substantially in size with those prescribed or permitted by government regulations.

¹ Probably should read "then".

Sec. 2B. In any cause commenced pursuant to Section 1 or Section 2 of this Act, all persons in being having a vested, contingent or possible interest in the lands shall be cited in the cause in the manner and for the time provided for in actions concerning title to lands. All persons not in being shall be cited in the manner and for the time provided in actions against unknown owners or claimants of interest in land. Provided in any cause commenced pursuant to Section 2 of this Act, a person shall not be a necessary party in the cause if at the commencement thereof the person's interest in the land is then effectively subject to pooling authority expressed in an existing oil, gas and mineral lease and if enlargement of the pooling authority as to the interest is not sought in the cause.

Sec. 2C. In any cause commenced pursuant to this Act, the court may authorize and direct that the moneys, if any, paid to the receiver, after payment of the court costs, shall be by him deposited in the registry of the court for the use and benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests, and thereupon the court may immediately discharge the receiver, and any future payments accruing under the lease to the contingent future interests leased or subjected to pooling in the cause shall be paid directly into the registry of the court and

impounded for the benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests.

Sec. 3. No mineral lease on which there has already been drilled any oil or gas well, or both, and no mineral lease or leasing unit upon which drilling operations for oil and gas, or both, have already begun at the time of the effective date of this Act, shall come within the application of the provisions of this Act; it being the intention of the Legislature that the provisions of this Act shall apply only to mineral leases where there has been no development for oil and gas, or other minerals, upon the effective date of this Act. It is further provided, however, that no lease shall be authorized covering any mineral interest in lands, in which lands there are existing homestead rights, without the written consent of the owner or owners of such homestead rights given in the manner provided by law for the conveyance of homesteads.

Sec. 4. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the Courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act; and the Legislature hereby declares that it would have enacted, and does here now enact, such remaining portions despite any such invalidity.

[Acts 1949, 51st Leg., p. 956, ch. 525. Amended by Acts 1969, 61st Leg., p. 2543, ch. 847, §§ 1, 2, eff. June 18, 1969.]

3. OFFICIAL COURT REPORTER

Art. 2321. Appointment and Examination

Each judge of a court of record shall appoint an official court reporter who shall be a sworn officer of the court and shall hold office at the pleasure of the court.

[Acts 1925, S.B. 84. Amended by Acts 1977, 65th Leg., p. 1158, ch. 438, § 17, eff. Aug. 29, 1977.]

Repealer

Acts 1971, 62nd Leg., p. 2019, ch. 622, providing for the setting of compensation, expenses and allowances for certain county and precinct officials and employees by the commissioners courts effective January 1, 1972, provides in section 8 thereof that to the extent any local, special, or general law, including Acts of the 1971 Legislature, prescribes such compensation, expenses and allowances for any official or employee covered by this Act, that law is repealed. See article 3912k.

Art. 2322. Oath

Said reporter in addition to taking the official oath shall subscribe to an oath to be administered to him by the district clerk to the effect that he will well and truly in an impartial manner keep a correct

record of all evidence offered in each case reported by him, together with the objections and exceptions made by the parties to such suit, and the rulings and remarks of the court in passing upon the admissibility of testimony.

[Acts 1925, S.B. 84.]

Art. 2323. Deputy Reporter

In case of illness, press of official work, or unavoidable disability of the official shorthand reporter to perform his duties in reporting proceedings in court, the judge of the court may, in his discretion, authorize a deputy shorthand reporter to act during the absence of said official shorthand reporter, and said deputy shorthand reporter shall receive, during the time he acts for said official shorthand reporter, the same salary and fees as the official shorthand reporter of said court, to be paid in the manner provided for the official shorthand reporter; but the said official shorthand reporter shall also receive his salary in full during said temporary disability to act. The necessity for a deputy official shorthand reporter shall be left entirely within the discretion of the judge of the court.

[Acts 1925, S.B. 84.]

Saved from Repeal

Acts 1937, 45th Leg., p. 576, ch. 286, § 1, which amended Art. 2327A (repealed in 1947), relating to salary of certain court reporters, provided in the second paragraph that nothing in the Act should be construed as repealing this article.

Art. 2323a. Deputy Court Reporter for 70th Judicial District

Sec. 1. The official court reporter of the 70th Judicial District, composed of the counties of Midland and Ector, is hereby granted authority to appoint a deputy court reporter for the 70th Judicial District.

Sec. 2. The deputy court reporter provided for in this Act shall have the authority and perform such duties as are now required of the official court reporter of the 70th Judicial District under the direction and in the name of the official court reporter of the 70th Judicial District.

Sec. 3. No money shall ever be expended by the counties composing the 70th Judicial District and no money shall ever be expended by the State of Texas for salary or other expense of such deputy court reporter.

[Acts 1951, 52nd Leg., p. 314, ch. 190.]

Art. 2324. Duty of Reporter

Each Official Court Reporter shall upon request:

Attend all sessions of the court; take full shorthand notes of all oral testimony offered in cases tried in said court, together with all objections to the admissibility of the evidence, the rulings and

remarks of the court thereon, and all exceptions thereto; take full shorthand notes of closing arguments when requested to do so by the attorney for any party to such case, together with all objections to such arguments, the rulings and remarks of the court thereon, and all exceptions thereto;

Preserve all shorthand notes taken in said court for future use or reference for three full years, and furnish to any person a transcript of all such evidence or other proceedings, or any portion thereof as such person may order, upon the payment to the official shorthand reporter of the fees provided by the judge.

When any party to any suit reported by any such reporter shall desire a transcript of the evidence in said suit, said party may apply for same by written demand, and the reporter shall make up such transcript and shall receive as compensation therefor a reasonable amount, subject to the approval of the judge of the court if objection is made thereto, taking into consideration the difficulty and technicality of the material to be transcribed and the time within which the transcript is requested to be prepared. The original transcript fee charged shall pay for the original plus one copy of the transcript, and additional copies may be purchased for a fee per page not in excess of one-third ($\frac{1}{3}$) of the original cost per page. In addition such reporter may make a reasonable charge, subject to the approval of the trial court if objection shall be made thereto, for postage and/or express charges paid; photostating, blue-printing or other reproduction of exhibits; indexing; and preparation for filing and special binding of original exhibits. Provided further, that in case any such reporter shall charge in excess of the fees herein allowed by the judge, whether by accident or design, he shall, on demand filed with the court, make refund of the excess to the party to which it is due. Provided, however, that the Supreme Court of Texas under its rulemaking authority shall provide for the duties and fees of court reporters in all civil judicial proceedings, except as provided by law.

[Acts 1925, S.B. 84. Amended by Acts 1955, 54th Leg., p. 1033, ch. 390, § 1; Acts 1961, 57th Leg., p. 620, ch. 290, § 1; Acts 1975, 64th Leg., p. 826, ch. 319, § 1, eff. May 27, 1975.]

Art. 2324a. Powers as to Depositions, Commissions, Oaths and Affidavits

Sec. 1. All official District Court reporters are authorized to take depositions of witnesses, and to receive, execute and return commissions, administer oaths and affidavits, in connection with such depositions, and make a certificate of such fact, and do all other things necessary in the taking of such depositions in accordance with existing laws.

Sec. 2. Said reporters shall have authority to perform the above mentioned acts only within any county within the judicial district that such reporter was appointed and serving in connection with his official business, in the State of Texas.

Sec. 3. This Act shall be cumulative of all existing laws providing for the method and manner of taking depositions.

[Acts 1945, 49th Leg., p. 386, ch. 248.]

Art. 2324b. Regulation and Certification of Court Reporters

Certificate Required

Sec. 1. (a) No person may be appointed an official court reporter or deputy court reporter or may engage in the practice of shorthand reporting for use in litigation in the courts of this state unless that person is certified as a shorthand reporter by the Supreme Court of Texas as provided by this Act.

(b) A certification under this Act must be for one or more of the following methods of shorthand reporting:

- (1) written shorthand;
- (2) machine shorthand;
- (3) oral stenography; or

(4) any other method of shorthand reporting as authorized by rule of the supreme court.

(c) A person certified under this Act prior to September 1, 1983, may retain a general certification authorizing the person to use any method of shorthand reporting authorized by this section, but the person must keep the certification in continuous effect.

Penalties

Sec. 2. A person engaging in the practice of shorthand reporting who violates the provisions of Section 1 of this Act is guilty of a Class A misdemeanor, and each day of violation shall constitute a separate offense.

Definition

Sec. 3. In this Act, "the practice of shorthand reporting for use in litigation in the courts of this state" means the making of a verbatim record of an oral court proceeding, deposition, or proceeding before a grand jury, referee, or court commissioner by means of written symbols or abbreviations in shorthand or machine shorthand writing or oral stenography.

Court Reporters Certification Board; Creation; Membership

Sec. 4. (a) There is hereby created the Court Reporters Certification Board to consist of the following 12 members appointed by the supreme court:

(1) one active district judge who shall serve as the chairman of the board;

(2) two active members of the State Bar who have been practicing members of the bar during more than five consecutive years next preceding their appointment;

(3) three active official court reporters and three active free-lance certified shorthand reporters who have been engaged in the practice of shorthand reporting for use in litigation in the courts of this state during more than five consecutive years next preceding their appointment; and

(4) three citizens of this state who are not and whose spouses are not judges licensed to practice law in this state, shorthand reporters, elected public officials, or full-time governmental employees.

(b) It is the intent of the legislature that the membership of the board reflect the historical and cultural diversity of the inhabitants of this state; therefore, appointments to the board should be made without discrimination based on race, creed, sex, religion, national origin, or geographical distribution of the appointees. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board or a person who is an owner, officer, or employee of a school or institution engaged in instructing persons in court reporting skills may not serve as a member of the board or act as the general counsel to the board.

(c) A reference to the "committee" or "committee members" in this Act means "board" or "board members."

(d) A member or employee of the board may not be an officer, employee, or paid consultant of a trade association in the court reporting industry. A member or employee of the board may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the court reporting industry.

Terms of Office

Sec. 5. The regular term of office of board members shall be six years.

Application of Sunset Act

Sec. 5A. The Court Reporters Certification Board is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the board is abolished effective September 1, 1987.

Successors; Vacancies

Sec. 6. Committee members shall hold office until the appointment and qualification of their successors. An interim vacancy shall be filled for the unexpired portion of the term in the same manner as the appointment at the expiration of a full term. Committee members may succeed themselves in office only if they have served less than three consecutive years.

Compensation; Expenses

Sec. 7. Committee members shall receive no compensation for their services but are entitled to receive actual and necessary expenses for traveling and other necessary expenses incurred in the discharge of their duties as members of the committee.

Meetings, Hearings, Examinations; Quorum; Records

Sec. 8. The committee may hold its meetings, hearings, examinations, and other proceedings at such times and places as it shall determine but shall meet in Austin, Texas, at least once each year. Five members constitute a quorum for the transaction of business. The committee shall keep a complete record of all of its proceedings and all certificates issued, renewed, or revoked, together with a detailed statement of receipts and disbursements.

Executive Functions; Subcommittees; Employees

Sec. 9. The committee is charged with the executive functions necessary to effectuate the purposes of this Act under such rules as may be promulgated by the supreme court. The committee may appoint subcommittees as it deems necessary or proper. The committee may employ the employees it deems necessary for the performance of the duties and exercise of the powers conferred on the committee and may pay from funds available to it all expenses reasonably necessary to effectuate the purposes of this Act.

Application for Examination; Fee

Sec. 10. Each applicant for a certificate under this Act shall file an application with the committee at least 30 days before the date fixed for examination, accompanied by the required fee. The fee for an examination given by the committee shall be fixed by the committee, subject to the approval of the supreme court.

Initial Certification Fee; Renewal and Reinstatement of Certification

Sec. 11. (a) Each person to whom certification is issued shall, as a condition precedent to its issuance and in addition to any other fee which may be payable, pay the initial certification fee which shall be fixed by the board, subject to approval by the supreme court.

(b) Each certification issued under this Act that has not been renewed shall expire at 12:01 a.m. on January 1 following the second anniversary of the date of the issuance of the certification and every second year thereafter. To renew a certification, the certified shorthand reporter shall, on or before the expiration date of the certification, pay the renewal fee which shall be fixed by the board, subject to approval by the supreme court.

(c) The board may reinstate an expired certification if, not later than the 120th day after the day of expiration, the applicant pays the renewal fee and any penalty fee established by the board and ap-

proved by the supreme court. The reinstatement dates from the original date of expiration.

(d) The board may reinstate a certification that has been expired for more than 120 days if the board finds, on a sworn affidavit of the applicant or by another method determined by the board, that the applicant has retained the professional skills required for original certification and has paid all delinquent renewal fees and any penalty fee established by the board and approved by the supreme court. Reinstatement under this subsection expires on January 1 nearest the second anniversary of the reinstatement.

Powers and Duties of Committee

Sec. 12. (a) The committee shall have the powers and duties enumerated in Subsections (b) through (e) of this section.

(b) The board shall administer tests to determine the qualifications of persons applying for certification under this Act in one or more of the methods of shorthand reporting authorized by this Act. Each test shall be given in two parts to be designated Part A and Part B. Part A shall be composed of five minutes of two-voice dictation of questions and answers given at 225 words per minute, five minutes of dictation of jury charge given at 200 words per minute, and five minutes of dictation of selected literary material given at 180 words per minute. Each applicant shall personally take down the test, either in his own writing or his own voice, and shall reduce to writing the takedown on either a manual or electric typewriter. The minimum passing grade on each section of Part A of the test shall be 95 percent accuracy. An error shall be charged for each wrong word, for each omitted word, for each added word not dictated, for each contraction where read as two words, for two words where read as a contraction, for each misplaced word, for each misplaced period that would materially alter the sense of a group of words or a sentence, for each misspelled word, for each plural or singular where the opposite was dictated, and for each wrong number. The use of a dictionary will be permitted during Part A of the test. Applicants will be allowed three hours to complete the transcription of Part A of the test. If time permits, the applicant may review his transcript but shall use only his original takedown from which his transcript was prepared to review the transcript. Part B of the test shall consist of objective questions touching on elementary aspects of court reporting, spelling, and grammar. The use of a dictionary will not be permitted during Part B of the test. The minimum passing grade on Part B will be 75 percent. Anyone discovered cheating on the tests is disqualified and will not be eligible for retesting for a period of two years.

(c) The committee shall charge and collect from all applicants for certificates and renewal of certificates the fees provided in this Act.

(d) The board shall determine the qualifications and pass on the eligibility of all persons applying for certification or recertification under this Act. After notice and an opportunity for a hearing, the board may refuse to certify to the supreme court the application of a person convicted of:

(1) A criminal offense, involving moral turpitude, that indicates a clear and rational likelihood that the person will not properly discharge the responsibilities of a certified shorthand reporter; or

(2) a criminal offense involving fraud or corruption.

(e) The committee shall certify to the supreme court the applicants that are determined on examination by the committee to be qualified in professional shorthand reporting.

(f) Rules not inconsistent with this section may be promulgated by the supreme court.

Revocation or Suspension of Certification

Sec. 13. (a) The board may revoke or suspend any certification issued under this Act or issue a reprimand to a certified shorthand reporter on a verified complaint after notice and opportunity of a hearing for:

(1) fraud or corruption;

(2) dishonesty;

(3) wilful or negligent violation or failure of duty;

(4) incompetence;

(5) fraud or misrepresentation in obtaining certification;

(6) a final conviction of a criminal offense, involving moral turpitude, that indicates a clear and rational likelihood that the reporter will not properly discharge the responsibilities of a certified shorthand reporter;

(7) engaging in the practice of shorthand reporting for use in litigation in the courts of this state by using a method for which the reporter is not authorized to practice or while certification is suspended;

(8) unprofessional conduct; or

(9) other sufficient cause.

(b) The notice shall state the cause for the contemplated disciplinary action and the time and place of the hearing and shall be mailed to the registered address of the holder of the certification at least 30 days before the hearing.

(c) Each board member is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, and take evidence and require the production of any records concerning any matter within the jurisdiction of the board, at the direction of a majority of the board. The board shall reduce to writing a summary of the evidence given before it and shall make a written finding of the facts thereon.

(d) A disciplinary action of the board may be appealed by the aggrieved person on trial de novo, with or without a jury, to the district court in the county of the aggrieved person's residence. If the aggrieved party is the official court reporter or deputy court reporter of the court in which the proceeding would be heard, the presiding judge of the administrative judicial district shall appoint the judge of another court or a retired judge to hear and determine the complaint.

(e) A person desiring to file a complaint against a court reporter holding certification under this Act shall obtain from the board a complaint form, which shall be completed and signed under oath, attaching thereto any pertinent documentary evidence. On receipt of the form properly executed, it is the duty of the board to duplicate and furnish copies of the complaint and attachments to the certified shorthand reporter against whom the complaint was filed.

(f) Within 30 days from the date the verified complaint is received by the board, it shall set a date for the hearing, if a hearing is deemed advisable by the board, and shall immediately notify the holder of the certification of the date of the hearing.

(g) The board shall govern the treatment of the request for continuances with regard to hearings before the board.

(h) Rules not inconsistent with this section may be promulgated by the supreme court. At the hearing, the board will adhere to the general rules of evidence applicable before the district courts of the state.

(i) Five members of the board shall constitute a quorum. The chairman or his designee shall preside at the hearings.

(j) A copy of the findings and rulings of the board shall be forwarded to the complainant and the aggrieved person.

(k) The board may suspend a certification:

(1) for a designated period of time, not exceeding 12 months;

(2) until the person has corrected the deficiencies that were the grounds for suspension; or

(3) until the person has complied with any conditions imposed by the board to ensure the future performance by the shorthand reporter.

(l) The suspended shorthand reporter may apply for reinstatement by presenting proof that:

(1) the designated time has expired;

(2) the person has corrected the deficiencies; or

(3) the person has complied with the conditions.

(m) The board on its own motion may conduct a hearing to inquire into a person's suspension and may revoke the certification of a shorthand reporter if it finds that the person has not corrected the

deficiencies or has not complied with the conditions imposed.

Employment of Noncertified Reporters

Sec. 14. Nothing in this Act shall be construed to prohibit the employment of a shorthand reporter not holding a certificate until a certified shorthand reporter is available. Oral depositions, however, may be reported by a person not certified under this Act only if the noncertified reporter delivers to the parties or their counsel present at the deposition an affidavit that no certified shorthand reporter is then available or, on stipulation on the record at the commencement of the deposition, by the parties or their counsel present at the deposition. The provisions of this section do not apply to depositions taken outside this state for use in this state.

Persons Excluded from Act

Sec. 15. The provisions of this Act shall not apply to a party to the litigation involved, his attorney, or to a full-time employee of either.

Title Upon Certification; Oaths

Sec. 16. On certification, a court reporter is entitled to use the title "Certified Shorthand Reporter" or the abbreviation "CSR." A certified shorthand reporter may administer oaths to witnesses anywhere in this state.

Rules

Sec. 16A. The supreme court may promulgate rules, not inconsistent with this Act, governing the certification and conduct of court reporters and persons who engage in the practice of shorthand reporting.

[Acts 1977, 65th Leg., p. 1155, ch. 438, §§ 1 to 16, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 3159, §§ 1 to 9, eff. Sept. 1, 1983]

Sections 10 and 11 of the 1983 amendatory act provide:

"Sec. 10. An applicant is not required to take an examination and shall be certified as a shorthand reporter under Chapter 438, Acts of the 65th Legislature, Regular Session, 1977 (Article 2324b, Vernon's Texas Civil Statutes), if:

"(1) the person was an official court reporter of a court of record in this state on August 29, 1977, or had been actively engaged in the practice of shorthand reporting for use in litigation in the courts of this state before that date; and

"(2) the Court Reporters Certification Board receives the application for certification before September 1, 1984."

"Sec. 11. The supreme court shall appoint one citizen member to the Court Reporters Certification Board as required by Section 4, Chapter 438, Acts of the 65th Legislature, Regular Session, 1977 (Article 2324b, Vernon's Texas Civil Statutes), for a term that expires December 31, 1984, one citizen member for a term that expires December 31, 1986, and one citizen member for a term that expires December 31, 1988."

Art. 2325. Repealed by Acts 1955, 54th Leg., p. 1033, ch. 390, § 2

Art. 2326. Compensation

The official shorthand reporter of each Judicial District Court, civil or criminal, and the official shorthand reporter of each County Court-at-Law,

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

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

The official shorthand reporter in each of all other Judicial District Courts, civil or criminal, and the official shorthand reporter in each of all other County Courts-at-Law, civil or criminal, in this State shall receive a salary of not less than Twenty-seven Hundred and Fifty (\$2750.00) Dollars per annum, and not more than Sixty-six Hundred (\$6600.00) Dollars per annum; said salary shall be fixed and determined by the District Judges of such Judicial District Courts, civil or criminal, and the Judges of such County Courts-at-Law, civil or criminal, who shall enter an order in the minutes of the court, in each county of the district, which shall be a public record and open for public inspection, stating specifically the amount of salary to be paid said reporter. The District Judge shall file a copy of said order with each Commissioners Court of the District. The salary shall be in addition to the transcript fees and traveling and hotel expenses of official shorthand reporters as provided by law; and the salary shall

be paid monthly out of the General Fund, Officers Salary Fund, Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Court of the county or counties in which the court sits, and in which the service is performed.

It is further provided that before any increase in salary shall become effective, notice thereof shall be printed one time in at least one (1) newspaper in each county of the judicial district, the cost of publication of said notice to be paid by the Commissioners Court of each county out of any funds available.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 460, ch. 291, § 1; Acts 1949, 51st Leg., p. 820, ch. 440, § 1; Acts 1953, 53rd Leg., p. 1017, ch. 418, § 1.]

Art. 2326a. Expenses and Manner of Payment

All official shorthand reporters and deputy official shorthand reporters of the District Courts of the State of Texas composed of more than one county, when engaged in the discharge of their official duties in any county in this state other than the county of their residence shall, in addition to the compensation now provided by law for their services, be allowed their actual and necessary expenses while actually engaged in the discharge of such duties, not to exceed the sum of Fifteen Dollars (\$15.00) per day for hotel bills, and not to exceed Six Cents (6¢) a mile when traveling by railroad or bus lines, and not to exceed Sixteen Cents (16¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid after the completion of each term of court by the respective counties of the Judicial District for which they are incurred, each county paying the expenses incidental to its own regular or special term of court, and said expenses shall be paid to the official or deputy official shorthand reporter by the Commissioners Court of the county, out of the general fund of the county, upon the sworn statement of the reporter, approved by the Judge.

Provided there shall not be paid to any such official shorthand reporter, or his deputy, more than Two Thousand Dollars (\$2,000.00) in any one year under the provisions of this Act; provided further, that in districts containing two counties only, the expenses herein allowed shall never exceed Four Hundred Dollars (\$400.00) per annum; in districts containing three counties only, the expenses herein allowed shall never exceed Eight Hundred Dollars (\$800.00) per annum; in districts containing four counties only, the expenses herein allowed shall never exceed One Thousand, Four Hundred Dollars (\$1,400.00) per annum; in districts containing five or more counties the expenses herein allowed shall never exceed Two Thousand Dollars (\$2,000.00) per annum.

The account for such services herein provided for shall be sworn to in duplicate by the reporter, and

approved by the District Judge, and one copy of said account shall be filed by the reporter with the clerk of the District Court of the county where the Judge of the district resides.

Whenever a special term of any District Court in this state is convened and the services of an additional official or deputy official shorthand reporter is required, then this Act shall also apply to said shorthand reporter so employed by the Judge of said special term, and all expenses as herein provided shall be allowed and paid said shorthand reporter so employed for said special term by the county wherein said special term is convened and held, and shall be in addition to the expenses herein provided for the official or deputy official shorthand reporter of the district.

Provided, however, that whenever any official or deputy official shorthand reporter is called upon to report the proceedings of any special term of court, or on account of the sickness of any official shorthand reporter of any Judicial District, necessitating the employment of a shorthand reporter from some other county within the state, then the shorthand reporter so employed shall receive and be paid all actual and necessary expenses in going to and returning from the place where he or she may be called on to report the proceedings of any regular or special terms of court.

[Acts 1929, 41st Leg., p. 112, ch. 56, § 1. Amended by Acts 1939, 46th Leg., Spec.Laws, p. 622, § 1; Acts 1957, 55th Leg., p. 486, ch. 234, § 1; Acts 1977, 65th Leg., p. 310, ch. 144, § 1, eff. May 13, 1977.]

Saved From Repeal

This article was not repealed by Acts 1937, 45th Leg., p. 73, ch. 44, § 1 (article 2326d); nor repealed by Acts 1937, 45th Leg., p. 576, ch. 286, § 1 (formerly article 2327a, repealed); nor repealed or amended by Acts 1945, 49th Leg., p. 460, ch. 291, § 2 or by Acts 1953, 53rd Leg., p. 1017, ch. 418, § 2; nor repealed by Acts 1957, 55th Leg., p. 204, ch. 92, § 3 (article 2326l); nor repealed by Acts 1959, 56th Leg., p. 485, ch. 215, § 3 (article 2326n).

Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326l-1, § 3.

Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326j-6, § 3.

Acts 1969, 61st Leg., p. 2119, ch. 723, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326o, § 3.

Art. 2326a-1. Travel Expenses and Per Diem Payments to Visiting Court Reporters

Sec. 1. A visiting official shorthand reporter or deputy official shorthand reporter from another judicial district who is required to leave the county of his residence to report the proceedings as a substitute for the official reporter of the county visited is entitled to receive his actual and necessary expenses in going to and returning from the place where he is called on to report the proceedings and, in addition to his regular salary from the county or counties in which the reporter is regularly employed, is entitled to receive a per diem payment of \$30 for each day, or part of a day, which the reporter spends outside the county of his residence in the performance of the duties as a substitute court reporter.

Sec. 2. The traveling expense and per diem payment provided in this Act shall be paid to the substitute court reporter or deputy court reporter by the commissioners court of the county visited, out of the general fund of the county, on the sworn statement of the reporter, approved by the district judge presiding in the court where the proceedings were reported.

[Acts 1977, 65th Leg., p. 1756, ch. 704, eff. June 15, 1977.]

Art. 2326b. Reporters in Judicial Districts, Salary

The salary of the official shorthand reporter in each Judicial District in any county of this State which alone constitutes two or more Judicial Districts, in addition to the compensation for transcript fees as provided by law shall be \$3,000.00 per annum, to be paid as the salary of other court reporters are paid, out of the general fund of the county.

[Acts 1929, 41st Leg., p. 691, ch. 310, § 1.]

Art. 2326c. Salaries of Reporters in Judicial Districts; Exception of Certain Districts

The official shorthand reporter of each Judicial District in this State and the official shorthand reporter of any County Court, either civil or criminal, in this State, where the compensation of such reporter of such County Court or Judicial District is not otherwise provided by special law, shall receive a salary of not more than Two Thousand Seven Hundred Dollars (\$2,700.00) per annum, nor less than Two Thousand Four Hundred Dollars (\$2,400.00) per annum, such salary to be fixed and determined by the District or County Judge respectively of the Court wherein such shorthand reporter is employed, in addition to the compensation for transcript fees as provided for by law. Said salary shall be paid monthly by the Commissioners Court of the county out of the General Fund of the county, or in the discretion of the Commissioners Court, out of the jury fund of said county, upon the

certificate of the Judge of such District or County Court. In districts of this State composed of two or more counties, said salary shall be paid monthly by the counties of the District in proportion to the number of weeks provided by law for holding Court in the respective counties in the District; provided, that in a District where in any county the term may continue until the business is disposed of, each county shall pay in proportion to the time Court is actually held in such county.

The salary of the official shorthand reporter in each Judicial District in any county of this State with a population in excess of one hundred and fifty thousand (150,000) according to the last preceding Federal census and which alone constitutes two or more Judicial Districts, in addition to the compensation of transcript fees as provided by law, shall be Three Thousand Dollars (\$3,000.00) per annum to be paid as the salaries of other court reporters are paid.

It is expressly provided, however, that the provisions of this Act shall not in any way apply to the official shorthand reporter in and for the 25th Judicial District, composed of the counties of Guadalupe, Gonzales, Colorado and Lavaca, nor shall this Act repeal Senate Bill 133, Regular Session, 43rd Legislature; nor shall the provisions of this Act apply in any way to the official shorthand reporters in and for any Judicial District Court of Bexar County, civil or criminal, nor shall this Act repeal Senate Bill No. 315, Regular Session, 43rd Legislature; nor shall the provisions of this Act apply to any official shorthand reporter in and for the 22nd Judicial District of Texas composed of the counties of Comal, Hays, Caldwell, Fayette and Austin.

[Acts 1933, 43rd Leg., p. 595, ch. 195.]

Saved From Repeal

Acts 1957, 55th Leg., p. 204, ch. 92, § 3 (article 2326l), and Acts 1959, 56th Leg., p. 485, ch. 215, § 3 (article 2326m), provided that "nothing contained herein shall be construed to repeal" certain enumerated articles, including this article, but such articles were to "remain in full force and effect."

Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326l-6, § 3.

Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326j-6, § 3.

Acts 1969, 61st Leg., p. 2119, ch. 723, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326o, § 3.

Art. 2326d. Salaries of Official Shorthand Reporters in Districts Composed of Four Counties

The salary of the official shorthand reporter in each judicial district composed of four counties in this State, with the population of said four counties totalling in the aggregate, in excess of one hundred thousand (100,000) population according to the last preceding Federal Census, and which alone constitute one or more judicial districts, in addition to the compensation of transcript fees as provided by law, shall be Three Thousand Dollars (\$3,000.00) per annum to be paid as the salaries of other court reporters are paid.

It is further expressly provided that nothing herein shall be construed as repealing Article 2326-A of 1925 Revised Civil Statutes of Texas as amended by Acts 1929, 41st Legislature, Chapter 56, page 112.

[Acts 1937, 45th Leg., p. 73, ch. 44, § 1.]

Art. 2326d-1. Salaries in Districts of Four or More Counties with Valuations of \$230,000,000

Minimum Salaries; Increase

Sec. 1. The official Court Reporter in all Judicial Districts composed of four or more counties, where the aggregate total assessed valuations of all taxable property in the counties composing any of said Districts is not less than Two Hundred Thirty Million Dollars (\$230,000,000.00) as shown by the approved tax rolls of the several counties composing any of said Judicial Districts for any year commencing January 1, 1945, shall, from and after the effective date of this Act, receive a minimum salary of Thirty-six Hundred Dollars (\$3600.00) per annum, in addition to all traveling expenses, transcript fees and all other compensation now provided by law to be paid to the said official Court Reporters; and providing that the said salary shall be increased up to, but not to exceed, Five Thousand Dollars (\$5,000.00) per annum in the following manner:

If the aggregate total assessed valuations of all taxable property in the several counties comprising any of said Judicial Districts shall exceed Two Hundred Thirty Million Dollars (\$230,000,000.00), as shown by the approved tax rolls of the several counties comprising any of said Judicial Districts for any year commencing January 1, 1945, such salary of the official Court Reporter in each said District shall be increased for the year immediately succeeding the year in which such aggregate total valuations shall exceed Two Hundred Thirty Million Dollars (\$230,000,000.00), as reflected by the approved tax rolls for said year; and such increase shall be at the rate of One Hundred Dollars (\$100.00) per year for each increase in said aggregate total valuation of One Million Dollars (\$1,000,000.00) or fractional part thereof.

Traveling Expenses

Sec. 2. All traveling expenses now provided by law to be paid to the said official Court Reporters shall be paid quarterly by the county for which the same are incurred.

Payment of Salary; Taxable Valuations as Basis

Sec. 3. The salary of the official Court Reporter as herein fixed shall be paid monthly by the respective counties composing any of said Judicial Districts, and in the proportion that the taxable values in each county bear to the aggregate total taxable values of all the counties in each of said Districts. For the purpose of the allowed increase in the salary of the official Court Reporters as herein fixed, the tax rolls of each of the counties as approved by the Commissioners Court of each such county shall conclusively establish and shall be conclusively presumed to be the correct total taxable valuation. In determining the salary of the official Court Reporter for the year 1946, in any of said Judicial Districts, the taxable values of each county for the year 1945 shall serve as the basis for such determination. Thereafter the taxable valuations as shown by the approved tax rolls for each year shall serve as the basis for determining the salary of the said official Court Reporter for the ensuing year.

Salary for 1945

Sec. 4. The salary of the said official Court Reporters for the year 1945, commencing January 1, 1945, is hereby fixed at Thirty-six Hundred Dollars (\$3600.00) per annum, payable monthly, commencing on the effective date of this Act; provided that all payments of salary to the said official Court Reporters under laws existing in the year 1945, and at the effective date of this Act, shall be deducted; that is to say, all payments made by the respective counties composing said Judicial Districts under existing laws for all months of 1945, until the effective date of the Act, shall be applied against the total annual salary of Thirty-six Hundred Dollars (\$3600.00), as herein fixed, so that for the year 1945 the total salary of any such official Court Reporter shall amount to Thirty-six Hundred Dollars (\$3600.00), and no more.

Partial Invalidity

Sec. 5. If any section, sentence, clause, phrase, or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

[Acts 1945, 49th Leg., p. 430, ch. 272.]

Saved From Repeal

Acts 1949, 51st Leg., p. 320, ch. 440, § 2 provides that nothing in that act, which amends art. 2326, shall affect or repeal this article, and that it remain in full force and effect.

Art. 2326e. Salaries of Reporters in Counties Over 290,000

Sec. 1. The official shorthand reporter of each District Court, Criminal District Court and County Court-at-Law in each county in the State of Texas having a population in excess of two hundred and ninety thousand (290,000) inhabitants, according to the last preceding, or any future, Federal Census, shall receive a salary of Thirty-six Hundred Dollars (\$3600) per annum in addition to the compensation for transcript fees as now provided by law. Said salary shall be paid monthly on approval of the Judge of such Court out of the General Fund, Officers Salary Fund, or the Jury Fund, of each such County as may be determined by the Commissioners Court of any such County.

Sec. 2. Repealed by Acts 1941, 47th Leg., p. 549, ch. 346, § 2.

Sec. 3. If any section, sentence, clause, phrase or part of this Act be held invalid for any reason, such invalidity shall not affect the remainder of the Act.

Sec. 4. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only.

[Acts 1937, 45th Leg., p. 1177, ch. 469. Amended by Acts 1941, 47th Leg., p. 549, ch. 346, §§ 1, 2; Acts 1945, 48th Leg., p. 103, ch. 71, § 1.]

Art. 2326f. Salary of Court Reporter in Certain Districts

The salary and expenses of the official Court Reporter in each Judicial District in this State having four (4) or more counties, and having a population in excess of one hundred seven thousand five hundred (107,500) and/or any District having a population of eighty-six thousand nine hundred thirty-two (86,932), according to the latest United States Census may, within the discretion of the Commissioners' Court, be paid out of the Jury fund.

[Acts 1939, 46th Leg., Spec.Laws, p. 620, § 1.]

Art. 2326g. Salaries of Official Shorthand Reporters in District and County Courts at Law in Counties Over 225,000

The Official Shorthand Reporter of each District Court and County Court at Law in each county in the State of Texas having a population in excess of two hundred and twenty-five thousand (225,000) according to the last preceding or any future Federal Census, shall receive a salary of Three Thousand, Six Hundred Dollars (\$3,600) per annum, in addition to the compensation for transcription fees as provided by law. Said salary shall be paid monthly on approval of the Judge of such Court in the manner provided by law.

[Acts 1943, 48th Leg., p. 335, ch. 215, § 1.]

Art. 2326g-1. Salaries of Official Shorthand Reporters in District and County Courts at Law in Counties of 225,000 to 398,000

In all counties in this State having a population of not less than two hundred and twenty-five thousand (225,000) and not more than three hundred and ninety-eight thousand (398,000) inhabitants according to the last preceding or any future Federal Census, the salary of the Official Shorthand Reporter of each District Court and County Court at Law in any such county shall be Four Thousand, Two Hundred Dollars (\$4,200) per annum, in addition to transcript and other fees allowed by law. The salary shall be paid out of the County General Fund in twelve (12) equal monthly installments on approval of the Judge of the Court in which the service is rendered. The Commissioners Court of the county out of whose funds the salary is paid may, if it so elects, order such payments to be made out of the Officers Salary Fund, or the Jury Fund, if the balance in those funds is sufficient for the purpose.

[Acts 1947, 50th Leg., p. 256, ch. 151, § 1.]

Saved From Repeal

Acts 1949, 51st Leg., p. 820, ch. 440, § 2 provided that nothing in that act, which amends art. 2326, shall affect or repeal this article, and that it remains in full force and effect.

Art. 2326h. Apportionment of Expenses and Salaries of Reporters Among Several Counties

In each Judicial District in this State in which the terms of Court do not operate on a continuous term basis and in which there is more than one county, the salaries and expenses of the official Court reporter shall be paid by the respective counties as provided herein. Each of the counties within such District shall pay that portion of the expenses and salaries of the official Court reporter which the population of the county, according to the last preceding Federal Census, bears to the total population of the counties comprising the Judicial District.

[Acts 1943, 48th Leg., p. 482, ch. 322, § 1.]

Saved From Repeal

Section 2 of Acts 1945, 49th Leg., p. 460, ch. 291, and section 2 of Acts 1953, 53rd Leg., p. 1017, ch. 418, provided that the acts did not repeal or amend this article. Neither was this article repealed by Acts 1957, 55th Leg., p. 204, ch. 92, § 3 (article 2326l); or by Acts 1959, 56th Leg., p. 485, ch. 215, § 3 (article 2326n).

Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326l-1, § 3.

Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326j-6, § 3.

Acts 1969, 61st Leg., p. 2119, ch. 723, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326o, § 3.

Art. 2326i. Salaries of Official Shorthand Reporters in Counties Having Six to Nine District Courts

Sec. 1. In any county in this State which now or hereafter in itself constitutes a judicial district, and in which county a total of not less than six (6) and not more than nine (9) permanent District Courts, including Civil and Criminal District Courts, have been or shall be hereafter created, the salaries of the official shorthand reporters shall be Forty-eight Hundred Dollars (\$4800) per annum, in addition to transcript and other fees allowed by law. Such salaries shall be paid out of the County General Fund, or the Jury Fund, or the Officers Salary Fund, in twelve (12) equal monthly installments on approval of the Judge of the Court in which the service is rendered.

Sec. 2. If any section, sentence, clause, phrase, or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. All laws or parts of laws fixing the salaries of official shorthand reporters in any county which in itself constitutes a judicial district having not less than six (6) and not more than nine (9) permanent District Courts, including Civil and Criminal District Courts, to the extent that they conflict with this Act are hereby repealed, but to the extent of the conflict only; it being intended that, and this Act shall control as to the amount of the salaries in such counties over any classification, by population or otherwise, of such counties heretofore made.

[Acts 1949, 51st Leg., p. 180, ch. 97.]

Art. 2326j. Shorthand Reporter for Sixteenth Judicial District

Sec. 1. The Judge of the Sixteenth Judicial District of Texas, composed of the Counties of Cooke and Denton, or the Judge of the Judicial District of which the Counties of Cooke and Denton are a part thereof, shall appoint an official shorthand reporter for such district in the manner now provided for district courts in this State; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Forty-eight Hundred Dollars (\$4800) per annum, nor more than Eight Thousand Dollars (\$8,000) per annum, said salary to be fixed and determined by the District Judge of the Sixteenth

Judicial District composed of the Counties of Cooke and Denton, or by the District Judge of which the Counties of Cooke and Denton are a part thereof, and said salary shall be in addition to transcript fees which shall not be more than Thirty Cents (30¢) per one hundred (100) words, and said reporter shall, in addition, receive allowances for traveling and hotel expenses as now provided by Chapter 56, House Bill No. 276, Acts, Regular Session of the Forty-first Legislature, 1929,¹ which allowances, as now provided by law, are fixed and established as a part of this Act. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1949, 51st Leg., p. 462, ch. 248. Amended by Acts 1957, 55th Leg., p. 837, ch. 366, § 1.]

¹ Article 2326a.

Art. 2326j-1. Appointment and Compensation of Reporters in 10th, 56th and 122nd Judicial Districts

The judges of the 10th, 56th, and 122nd Judicial Districts of Texas, composed entirely of the County of Galveston, shall each appoint an official shorthand reporter for his respective Judicial District in the manner now provided for district courts in this State; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Each of said official shorthand reporters shall receive an annual salary of not less than the amount paid such person annually on the effective date of this Act, nor more than Fourteen Thousand, Four Hundred Dollars (\$14,400.00) per annum, said salary shall be in addition to transcript fees which shall not be more than thirty cents (30¢) per one hundred (100) words. Said salary when so fixed and determined by the district judges of said respective Judicial Districts shall be paid monthly out of the general funds or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official short-

hand reporters as provided for in this Act shall be fixed and determined by the district judges of said Judicial Districts and not otherwise; and the transcript fees shall be as provided for in this Act, and not otherwise.

[Acts 1957, 55th Leg., p. 820, ch. 350, § 1. Amended by Acts 1957, 55th Leg., 2nd C.S., p. 169, ch. 12, § 1; Acts 1963, 58th Leg., p. 499, ch. 184, § 1; Acts 1967, 60th Leg., p. 1012, ch. 442, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., 1st C.S., p. 30, ch. 8, § 1, eff. Sept. 3, 1971.]

Art. 2326j-2. Repealed by Acts 1971, 62nd Leg., p. 2394, ch. 748, § 5, eff. Aug. 30, 1971

See, now, article 2326j-53a.

Art. 2326j-3. Appointment and Compensation of Reporters in 53rd, 98th and 126th Judicial Districts and Criminal District Court of Travis County

The judges of the District Courts of the Fifty-third and One Hundred Twenty-sixth Judicial Districts of Texas and the judge of the Ninety-eighth District Court of Travis County and the judge of the Criminal District Court of Travis County, shall each appoint an official shorthand reporter for his respective judicial district or court in the manner now provided for district courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Sixty-six Hundred Dollars (\$6600.00) per annum, nor more than Eight Thousand Dollars (\$8,000.00) per annum, said salary to be fixed and determined by the judges of the Fifty-third, Ninety-eighth and One Hundred Twenty-sixth District Courts of Travis County and the judge of the Criminal District Court of Travis County, and shall be in addition to transcript fees, fees for statements of fact and all other fees. Said salary when so fixed and determined by the district judges of said respective courts shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the district judges of the Fifty-third, Ninety-eighth and One Hundred Twenty-sixth District Courts of Travis County and the Criminal District Court of Travis County and not otherwise.

[Acts 1959, 56th Leg., p. 5, ch. 3, § 1.]

Art. 2326j-3a. Appointment and Compensation of Reporters for District Courts of Travis County

The judges of the District Courts of Travis County shall each appoint an official shorthand reporter for his respective judicial district court or district court in the manner now provided for district courts in this state, who shall have the same qualifications

and whose duties shall in every respect be the same as now provided by law, and whose salary shall be fixed and determined by the judges of the District Courts of Travis County, and shall be in addition to transcript fees, fees for statements of fact and all other fees. Said salary, when so fixed and determined by the district judges of said respective courts, shall be paid monthly out of the general fund or the jury fund, or out of any fund available for the purpose as may be determined by the Commissioners Court. From and after the effective date of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the judges of the District Courts, and not otherwise.

[Acts 1967, 60th Leg., p. 903, ch. 394, § 1, eff. June 8, 1967. Amended by Acts 1971, 62nd Leg., p. 1909, ch. 572, § 1, eff. June 1, 1971.]

Art. 2326j-3b. Appointment and Compensation of Reporters in Travis County

The judges of the District Courts of Travis County, Texas, shall each appoint an official shorthand reporter for his respective judicial district court or district court in the manner now provided for district courts in this State, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law, and whose salary shall be fixed and determined by the judges of the District Courts of Travis County, Texas, and approved by the Commissioners Court of Travis County, Texas, and shall be in addition to transcript fees, fees for statements of fact and all other fees, and shall not exceed Twenty Thousand Dollars per annum. Said salary, when so fixed and determined by the district judges of said respective courts, and approved by the Commissioners Court of Travis County, Texas, shall be paid monthly out of the General Fund or the Jury Fund, or any fund available for the purpose as may be determined by the Commissioners Court.

[Acts 1971, 62nd Leg., p. 1799, ch. 532, § 1, eff. June 1, 1971.]

Art. 2326j-4. Compensation of Reporter in 47th Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 47th Judicial District of Texas, composed of the counties of Potter, Randall, and Armstrong, shall receive a salary of not less than Five Thousand, Seven Hundred Fifty (\$5,750.00) Dollars per annum, nor more than Eight Thousand, Five Hundred (\$8,500.00) Dollars per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have

filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 47th Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1959, 56th Leg., p. 200, ch. 113.]

Art. 2326j-4a. Compensation of Reporters in 47th and 108th Judicial Districts

Sec. 1. From and after the passage of this Act, each of the official shorthand reporters of the 47th Judicial District of Texas, composed of the counties of Potter, Randall, and Armstrong, and of the 108th Judicial District of Texas, composed of the County of Potter, shall receive a salary of not less than \$6,600, nor more than \$10,500 per annum; the specific amount, within said limits, to be determined, fixed and set by order of each of the respective judges of said two above named judicial districts. From and after the time that the judge shall have entered his respective order as aforesaid, in the minutes of the court in each county of his district, and shall have filed a copy of such order with the commissioners court of each county in his judicial district, the salaries so determined, fixed and set shall be paid monthly by and in proportion for each county of each of said judicial districts as provided by law, out of the general fund, or out of any other fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern; save and except that when the salaries of the official shorthand reporters for the 47th and 108th Judicial Districts shall have been determined, fixed and set by the judge of each said district, in the manner and within the amount limits as in this Act provided, said salaries shall be paid to said official shorthand reporters as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 867, ch. 373, eff. June 8, 1967.]

Art. 2326j-5. Compensation of Reporter in 79th Judicial District

The official shorthand reporter of the 79th Judicial District of Texas, shall receive a salary of not

more than Eleven Thousand Five Hundred Dollars (\$11,500.00) per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the judge of the 79th Judicial District Court, and shall be paid by the Commissioners Court of each of the counties comprising the 79th Judicial District of Texas. Such salary shall be payable out of the General Fund, Officers Salary Fund, the Jury Fund, or any fund available for that purpose.

[Acts 1959, 56th Leg., p. 474, ch. 202, § 1. Amended by Acts 1967, 60th Leg., p. 819, ch. 345, § 1, eff. Aug. 28, 1967.]

Art. 2326j-6. Compensation of Reporters in Jefferson County

Sec. 1. The official shorthand reporters for the Judicial District Courts, Civil or Criminal, and the official shorthand reporter for the County Court of Jefferson County at Law and for the Court of Domestic Relations for Jefferson County, Texas, shall each receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, in addition to compensation for transcripts, statements of facts, and other fees; said salary shall be fixed, determined and allowed by the judges of such Judicial District Courts, Civil or Criminal, and the Judge of the County Court of Jefferson County at Law, and the Judge of the Court of Domestic Relations for Jefferson County, Texas, in which such court reporter serves and shall be evidenced by an order entered in the minutes of each such court, which salary so fixed, determined and allowed shall continue in effect from year to year unless and until changed by order of the judge of the court in which such court reporter serves.

Sec. 2. A certified copy of the order fixing the salary to be paid such reporter shall be transmitted to the Commissioners Court of said county who shall annually make provision for the payment of any such salary out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twenty-four (24) equal bimonthly installments, and shall be in addition to transcript fees, fees for statements of facts, and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a-1 and 2326c, Vernon's Annotated Civil Statutes. The last four mentioned Articles shall remain in full force and effect.

[Acts 1965, 59th Leg., p. 790, ch. 377, §§ 1 to 3, eff. Aug. 30, 1965. Amended by Acts 1969, 61st Leg., p. 266, ch. 105, § 1, eff. April 28, 1969.]

**Art. 2326j-7. Appointment and Compensation of Reporter in 100th Judicial District
Superseded**

The provisions of this article, derived from Acts 1959, 56th Leg., p. 1019, ch. 471,

and Acts 1963, 58th Leg., p. 782, ch. 300, were superseded by art. 2326j-76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j-8. Compensation of Reporter of 49th Judicial District

The official court reporter of the 49th Judicial District of Texas shall receive a salary not to exceed \$12,000 per annum, the amount to be determined by the judge of the 49th Judicial District Court, in addition to the compensation for transcription fees as provided by law. The salary shall be paid monthly upon approval of the judge of the 49th Judicial District Court, and shall be paid by the commissioners court of each of the counties comprising the 49th Judicial District of Texas. The salary shall be payable out of the general fund, officers salary fund, the jury fund, or any fund available for that purpose.

[Acts 1961, 57th Leg., p. 177, ch. 94, § 1. Amended by Acts 1971, 62nd Leg., p. 1447, ch. 403, eff. May 26, 1971.]

Art. 2326j-9. Appointment and Compensation of Reporters for 72nd, 140th and 99th Judicial Districts

The Judges of the District Courts of the 72nd, 140th and 99th Judicial Districts of Texas, Lubbock County, Texas, with the approval of the Commissioners Court, shall each appoint an official shorthand reporter for his respective Judicial District in the manner now provided for District Courts in this State, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporters shall receive an annual salary of not more than \$16,000, said salary to be fixed and determined by the Judges of the District Courts of the 72nd, 140th and 99th Judicial Districts of Texas, of Lubbock County, Texas, and shall be in addition to transcript fees, fees for statements of facts and all other fees. Said salary, when so fixed and determined by the District Judges of said respective courts, shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the District Judges of the District Courts of the 72nd, 140th and 99th Judicial Districts of Texas, of Lubbock County, Texas, and not otherwise.

[Acts 1961, 57th Leg., p. 328, ch. 175, § 1. Amended by Acts 1971, 62nd Leg., p. 2592, ch. 850, § 1, eff. June 9, 1971.]

Art. 2326j-10. Appointment and Compensation of Reporters in 70th and 161st Judicial Districts

The judges of the District Courts of the 70th and 161st Judicial Districts of Texas, and the Judge of

the County Court At Law, Ector County, Texas, shall each appoint an Official Shorthand Reporter for his respective Judicial District or Court in the manner now provided for District Courts and County Courts At Law in this State, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said Official Shorthand Reporters shall each receive a salary of not more than eleven thousand five hundred dollars (\$11,500.00) per annum, said salary to be fixed, determined set, and allowed by the Judge of the Court for which said reporter serves, and said salary shall be in addition to transcript fees, fees for statements of fact and all other fees. Said salary when so fixed and determined by the judges of said respective courts shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after passage of this Act all provisions relating to Official Shorthand Reporters and their duties in District Courts and County Courts At Law shall in all respects govern, except that the salary of the Official Shorthand Reporters as provided for in this Act shall be fixed and determined by the District Judges of the 70th and 161st District Courts, and the Judge of the County Court At Law, of Ector County, Texas, and not otherwise.

[Acts 1961, 57th Leg., p. 683, ch. 319, § 1. Amended by Acts 1967, 60th Leg., p. 1219, ch. 551, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1608, ch. 441, § 1, eff. Aug. 30, 1971.]

Art. 2326j-11. Compensation of Reporter for 118th Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 118th Judicial District of Texas, composed of the counties of Howard, Martin, and Glasscock, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Eight Thousand Five Hundred Dollars (\$8,500) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 118th

Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. [Acts 1961, 57th Leg., p. 705, ch. 330.]

Art. 2326j-12. Appointment and Compensation of Reporter in 112th Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 112th Judicial District of Texas, composed of the counties of Crockett, Pecos, Sutton, and Upton, shall receive a salary of not more than \$11,500 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except when the salary of the official shorthand reporter for the 112th Judicial District shall have been determined, fixed, and set by the judge of the said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. [Acts 1961, 57th Leg., p. 729, ch. 342. Amended by Acts 1971, 62nd Leg., p. 1106, ch. 239, eff. May 17, 1971.]

Art. 2326j-13. Repealed by Acts 1973, 62nd Leg., p. 291, ch. 137, § 3, eff. May 18, 1973

See, now, arts. 2326j-13a and 3912k note.

Art. 2326j-13a. Compensation of Reporter for 23rd Judicial District

Sec. 1. The official court reporter of the 23rd Judicial District may receive a salary not to exceed \$16,500 per annum, in addition to all travel expenses, transcript fees, and all other compensation provided by law to be paid to the official court reporter. The specific amount of the salary of the official court reporter may be fixed by the district judge of such judicial district and approved by the commissioners courts of the counties in the district.

Sec. 2. The salary of the official court reporter as herein fixed shall be paid monthly by the respective counties composing any of said judicial district in accordance with the proportion fixed, made, and determined by the district judge of said judicial

district as to the amount to be paid monthly by each county in the judicial district. Such salary shall be paid out of the general fund or out of the jury fund, or out of any fund available for the purpose.

[Acts 1973, 63rd Leg., p. 290, ch. 137, §§ 1, 2, eff. May 18, 1973. Amended by Acts 1979, 66th Leg., p. 970, ch. 434, § 1, eff. Aug. 27, 1979.]

Section 2 of the 1979 amendatory act provided:

"Section 3, Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3912k, Vernon's Texas Civil Statutes), applies to the 130th Judicial District."

Art. 2326j-14. Compensation of Reporter in 115th Judicial District

The official shorthand reporter of the 115th Judicial District of Texas shall receive a salary of not less than \$6,600 per annum nor more than \$9,600 per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the judge of the 115th District Court, and shall be paid by the commissioners court of each of the counties comprising the 115th Judicial District. Such salary shall be payable out of the general fund, officers salary fund, the jury fund, or any fund available for that purpose.

[Acts 1969, 61st Leg., p. 1663, ch. 526, § 1, eff. Sept. 1, 1969.]

Art. 2326j-15. Compensation of Reporters for 109th and 83rd Judicial Districts

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 109th Judicial District of Texas, composed of the counties of Andrews, Crane and Winkler, and the official shorthand reporter for the 83rd Judicial District of Texas, composed of the Counties of Reagan, Upton, Pecos, Jeff Davis, Brewster and Presidio, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Eight Thousand Five Hundred Dollars (\$8,500) per annum, which shall be determined; fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 109th Judicial District shall have been determined, fixed

and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1962, 57th Leg., 3rd C.S., p. 41, ch. 13, §§ 1, 2.]

Separate provisions for compensation of the reporter for the 83rd judicial district were enacted by Acts 1969, 61st Leg., p. 2137, ch. 741, and incorporated into art. 2326j-15a.

Art. 2326j-15a. Compensation of Reporter for 83rd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 83rd Judicial District of Texas, composed of the counties of Brewster, Jeff Davis, Pecos, Presidio, Reagan, and Upton, shall receive a salary of not less than \$8,500 per annum, nor more than \$11,500 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 83rd Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 2137, ch. 741, eff. Sept. 1, 1969.]

Art. 2326j-16. Compensation of Reporter for 142nd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 142nd Judicial District of Texas, composed of Midland County, shall receive an annual salary of not more than \$9,600, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Midland County, the salary so determined, fixed and set shall be paid monthly,

by Midland County as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters of this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 142nd Judicial District of Texas composed of Midland County, and the 143rd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as set in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1962, 57th Leg., 3rd C.S., p. 70, ch. 25, §§ 1, 2. Amended by Acts 1971, 62nd Leg., p. 1911, ch. 575, § 1, eff. Aug. 30, 1971.]

Separate provisions for compensation of the reporter for the 64th judicial district were enacted by Acts 1971, 62nd Leg., p. 1594, ch. 436, and were incorporated into art. 2326j-18a.

Art. 2326j-16a. Compensation of Reporter for 143rd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 143rd Judicial District of Texas, composed of the Counties of Loving, Reeves and Ward, shall receive a salary of not less than \$8,500 per annum, nor more than \$11,500 per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 143rd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 1874, ch. 628, eff. June 11, 1969.]

Art. 2326j-17. Compensation of Reporter of 18th Judicial District

Sec. 1. The official shorthand reporter for the 18th Judicial District of Texas, composed of the Counties of Johnson and Somervell, shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500) per annum, which shall be determined, fixed and set by the Judge of said District; and from and after the time that said Judge shall have entered an order in the minutes of the Court, in each County of said District, which shall be a public record and open for inspection; and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set, shall be paid monthly, by and in the proportion for each County of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 18th Judicial District shall have been determined, fixed and set by the Judge of said District, in the manner and within the amount limits, as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 38, ch. 25. Amended by Acts 1969, 61st Leg., p. 71, ch. 29, § 1, eff. March 26, 1969.]

Art. 2326j-18. Compensation of Reporters for 64th and 154th Judicial Districts

Sec. 1. From and after the passage of this Act the Official Shorthand Reporter for the 154th Judicial District of Texas, composed of the Counties of Lamb, Bailey and Parmer, and the Official Shorthand Reporter for the 64th Judicial District of Texas, composed of the Counties of Hale, Swisher and Castro, shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set in each of said Districts by the respective Judges thereof; and from and after the time that said Judges, or either of them, shall have entered an Order in the Minutes of the Court, in each County of said District, which Order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said Order with each Commissioners Court of the District, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each County of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of Official Shorthand Reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the Official Shorthand Reporter for either the 154th Judicial District or the 64th Judicial District shall have been determined, fixed and set by the Judge of either said District, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said Official Shorthand Reporter as in this Act provided, and not otherwise. [Acts 1963, 58th Leg., p. 147, ch. 88.]

Art. 2326j-18a. Appointment and Compensation of Reporter for 64th Judicial District

Sec. 1. The judge of the 64th Judicial District of Texas, composed of the Counties of Hale, Swisher and Castro, shall appoint an official shorthand reporter for such District in the manner now provided for District Courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than Thirteen Thousand Dollars (\$13,000.00) per annum, said salary to be fixed and determined by the District Judge of the 64th Judicial District, composed of the Counties of Hale, Swisher and Castro, with the approval of the Commissioners Courts, and said salary shall be in addition to the transcript fees, fees for statement of facts, and all other fees as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. If any section, sentence, clause, phrase or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. Said reporter shall, in addition, receive allowances for his actual and necessary traveling and hotel expenses while actually engaged in the discharge of his duties, not to exceed Eight Dollars (\$8.00) per day for the hotel bills, and not to exceed ten cents (10c) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county, out of the General

Fund of the county upon the sworn statement of the reporter approved by the judge, provided there shall not be paid to any such official shorthand reporter more than Seven Hundred Fifty Dollars (\$750.00) in any one year under the provisions of this Act.

Sec. 4. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1971, 62nd Leg., p. 1594, ch. 436, eff. May 26, 1971.]

Art. 2326j-19. Compensation of Reporter for 29th Judicial District

Sec. 1. The Court Reporter of the 29th Judicial District of Texas shall receive a salary of not less than \$4,800 per annum and not more than \$12,000 per annum as fixed and determined by the District Judge of the 29th Judicial District Court, and shall be paid monthly by the Commissioners Court of each of the counties comprising the 29th Judicial District of Texas in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the 29th Judicial District, or in the proportion for each county of the 29th Judicial District as provided by law.

Said reporter shall, in addition, receive allowances for his actual and necessary traveling, meals and hotel expenses while actually engaged in the discharge of his duties; such expenses will be paid by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county out of the General Fund.

Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge and not otherwise, and the allowances for traveling, meals and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1963, 58th Leg., p. 159, ch. 97. Amended by Acts 1967, 60th Leg., p. 1266, ch. 567, § 1, eff. June 15, 1967.]

Art. 2326j-20. Compensation of Reporter for 121st Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 121st Judicial District of Texas, composed of the counties of Hockley, Terry, Yoakum and Cochran, shall receive a salary of not less than Six Thousand Six Hundred

Dollars (\$6,600) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 121st Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 483, ch. 172.]

Art. 2326j-21. Compensation of Reporter for 106th Judicial District

Sec. 1. The official shorthand reporter for the 106th Judicial District of Texas, composed of the Counties of Gaines, Dawson, Lynn and Garza, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600.00) per annum, nor more than Nine Thousand Dollars (\$9,000.00) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 106th Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided,

said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 490, ch. 177.]

Art. 2326j-22. Compensation of Reporters for 34th, 41st, 65th, 120th and 171st Judicial Districts

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 34th Judicial District of Texas composed of the counties of El Paso, Hudspeth, and Culberson, and the 41st Judicial District of Texas composed of the County of El Paso, and the 65th Judicial District of Texas composed of the County of El Paso, and the 120th Judicial District of Texas composed of the County of El Paso, and the 171st Judicial District of Texas, composed of the County of El Paso, shall receive a salary of not less than Eight Thousand, Five Hundred Dollars (\$8,500) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500) per annum, which shall be determined, fixed and set by the judge of each respective court and at the pleasure of that judge; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. The official court reporters herein named shall, in addition to their other duties, perform such additional duties as may be assigned to the respective court reporters by the judge of the respective district court; and the judge of each said district herein named may assign the official court reporter of his said district to any other court herein named or into the County Courts at Law of El Paso County, Texas, whenever he deems it proper and expedient.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except as herein set forth and save and except that when the salary of the official shorthand reporter for the 34th Judicial District, the 41st Judicial District, the 65th Judicial District, the 120th Judicial District and the 171st Judicial District shall have been determined, fixed and set by the judge of said districts, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 605, ch. 219. Amended by Acts 1969, 61st Leg., p. 2299, ch. 776, § 3, eff. Sept. 1, 1969.]

Art. 2326j-23. Compensation of Reporters in El Paso County

Sec. 1. From and after the passage of this Act the official shorthand reporters for each of the county courts at law, civil and criminal, in El Paso County, Texas, shall receive a salary of not less than Eight Thousand, Five Hundred Dollars (\$8,500) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500) per annum, which shall be determined, fixed and set by the judge of each respective court and at the pleasure of such judge; and from and after the time that said judge shall have entered an order in the minutes of the court, in said county, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of the county, the salary so determined, fixed and set shall be paid monthly by and in the proportion for the county as provided by law out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. The official court reporters herein named shall, in addition to their other duties, perform such additional duties as may be assigned to the respective court reporter by the judge of the respective county at law; and the judge of each said county court at law herein named may assign the official court reporter of his said county court to any other court herein named or into the Judicial District Courts of El Paso County, Texas, whenever he deems it proper and expedient.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except as herein set forth, and save and except that when the salary of the official shorthand reporter for the county courts of El Paso County shall have been determined and fixed by the judge of said county in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 608, ch. 221. Amended by Acts 1969, 61st Leg., p. 2229, ch. 776, § 4, eff. Sept. 1, 1969.]

Art. 2326j-24. Compensation of Reporters for 51st, 119th, 33rd, 35th and 63rd Judicial Districts

Sec. 1. From and after the passage of this Act, the Official Shorthand Reporter for the 51st Judicial District of Texas, composed of the counties of Tom Green, Coke, Irion, Sterling and Schleicher, and the Official Shorthand Reporter for the 119th Judicial District of Texas, composed of the counties of Coleman, Concho, Runnels, and Tom Green, and the Official Shorthand Reporter for the 33rd Judicial District of Texas, composed of the counties of Mason, Blanco, Menard, San Saba, Llano and Burnet,

and the Official Shorthand Reporter for the 35th Judicial District of Texas, composed of the counties of McCulloch, Brown and Coleman, and the Official Shorthand Reporter of the 63rd Judicial District of Texas, composed of the counties of Val Verde, Terrell, Maverick, Kinney and Edwards, shall receive a salary of not less than Six Thousand Six Hundred (\$6,600) Dollars per annum, nor more than Eight Thousand Five Hundred (\$8,500) Dollars per annum, which shall be determined, fixed and set by the judge of said judicial district; from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general funds, or out of the jury funds, or out of any funds available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of Official Shorthand Reporters in this state, and as to allowances to them for transcript fees and hotel and traveling expenses, shall govern, save and except that when the salaries of the Official Shorthand Reporter of the 51st Judicial District, and save and except that when the salaries of the Official Shorthand Reporter of the 119th Judicial District, and save and except that when the salaries of the Official Shorthand Reporter of the 33rd Judicial District, and save and except that when the salaries of the Official Shorthand Reporter of the 35th Judicial District, and save and except when the salaries of the Official Shorthand Reporter of the 63rd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits provided in this Act, said salary shall be paid to said Official Shorthand Reporter as provided in this Act and not otherwise.

[Acts 1963, 58th Leg., p. 622, ch. 228.]

Art. 2326j-24a. Compensation of Reporters for 51st and 119th Judicial Districts

Sec. 1. From and after the passage of this Act, the official shorthand reporters for the 51st Judicial District of Texas, composed of the counties of Tom Green, Irion, Schleicher, Coke, and Sterling, and the 119th Judicial District of Texas, composed of the counties of Tom Green and Runnels, may each receive a salary of not more than \$12,500 per annum, which shall be determined, fixed, and set by the presiding judge of each judicial district, except that the salary paid to any person affected by this Act shall not be set at a figure lower than that actually paid to that person on the effective date of this Act; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which

order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 51st Judicial District and the official shorthand reporter for the 119th Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1971, 62nd Leg., p. 943, ch. 155, eff. May 11, 1971.]

Separate provisions for compensation of the reporter for the 111th judicial district were enacted by Acts 1971, 62nd Leg., p. 998, ch. 185, and incorporated into art. 2326j-25b.

Art. 2326j-25. Appointment and Compensation of Reporters for 92nd, 93rd, 139th and 111th Judicial Districts

Sec. 1. The Judges of the District Courts of the Ninety-second, Ninety-third and One Hundred Thirty-ninth Judicial Districts of Texas, shall each appoint an official shorthand reporter for his respective judicial district in the manner now provided for District Courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than Eight Thousand Five Hundred Dollars (\$8,500.00) per annum, said salary to be fixed and determined by the judges of the Ninety-second, Ninety-third and One Hundred Thirty-ninth District Courts of Hidalgo County, and shall be in addition to transcript fees, fees for statement of fact and all other fees. Said salary when so fixed and determined by the district judges of said respective courts shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court of Hidalgo County, Texas. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the district judges of the Ninety-second, Ninety-third and One Hundred Thirty-ninth

District Courts of Hidalgo County, Texas, and not otherwise.

Sec. 2. The official shorthand reporter of the One Hundred Eleventh Judicial District of Texas, composed of the County of Webb, shall receive a reasonable salary of not less than Six Thousand Six Hundred Dollars (\$6,600.00) per annum nor more than Eight Thousand Dollars (\$8,000.00) per annum, in addition to the compensation for transcription fees as provided by law. Such reasonable salary shall be determined, fixed and set by the Judge of said Judicial District; and from and after that time that said Judge shall have entered an order in the minutes of the court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Webb County, the salary so determined, fixed and set shall be paid monthly out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

[Acts 1963, 58th Leg., p. 639, ch. 235.]

Separate provisions for compensation of the reporters for the 92nd, 93rd and 139th judicial districts were enacted by Acts 1969, 61st Leg., p. 1182, ch. 378, and incorporated into art. 2326j-25a.

Art. 2326j-25a. Compensation of Reporters for 92nd, 93rd and 139th Judicial Districts

Sec. 1. From and after the passage of this Act, the official shorthand reporters for the 92nd, 93rd, and 139th Judicial Districts of Texas shall each receive a salary not to exceed \$11,500 per annum, which salary shall be determined, fixed, and set by the presiding judge of each such judicial district; and such salary compensation shall be in addition to transcript fees or fees of any character now authorized by law to be paid to official shorthand reporters.

Sec. 2. From and after the passage of this Act, all provisions of law now existing, relating to the appointment of such official shorthand reporters, their qualifications and their duties in district courts shall in all respects govern, except that the salaries of such official shorthand reporters for the 92nd, 93rd, and 139th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

[Acts 1969, 61st Leg., p. 1182, ch. 378, eff. Sept. 1, 1969.]

Art. 2326j-25b. Compensation of Reporter for 111th Judicial District

The Official Court Reporter of the 111th Judicial District of Texas shall receive a salary not to exceed \$12,000 per annum, the amount to be determined by the Judge of the 111th Judicial District Court, in addition to the compensation for transcription fees as provided by law. The salary shall be paid monthly upon approval of the Judge of the 111th Judicial District Court, and shall be paid by the Commission-

ers Court of Webb County, Texas. The salary shall be payable out of the general fund, officers salary fund, the jury fund, or any fund available for that purpose.

[Acts 1971, 62nd Leg., p. 998, ch. 185, § 1, eff. May 13, 1971.]

Art. 2326j-26. Compensation of Reporters for 135th and 24th Judicial Districts

Sec. 1. The official shorthand reporter for the 135th Judicial District and the official shorthand reporter for the 24th Judicial District shall each receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Eleven Thousand Five Hundred Dollars (\$11,500) per annum. Subject to the limitations prescribed herein, the salary of the official shorthand reporter for the 135th Judicial District shall be determined, fixed, and set by the judge of the 135th Judicial District Court, and the salary of the official shorthand reporter for the 24th Judicial District shall be determined, fixed, and set by the judge of the 24th Judicial District Court. From and after the time that each of such judges shall have entered an order in the minutes of his court, in each county of the district, stating specifically the amount of salary to be paid to the official shorthand reporter of the district and shall have filed a copy of such order with each Commissioners Court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose; provided, however, that the Commissioners Court of each county shall have the discretion to determine whether or not said county shall contribute its proportion of any salary increase authorized by this Act. Such order of each district judge shall be a public record and open for inspection.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, but when the salary of the official shorthand reporter for the 135th Judicial District and the salary of the official shorthand reporter for the 24th Judicial District shall have been determined, fixed, and set as provided herein, such salary shall be paid to such official shorthand reporters as provided in this Act, and not otherwise.

[Acts 1963, 58th Leg., p. 641, ch. 237. Amended by Acts 1969, 61st Leg., p. 2034, ch. 698, § 1, eff. June 12, 1969.]

Art. 2326j-27. Compensation of Reporter for 59th Judicial District

Sec. 1. The Judge of the 59th Judicial District of Texas, composed of Collin and Grayson Counties, shall appoint an official shorthand reporter for such district in the manner now provided for district courts in this state; who shall have the same quali-

fications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Sixty-six Hundred Dollars (\$6600) per annum, nor more than Nine Thousand Six Hundred Dollars (\$9,600) per annum, said salary to be fixed and determined by the District Judge of the 59th Judicial District composed of Collin and Grayson Counties, and said salary shall be in addition to transcript fees. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts of Collin and Grayson Counties.

Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise.

[Acts 1963, 58th Leg., p. 673, ch. 247.]

Art. 2326j-28. Compensation of Reporters for 103rd, 107th and 138th Judicial Districts

Sec. 1. The official shorthand reporters of the 103rd, 107th, and 138th Judicial Districts of Texas are authorized to receive a salary of not more than Eight Thousand, Five Hundred Dollars (\$8,500) per annum and all other compensation now provided by law to be paid official shorthand reporters, the specific amount of such salary to be fixed by the district judges of the judicial districts.

Sec. 2. The salary of the official shorthand reporter shall be paid in equal monthly installments by the counties composing such judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district as shown by the last preceding federal census. Such salaries may be paid out of the general fund, the jury fund or any other fund lawfully available for such purpose.¹

[Acts 1963, 58th Leg., p. 702, ch. 259. Amended by Acts 1971, 62nd Leg., p. 1845, ch. 542, § 109, eff. Sept. 1, 1971.]

¹ So in enrolled bill.

See, also, article 2326j-72.

Art. 2326j-29. Repealed by Acts 1978, 65th Leg., 2nd C.S., p. 21, ch. 9, § 3, eff. Nov. 7, 1978

Art. 2326j-29a. Compensation and Expenses of Reporter for 31st Judicial District

Sec. 1. Notwithstanding the provisions of any local or general law to the contrary, the judge of the 31st Judicial District shall determine and order, on the basis of annual case loads in each county, the proportionate amount of the salary set by the judge for the official shorthand reporter of the 31st Judicial

District to be paid by each county in the judicial district. The amount of the salary allocated to each county in the 31st Judicial District shall be paid monthly out of the general fund, jury fund, or other fund available for the purpose, as determined by the commissioners court.

Sec. 2. The official shorthand reporter shall, in addition, receive allowances for actual and necessary meals and traveling and hotel expenses while actually engaged in the discharge of the reporter's duties. These allowances may be in the same amounts as are allowed for employees of the State of Texas. The expenses shall be paid by the respective counties of the judicial district for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and the expenses shall be paid to the official shorthand reporter by the commissioners court of the county out of the general fund of the county on the sworn statement of the reporter approved by the judge.

[Acts 1978, 65th Leg., 2nd C.S., p. 21, ch. 9, §§ 1, 2, eff. Nov. 7, 1978.]

Art. 2326j-30. Compensation of Reporter for 75th Judicial District

Sec. 1. The official shorthand reporter for the 75th Judicial District of Texas, composed of the Counties of Liberty and Chambers, shall receive a salary of not more than \$13,000 per annum, which shall be determined, fixed and set by the Judge of said District, with the approval of the Commissioners Court of each of the counties comprising the 75th Judicial District, and from and after the time that said Judge shall have entered an order in the minutes of the Court, in each county of said District, which shall be a public record and open for inspection; stating specifically the amount of salary to be paid said reporter, and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined and approved, fixed and set, shall be paid monthly, by and in the proportion for each County of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in the State, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 75th Judicial District shall have been determined, fixed and set by the Judge of said District, in the manner and within the amount limits, as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 762, ch. 289. Amended by Acts 1971, 62nd Leg., p. 2435, ch. 783, § 1, eff. June 8, 1971.]

Art. 2326j-31. Compensation of Reporter for 15th Judicial District

Sec. 1. The Judge of the 15th Judicial District of Texas, composed of Grayson County, shall appoint an official shorthand reporter for such District in the manner now provided for district courts in this State; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand, Six Hundred Dollars (\$9,600) per annum, said salary to be fixed and determined by the District Judge of the 15th Judicial District composed of Grayson County, and said salary shall be in addition to transcript fees. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Court of Grayson County.

Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise.

[Acts 1963, 58th Leg., p. 783, ch. 301.]

Art. 2326j-32. Repealed by Acts 1967, 60th Leg., p. 985, ch. 428, § 4, eff. Aug. 28, 1967

See, now, article 2326j-32b.

Art. 2326j-32a. Repealed by Acts 1983, 68th Leg., p. 4335, ch. 693, § 2, eff. Sept. 1, 1983

For provisions relating to the 105th Judicial District, see, now, art. 2326j-32b.

Art. 2326j-32b. Allocation of Shares of Compensation Paid to Reporter for 105th Judicial District

Notwithstanding the provisions of Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 3912k, Vernon's Texas Civil Statutes), relating to counties in a judicial district paying proportionate shares of a district court reporter's salary, Nueces County shall pay 50 percent of the salary of the official court reporter for the 105th Judicial District, and Kleberg and Kenedy counties shall pay the remaining 50 percent. Kleberg and Kenedy counties shall each pay a share of that 50 percent based on the proportion each county's population, according to the most recent federal census, bears to the total population of both counties.

[Acts 1983, 68th Leg., p. 4335, ch. 693, § 1, eff. Sept. 1, 1983.]

Art. 2326j-33. Compensation of Reporter for 9th Judicial District

Sec. 1. The official shorthand reporter of the 9th Judicial District of Texas, composed of the Counties of Polk, San Jacinto, Montgomery and Waller, shall receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, in addition to all other expenses and fees now or as hereafter may be provided by law to be paid to such reporter.

Sec. 2. The salary of such reporter shall be paid monthly out of the general fund or the jury fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts of such Counties, by the respective Counties of the Judicial District in accordance with the proportion fixed, made and determined by the district judge of such Judicial District as to the amount to be paid monthly by each County in the Judicial District.

[Acts 1963, 58th Leg., p. 790, ch. 305. Amended by Acts 1969, 61st Leg., p. 1786, ch. 596, eff. Sept. 1, 1969.]

Art. 2326j-34. Compensation of Reporter for Second 9th Judicial District

Sec. 1. The official shorthand reporter of the Second 9th Judicial District of Texas, composed of the Counties of Montgomery, Polk, San Jacinto and Trinity, shall receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, in addition to all other expenses and fees now or as hereafter may be provided by law to be paid to such reporter.

Sec. 2. The salary of such reporter shall be paid monthly out of the General Fund or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts of such Counties, by the respective Counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of such Judicial District as to the amount to be paid monthly by each County in the Judicial District.

[Acts 1963, 58th Leg., p. 790, ch. 306. Amended by Acts 1969, 61st Leg., p. 1787, ch. 597, eff. Sept. 1, 1969.]

**Art. 2326j-35. Appointment and Compensation of Reporter for 50th Judicial District
Superseded**

The provisions of this article, derived from Acts 1963, 58th Leg., p. 833, ch. 316, were superseded by art. 2326j-76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j-36. Compensation of Reporters for 124th and 188th Judicial Districts

Sec. 1. The official shorthand reporters for the 124th and 188th Judicial Districts of Texas shall receive a salary of not more than \$12,000 per annum, said salary to be fixed, determined, and set by the Judges of the 124th and 188th Judicial Districts respectively and shall be in addition to transcript

fees, fees for statements of facts, and all other fees. From and after the time that said respective District Judges shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporters, and shall have filed a copy of said order with the Commissioners Court of Gregg County, the salary so determined, fixed and set by majority vote of the Commissioners Court, shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, except that when the salary of the official shorthand reporters for the District Courts of Gregg County shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said official shorthand reporters as provided in this Act, and not otherwise.

[Acts 1967, 60th Leg., p. 586, ch. 264, eff. Aug. 28, 1967. Amended by Acts 1971, 62nd Leg., p. 927, ch. 141, eff. Aug. 30, 1971.]

Art. 2326j-37. Compensation of Reporter for 88th Judicial District

From and after the passage of this Act, the official shorthand reporter of the 88th Judicial District of Texas shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum as fixed by the Commissioners Court of Hardin and Tyler Counties, in addition to any compensation for transcription as may be provided by law. Such salary shall be paid monthly upon approval of the Judge of the 88th Judicial District Court and shall be paid by the Commissioners Court of each of the Counties pro rata under existing statutes comprising the 88th Judicial District of Texas. Such salary shall be payable out of the General Fund, Officers Salary Fund, the Jury Fund, or any fund available for that purpose.

[Acts 1963, 58th Leg., p. 974, ch. 396, § 1.]

Art. 2326j-38. Appointment and Compensation of Reporter for 39th Judicial District

Sec. 1. The Judge of the 39th Judicial District of Texas, composed of the counties of Haskell, Throckmorton, Stonewall, and Kent, or the judge of the judicial district of which the counties of Haskell, Throckmorton, Stonewall, and Kent are a part, shall appoint an official shorthand reporter for such district in the manner now provided for district courts in this state; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than \$6,000 per annum, nor more than \$11,600 per annum, said salary to be fixed and determined by the

District Judge of the 39th Judicial District, composed of the counties of Haskell, Throckmorton, Stonewall, and Kent, or by the district judge of the judicial district of which the counties of Haskell, Throckmorton, Stonewall, and Kent are a part, and said salary shall be in addition to transcript fees as now provided by law. Said salary when so fixed and determined by the district judge of said judicial district shall be paid monthly, out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the commissioners courts, by the respective counties of the judicial district in accordance with the proportion fixed, made and determined by the district judge of said judicial district as to the amount to be paid monthly by each county in the judicial district.

Sec. 2. Said reporter shall, in addition, receive allowances for his actual and necessary travel and hotel expenses while actually engaged in the discharge of his duties, not to exceed \$6 per day for hotel bills, and not to exceed four cents a mile when traveling by railway or bus lines, and not to exceed 10 cents a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid after the completion of each term of court by the respective counties of the judicial district for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the commissioners court of the county, out of the general fund of the county upon the sworn statement of the reporter approved by the judge, provided there shall not be paid to any such official shorthand reporter more than \$1,000 in any one year under the provisions of this Act.

Sec. 3. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the district judge of said judicial district and not otherwise; and the transcript fees and allowances for travel and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1969, 61st Leg., p. 167, ch. 65, eff. April 3, 1969.]

Art. 2326j-39. Appointment and Compensation of Reporters for 146th and 169th Judicial Districts

Sec. 1. The judge of the 146th and the judge of the 169th Judicial Districts of Texas, composed of Bell County, shall appoint an official shorthand reporter for his respective district in the manner now provided for district courts. The reporter shall have the qualifications and duties as provided by general law.

Sec. 2. (a) In addition to transcript fees, the official shorthand reporter shall receive an annual

salary of not more than \$14,000 as authorized by the district judge and with the approval of the Commissioners Court of Bell County.

(b) The salary shall be paid monthly out of the general fund, the jury fund, or any other fund available for the purpose as determined by the Commissioners Court of Bell County.

[Acts 1965, 59th Leg., p. 224, ch. 95, eff. April 27, 1965. Amended by Acts 1971, 62nd Leg., p. 1814, ch. 539, § 2, eff. June 1, 1971.]

Art. 2326j-40. Compensation of Reporter for 97th Judicial District

Superseded

The provisions of this article, derived from Acts 1965, 59th Leg., p. 293, ch. 126, were superseded by art. 2326j-76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j-41. Repealed by Acts 1971, 62nd Leg., p. 1296, ch. 337, § 3, eff. May 24, 1971

See, now, art. 2326j-41a.

Art. 2326j-41a. Compensation of Reporters for 2nd and 145th Judicial Districts

Sec. 1. From and after the passage of this Act, the official shorthand reporters for the 2nd and 145th Judicial Districts of Texas shall each receive an annual salary of not more than \$12,500, which salary shall be determined and fixed by the presiding judge of each such judicial district. The salary compensation shall be in addition to transcript fees or fees of any character now authorized by law to be paid to the official shorthand reporters. From and after the time that the judge enters an order in the minutes of the court, in each county of the district, stating specifically the amount of salary to be paid to the reporter and files a copy of the order with the commissioners court of each county within the district, the salary determined and fixed shall be paid monthly out of the general fund, jury fund, or any other fund available for that purpose, by the counties composing the judicial district, in accordance with the proportion that the population of each county bears to the total population of the judicial district, according to the last preceding federal census.

Sec. 2. From and after the passage of this Act, all provisions of law existing prior to the passage of this Act and relating to the appointment of the official shorthand reporters, their qualifications, and their duties in district courts shall in all respects govern, except that the salaries of the official shorthand reporters for the 2nd and 145th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

[Acts 1971, 62nd Leg., p. 1295, ch. 337, §§ 1, 2, eff. May 24, 1971.]

Art. 2326j-42. Compensation of Reporters for 42nd and 104th Judicial Districts

(a) The judge of the 42nd Judicial District Court shall fix the total annual salary of the official shorthand reporter of the 42nd Judicial District at not more than \$11,500. The allowance for actual and necessary expenses received by the official shorthand court reporter of the 42nd Judicial District may not exceed \$400 a year.

(b) The judge of the 104th Judicial District Court shall fix the total annual salary of the official shorthand reporter of the 104th Judicial District at not more than \$11,500. The allowance for actual and necessary expenses received by the official shorthand court reporter of the 104th Judicial District may not exceed \$400 a year.

(c) In all other respects the compensation and expense allowance of the official shorthand reporter is governed by general law.

[Acts 1965, 59th Leg., p. 477, ch. 241, § 1, eff. Aug. 30, 1965. Amended by Acts 1971, 62nd Leg., p. 2444, ch. 786, § 1, eff. Aug. 30, 1971.]

Art. 2326j-43. Compensation of Reporters for 7th and 114th Judicial Districts

From and after the passage of this Act the official shorthand reporters for the 7th and 114th Judicial Districts of Texas shall each receive a salary of not less than \$4,800 per annum, nor more than \$9,600 per annum, in addition to the compensation for transcription fees as provided by law. Such salaries shall be paid monthly upon approval of the Judges of the 7th and 114th Judicial District Courts, and shall be paid by the Commissioners Court of each of the counties comprising the 7th and 114th Judicial District Courts of Texas. Such salaries shall be payable out of the General Fund, Officers' Salary Fund, the Jury Fund or any fund available for that purpose.

[Acts 1965, 59th Leg., p. 634, ch. 311, § 1, eff. Aug. 30, 1965.]

Art. 2326j-44. Compensation of Reporter for 81st Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 81st Judicial District of Texas, composed of the Counties of Atascosa, Frio, Karnes, La Salle and Wilson, shall receive a salary of not more than Ten Thousand, Six Hundred Dollars (\$10,600) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly by the counties composing such judicial district in accordance with the proportion that the

population of each county bears to the total population of the judicial district as shown by the last preceding Federal Census, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 81st Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1965, 59th Leg., p. 700, ch. 333, eff. Aug. 30, 1965. Amended by Acts 1971, 62nd Leg., p. 703, ch. 68, § 1, eff. Aug. 30, 1971.]

Art. 2326j-45. Compensation of Reporters for 128th and 163rd Judicial Districts

Sec. 1. The official shorthand reporters for the 128th Judicial District of Texas and for the 163rd Judicial District of Texas, composed of Orange County shall receive a salary of not less than Six Thousand, Four Hundred Dollars (\$6,400) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set by the judges of the districts; and from and after the time that the judge shall have entered an order in the minutes of the court, which shall be a public record and open for inspection, stating specifically the amount of salary to be paid to the reporter, and shall have filed a copy of the order with the commissioners court of the district, the salary so determined, fixed and set, shall be paid monthly, out of the General Fund of Orange County, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporters for the 128th and 163rd Judicial Districts shall have been determined, fixed and set by the judges of said districts in the manner and within the amount limits, as in this Act provided, said salaries shall be paid to said official shorthand reporters as in this Act provided, and not otherwise.

[Acts 1965, 59th Leg., p. 771, ch. 362, eff. Aug. 30, 1965.]

Art. 2326j-46. Compensation of Reporter for 69th Judicial District

The Commissioners Courts of Dallam, Deaf Smith, Hartley, Moore, Oldham and Sherman Counties may pay to the District Court Reporter of the 69th Judicial District, for services rendered in per-

forming the reporting duties therein, not to exceed Eight Thousand, Five Hundred Dollars (\$8,500) annually. The sum provided for herein shall be paid by the counties composing such Judicial District in accordance with the proportion that the population of each county bears to the total population of the Judicial District as shown by the last preceding Federal Census. Such salary shall be paid in equal monthly installments, or semimonthly installments, in accordance with the present method of payment, and may be paid out of the general fund or any other fund available for such purpose, as may be determined by the Commissioners Court of each such county.

[Acts 1965, 59th Leg., p. 789, ch. 376, § 1, eff. June 9, 1965.]

Art. 2326j-47. Compensation of Reporter for 21st Judicial District

The official shorthand reporter of the 21st Judicial District Court is entitled to receive an annual salary of not less than \$4,800 nor more than \$8,500, the salary to be fixed by the Judge of the 21st District Court. The salary when so fixed shall be paid by the county commissioners of each county comprising the 21st Judicial District in the same manner as the salary has heretofore been paid.

[Acts 1965, 59th Leg., p. 799, ch. 383, § 1, eff. June 9, 1965.]

Art. 2326j-48. Repealed by Acts 1971, 62nd Leg., p. 1697, ch. 489, § 3, eff. May 27, 1971

Art. 2326j-48a. Compensation of Reporters for 16th and 158th Judicial Districts

Sec. 1. From and after the passage of this Act, the official shorthand reporters for the 16th and 158th Judicial Districts of Texas shall receive an annual salary not to exceed \$11,700. The salary shall be determined, fixed, and set by the judges of the respective districts. From and after the time that the judges enter an order in the minutes of the court in each county of the district, which order shall be a public record open for inspection, and stating specifically the amount of salary to be paid to the reporters, and enter a copy of the order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the respective district as provided by law. The salary shall be paid out of the general fund, jury fund, or any other fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state and as to allowances to them for transcript fees and hotel and traveling expense shall govern, except that when the salary of the official shorthand reporters for the 16th and 158th Judicial Districts has been determined, fixed, and set by the judges of the districts, in the manner and within the limit provided by this Act, the salary

shall be paid to the reporters as provided in this Act.

[Acts 1971, 62nd Leg., p. 1696, ch. 489, §§ 1, 2, eff. May 27, 1971.]

Art. 2326j-49. Compensation of Reporters for 30th, 78th and 89th Judicial Districts

Superseded

The provisions of this article, derived from Acts 1965, 59th Leg., p. 846, ch. 408, were superseded by art. 2326j-76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j-50. Compensation of Reporter for 22nd Judicial District

Sec. 1. From and after the passage of this Act the Official Shorthand Reporter for the 22nd Judicial District of Texas, composed of Comal, Hays, Caldwell, Fayette and Austin Counties, shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) and not more than Eight Thousand Dollars (\$8,000) per annum, which shall be determined, fixed and set by the Judge of said District; and from and after the time that said Judge shall have entered an order in the minutes of the court, in each county of said District, which order shall be made a public record and open for inspection, stating specifically the amount of salary to be paid said reporter, and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and travel expenses, shall govern, save and except that when the salary of the Official Shorthand Reporter for the 22nd Judicial District of Texas shall have been determined, fixed and set by the Judge of said District, said salary shall be paid to said Official Shorthand Reporter as in this Act provided, and not otherwise.

[Acts 1965, 59th Leg., p. 868, ch. 423, eff. Aug. 30, 1965.]

Art. 2326j-51. Compensation of Reporter for 38th Judicial District

Sec. 1. This Act applies to the official shorthand reporter for the 38th Judicial District of Texas, composed of the counties of Real, Medina, Uvalde, and Zavala, or a judicial district which includes these counties.

Sec. 2. (a) The shorthand reporter shall receive a salary of not less than \$7,200 and not more than \$9,600 each year, as determined by the Judge of the District. This salary is in addition to any transcript fees which are provided by law.

(b) The salary, when determined, is payable in equal monthly installments from the General Fund, the Jury Fund, or any other fund available for the purpose as determined by the Commissioners Court of each county. Each county in the Judicial District shall pay a proportionate amount of the salary, as determined by the Judge of the District.

Sec. 3. (a) The reporter shall also receive as reimbursement for his actual and necessary hotel and travel expenses incurred while in the discharge of his official duties an amount not to exceed \$6 per day for hotel expense, four cents per mile when traveling by railway or bus, and 10 cents per mile when traveling by private conveyance.

(b) Mileage shall be computed by the shortest practical route to and from the place where his duties are discharged. Expenses are payable at the end of each term of court.

(c) Each Commissioners Court shall pay the expense incurred by the reporter in the performance of his duties in its respective county during the regular and all special terms of court. The expenses are payable out of the General Fund of the county upon the sworn statement of the reporter, approved by the Judge of the District.

(d) The total amount which the reporter is entitled to receive as expense allowance is limited to \$1,000 in any one year.

Sec. 4. This Act does not affect any law relating to shorthand reporters, except those which set a maximum for salaries or expense allowances.

[Acts 1965, 59th Leg., p. 879, ch. 437, eff. June 14, 1965.]

Art. 2326j-51a. Compensation of Reporter for 2nd 38th Judicial District

The official shorthand reporter of the 2nd 38th Judicial District of Texas shall receive a salary of not to exceed \$8,500 per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the Judge of the 2nd 38th Judicial District Court, and shall be paid by the commissioners court of each of the counties comprising the 2nd 38th Judicial District of Texas. Such salary shall be payable out of the general fund, officers salary fund, the jury fund or any fund available for that purpose.

[Acts 1967, 60th Leg., p. 1091, ch. 480, § 1, eff. Aug. 28, 1967.]

Art. 2326j-52. Appointment and Compensation of Reporters for 17th, 48th, 67th, 96th, 141st and 153rd Judicial District Courts, for Criminal District Courts Nos. 1 to 4, for County Court at Law, for County Criminal Courts Nos. 1 to 3, and for Courts of Domestic Relations Nos. 1 to 4, in Tarrant County

Sec. 1. The respective judges of the 17th, 48th, 67th, 96th, 141st and the 153rd Judicial District

Courts; the respective judges of Criminal District Courts No. 1, No. 2, No. 3 and No. 4; the judge of the County Court at Law; and, the respective judges of the County Criminal Courts No. 1, No. 2 and No. 3, in Tarrant County, Texas, shall each appoint an official shorthand reporter for each of such courts. The judges of the Courts of Domestic Relations No. 1, No. 2, No. 3 and No. 4, in Tarrant County, Texas, shall appoint a total of three official shorthand reporters for such courts; if the said judges of the Courts of Domestic Relations fail to agree upon any appointment within 30 days after a vacancy occurs, the juvenile board shall have authority to appoint a court reporter for said Courts of Domestic Relations. A bailiff shall be designated by the sheriff of Tarrant County to serve the court as in other courts of the county. Such appointments shall be evidenced by an order entered on the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the judge(s) of such court(s). The salary compensation of such reporter serving in each of said court(s) shall be not more than Sixteen Thousand, Five Hundred Dollars (\$16,500.00) per annum, and the amount of such salary compensation shall be determined, fixed and the payment thereof authorized by the judge(s) of each respective court(s) within the maximum amount herein provided, and such salary compensation shall be paid semimonthly out of the General Fund, Officers Salary Fund, or out of any appropriate fund available for such purpose, as shall be determined by the Commissioners Court of Tarrant County, Texas.

Sec. 2. From and after the passage of this Act, all provisions relating to official shorthand reporters as provided in Article 2324, Revised Civil Statutes of Texas, 1925, as amended by Chapter 290, Acts of the 57th Legislature, Regular Session, 1961, shall in all respects govern; except the salary compensation to the official shorthand reporters as provided in this Act shall be determined, fixed and the payment thereof authorized by the Judge of each such court, and not otherwise.

Sec. 3. In any Act or statute passed by any previous session of the Legislature of this State wherein the salary compensation of any reporter in any other court than those named in this Act has been fixed by reference to salary compensation of any official shorthand reporter or reporters of courts named in this Act, such reference shall be deemed to apply to and be governed by the statutes in existence at the time of the passage of the Act named in such reference, and the provisions of this Act shall in no way serve to affect, increase, or decrease the salary of any reporter or reporters so fixed by reference in any previous legislative sessions. The purpose and intent of this Act is to fix and delineate the salary compensation of the official

shorthand reporters of the courts herein specifically named and none other.

[Acts 1965, 59th Leg., p. 978, ch. 472, eff. Aug. 30, 1965. Amended by Acts 1967, 60th Leg., p. 2042, ch. 751, § 1, eff. June 18, 1967; Acts 1971, 62nd Leg., p. 879, ch. 112, § 1, eff. May 7, 1971.]

Art. 2326j-53. Repealed by Acts 1971, 62nd Leg., p. 2394, ch. 748, § 5, eff. Aug. 30, 1971

See, now, article 2326j-53a.

Art. 2326j-53a. Appointment and Compensation of Reporter for 84th Judicial District

Sec. 1. The Judge of the 84th Judicial District of Texas, composed of the Counties of Hansford, Hutchinson and Ochiltree, shall appoint an official shorthand reporter for such District in the manner now provided for District Courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than Twelve Thousand Dollars (\$12,000.00) per annum, said salary to be fixed and determined by the District Judge of the 84th Judicial District, composed of the Counties of Hansford, Hutchinson and Ochiltree, and said salary shall be in addition to the transcript fees, fees for statements of fact, and all other fees as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. If any section, sentence, clause, phrase or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. Said reporter shall, in addition, receive allowances for his actual and necessary traveling and hotel expenses while actually engaged in the discharge of his duties, not to exceed Eight Dollars (\$8.00) per day for hotel bills, and not to exceed ten cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid by the respective counties of the Judicial District for which they are incurred, each county paying the expenses incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county, out of the General Fund of the county upon the sworn statement of the reporter approved by the judge, provided there shall not be paid to any such official shorthand reporter more than Fifteen Hundred Dollars (\$1,500.00) in any one year under the provisions of this Act.

Sec. 4. From and after the passage of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1971, 62nd Leg., p. 2393, ch. 748, §§ 1 to 4, eff. Aug. 30, 1971.]

Art. 2326j-54. Appointment and Compensation of Reporter for 27th Judicial District

Sec. 1. The judge of the 27th Judicial District of Texas composed of Bell, Lampasas and Mills counties, shall appoint an official shorthand reporter for the district in the manner provided for district courts.

Sec. 2. The reporter shall have the qualifications and duties provided by general law.

Sec. 3. The reporter is entitled to receive a salary of not more than \$14,000 per annum; said salary to be fixed, determined and set by the judge of the 27th Judicial District and to be in addition to transcript fees, fees for statements of facts and all other fees. From and after the time that such judge shall have entered an order in the minutes of said court in each county of said district, which order shall be a public record, and open for inspection, stating specifically the amount of salary to be paid to said reporter and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined and fixed and set shall be paid monthly by and in the proportion for each county of the district as provided by law, out of the general fund or out of the jury fund, or out of any fund available for the purpose.

Sec. 4. The commissioners court of each county in the district shall determine whether to pay that county's part of the reporter's salary from the general fund, the jury fund, or other fund available for the purpose.

[Acts 1967, 60th Leg., p. 29, ch. 10, eff. Jan. 1, 1968. Amended by Acts 1971, 62nd Leg., p. 1814, ch. 539, § 1, eff. June 1, 1971.]

Art. 2326j-55. Compensation of Reporter for 43rd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 43rd Judicial District shall receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a

copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 43rd Judicial District of Texas shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 44, ch. 22, eff. March 21, 1967. Amended by Acts 1971, 62nd Leg., p. 1385, ch. 371, eff. Aug. 30, 1971.]

Art. 2326j-56. Compensation of Reporters for 8th, 40th and 123rd Judicial Districts

Sec. 1. Each of the official shorthand reporters for the 8th Judicial District, the 40th Judicial District, and the 123rd Judicial District shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined and set by the judge of each District Court and shall be in addition to transcript fees, fees for statements of facts and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of each county within said district, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose, by the counties composing the judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding Federal Census.

Sec. 2. In addition to the duties required in the District Court, the reporter for the 40th Judicial District shall also, when available and required, report cases tried in the County Court of Ellis County, Texas.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, except that when the salary of any one of the official shorthand reporters for the 8th, 40th, or the 123rd Judicial District shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said

official shorthand reporter as provided in this Act, and not otherwise.

[Acts 1967, 60th Leg., p. 555, ch. 242, eff. May 22, 1967.]

Art. 2326j-57. Compensation of Reporters for 19th, 54th, 74th and 170th Judicial Districts

Sec. 1. The official shorthand reporters for the 19th, 54th, 74th, and 170th Judicial Districts shall each be hired by the judge of the respective court and shall receive a salary of not more than \$9,600 a year, the amount of the salary to be fixed by the judge of the respective judicial district. When the salary is fixed by the district judge, the commissioners court of McLennan County shall enter an order in its minutes reflecting the amount of the salary to be paid and shall pay the salary in the manner provided by law.

Sec. 2. This Act does not change the salary of any official shorthand reporter who is not specified in this Act.

[Acts 1967, 60th Leg., p. 801, ch. 335, eff. Aug. 28, 1967. Amended by Acts 1971, 62nd Leg., p. 1896, ch. 563, § 1, eff. June 1, 1971.]

Art. 2326j-58. Compensation of Reporter for 85th Judicial District

The official shorthand reporter for the 85th Judicial District of Texas shall receive a salary of not more than \$8,400 a year. The salary of the shorthand reporter shall be determined by the judge of the district court the reporter serves. The judge shall enter an order in the minutes of the court stating specifically the amount of the salary to be paid to the reporter and file a copy of the order with the Commissioners Court of the county. The Commissioners Court shall pay the salary of the shorthand reporter as provided by law.

[Acts 1967, 60th Leg., p. 806, ch. 341, § 1, eff. Aug. 28, 1967.]

Art. 2326j-59. Compensation of Reporter for 156th Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 156th Judicial District of Texas, composed of the counties of Aransas, Bee, Live Oak, McMullen and San Patricio, shall receive a salary of not more than \$9,600 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 156th Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 1075, ch. 470, eff. Aug. 28, 1967. Amended by Acts 1971, 62nd Leg., p. 1324, ch. 350, § 1, eff. May 24, 1971.]

Art. 2326j-60. Compensation of Reporter for 52nd Judicial District

Sec. 1. The official shorthand reporter for the 52nd Judicial District of Texas shall receive a salary of not more than \$9,000 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 52nd Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 1170, ch. 522, eff. Aug. 28, 1967.]

Art. 2326j-61. Compensation of Reporter for 32nd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 32nd Judicial District of Texas shall receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, which shall be determined, fixed and set by the judge of said district with the consent of the commissioners court; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a

copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 32nd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 1209, ch. 544, eff. Aug. 28, 1967. Amended by Acts 1971, 62nd Leg., p. 1971, ch. 609, § 1, eff. Aug. 30, 1971.]

Art. 2326j-62. Compensation of Reporter for 46th Judicial District

Sec. 1. From and after the passage of this Act the Official Shorthand Reporter for the 46th Judicial District of Texas, composed of Wilbarger, Hardeman and Foard Counties, shall receive a salary of not less than Nine Thousand, Six Hundred Dollars (\$9,600) and not more than Eleven Thousand Dollars (\$11,000) per annum which shall be determined, fixed and set by the Judge of said District; and from and after the time that said Judge shall have entered an order in the minutes of the court, in each county of said District, which order shall be made a public record and open for inspection, stating specifically the amount of salary to be paid said reporter, and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and travel expenses, shall govern, save and except that when the salary of the Official Shorthand Reporter for the 46th Judicial District of Texas shall have been determined, fixed and set by the Judge of said District, said salary shall be paid to said Official Shorthand Reporter as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 1210, ch. 545, eff. Aug. 28, 1967.]

Art. 2326j-62a. Expenses of Reporter for 46th Judicial District

In addition to a salary, the official court reporter for the 46th Judicial District may receive, in lieu of

the expenses provided for court reporters in Chapter 56, Acts of the 41st Legislature, 1929, as amended (Article 2326a, Vernon's Texas Civil Statutes), an allowance of \$3,000 per year as per diem for actual and necessary expenses, including travel and hotel expenses, while engaged in the discharge of his duties, which amount shall be paid in 12 equal monthly installments by the counties comprising the district in proportion to the population which each county bears to the population of the whole district, according to the last preceding federal census.

[Acts 1973, 63rd Leg., p. 1082, ch. 417, § 1, eff. June 14, 1973. Amended by Acts 1981, 67th Leg., p. 1009, ch. 385, § 1, eff. June 10, 1981.]

Art. 2326j-63. Compensation of Reporters for 3rd and 87th Judicial Districts

Sec. 1. From and after the passage of this Act, the official shorthand reporters for the 3rd and 87th Judicial Districts of Texas shall each receive a salary of not less than \$4,800 per annum, nor more than \$9,600 per annum, which salary shall be determined, fixed and set by the presiding judge of each such judicial district; and such salary compensation shall be in addition to transcript fees or fees of any character now authorized by law to be paid to the official shorthand reporters. From and after the time that said Judge shall have entered an order in the minutes of said court, in each county of the district, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of each county within said district, the salary so determined, fixed and set shall be paid monthly out of the general fund or the jury fund or any fund available for that purpose, by the counties composing the judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding federal census.

Sec. 2. From and after the passage of this Act, all provisions of law now existing, relating to the appointment of such official shorthand reporters, their qualifications and their duties in district courts shall in all respects govern, except that the salaries of such official shorthand reporters for the 3rd and 87th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

[Acts 1969, 61st Leg., p. 73, ch. 31, eff. March 26, 1969.]

Art. 2326j-64. Compensation of Reporter for 155th Judicial District

Sec. 1. The official shorthand reporter for the 155th Judicial District of Texas, composed of Waller, Fayette, and Austin counties, shall receive a salary of not more than \$11,500 per annum, which shall be determined, fixed, and set by the judge of the district; and from and after the time that the judge shall have entered an order in the minutes of the court, in each county of the district, which shall be a public record and open for inspection, stating specifically the amount of salary to be paid said

reporter, and shall have filed a copy of the order with each commissioners court in the district, the salary so determined, fixed, and set, shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 155th Judicial District shall have been determined, fixed, and set by the judge of the district, in the manner and within the amount limits, as in this Act provided, the salary shall be paid to the official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 75, ch. 33, eff. March 26, 1969. Amended by Acts 1971, 62nd Leg., p. 1642, ch. 458, § 1, eff. May 26, 1971.]

Art. 2326j-64a. Expenses of Reporter for 155th Judicial District

In addition to a salary, and in lieu of the expenses provided for court reporters by Section 1, Chapter 56, Acts of the 41st Legislature, Regular Session, 1929 (Article 2326a, Vernon's Texas Civil Statutes), the official court reporter for the 155th Judicial District may receive an annual allowance of \$3,000 to cover expenses, including travel and hotel expenses, incurred while engaged in the discharge of his duties. The counties in the district, other than the county in which the reporter resides, shall pay the allowance provided by this Act in equal shares.

[Acts 1983, 68th Leg., p. 4758, ch. 836, § 1, eff. Sept. 1, 1983.]

Art. 2326j-65. Compensation of Reporter for 6th Judicial District

The official shorthand reporter of the 6th Judicial District of Texas shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined, and set by the judge of such district court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of each county within said district, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for that purpose, by the counties composing the judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding federal census.

[Acts 1969, 61st Leg., p. 76, ch. 34, § 1, eff. Sept. 1, 1969.]

Art. 2326j-66. Compensation of Reporter for 62nd Judicial District

The official shorthand reporter of the 62nd Judicial District of Texas shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined and set by the judge of such district court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of each county within said district, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for that purpose, by the counties composing the judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding federal census.

[Acts 1969, 61st Leg., p. 77, ch. 35, § 1, eff. Sept. 1, 1969.]

Art. 2326j-67. Compensation of Reporter for 132nd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 132nd Judicial District of Texas shall receive a salary of not more than \$9,600 per annum, which shall be determined, fixed and set by the judge of said district, and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 132nd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 132, ch. 44, eff. April 1, 1969.]

Art. 2326j-68. Compensation of Reporter for 36th Judicial District

Sec. 1. From and after the passage of this Act, the official shorthand reporter for the 36th Judicial

District of Texas, composed of the counties of Aransas, Bee, Live Oak, McMullen, and San Patricio, shall receive a salary of not more than \$9,600 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 36th Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 149, ch. 52, eff. April 3, 1969. Amended by Acts 1971, 62nd Leg., p. 1324, ch. 350, § 2, eff. May 24, 1971.]

Art. 2326j-69. Compensation of Reporter for 66th Judicial District

Sec. 1. The official shorthand reporter for the 66th Judicial District of Texas shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined and set by the judge of the 66th Judicial District Court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Hill County, Texas, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose, by the county composing the 66th Judicial District.

Sec. 2. In addition to the duties required in the district court, the reporter shall also, when available and required, report cases tried in the County Court of Hill County, Texas.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, except that when the salary of the official shorthand reporter for the 66th Judicial

District shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said official shorthand reporter as provided in this Act, and not otherwise.

[Acts 1969, 61st Leg., p. 160, ch. 59, eff. April 3, 1969.]

Art. 2326j-70. Compensation of Reporter for 1st Judicial District

Sec. 1. From and after the passage of this Act, the official shorthand reporter for the First Judicial District of Texas, composed of the counties of Jasper, Newton, Sabine, and San Augustine, shall receive a salary of not less than \$6,000, nor more than \$9,000 per annum, which salary shall be determined, fixed, and set by the judge of the district court of said district; and from and after the time said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications, and duties of the official shorthand reporters in this state, and the allowances to them of transcript fees and hotel and traveling expenses, shall govern.

[Acts 1969, 61st Leg., p. 264, ch. 103, eff. Sept. 1, 1969.]

Art. 2326j-71. Compensation of Reporters for 25th and Second 25th Judicial Districts

The official shorthand reporters for the 25th and the Second 25th Judicial Districts of Texas shall each receive a salary determined, fixed, and set by the presiding judge of each judicial district, but not to exceed \$7,800 per annum. The portion to be paid by each county shall be determined on a population basis by the judge appointing the shorthand reporter. The salary shall be in addition to transcript fees or fees of any character now authorized by law to be paid to official shorthand reporters.

[Acts 1969, 61st Leg., p. 710, ch. 250, § 1, eff. May 21, 1969.]

Art. 2326j-72. Compensation of Reporters for 103rd, 107th and 138th Judicial Districts

Sec. 1. From and after the passage of this Act, the Official Shorthand Reporters of the 103rd, 107th, and 138th Judicial Districts of Texas are authorized to receive a salary of not more than \$11,500 per annum, such salary compensation being in addition to transcript fees or fees of any character now authorized by law to be paid to official shorthand reporters, the specific amount of such

salary to be fixed by each of the district judges of the respective judicial districts.

Sec. 2. The salaries of said official shorthand reporters shall be paid in equal monthly installments by the counties composing such judicial districts in accordance with the proportion that the population of each county bears to the total population of the judicial districts as shown by the last preceding federal census. Such salaries may be paid out of the general fund, the jury fund or any other fund lawfully available for such purpose in the respective counties in said judicial districts.

Sec. 3. From and after the passage of this Act, all provisions of law now existing, relating to the appointment of such official shorthand reporters, their qualifications and their duties in district courts shall in all respects govern, except that the salaries of such Official Shorthand Reporters for the 103rd, 107th, and 138th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

[Acts 1969, 61st Leg., p. 1183, ch. 379, eff. Sept. 1, 1969.]

Art. 2326j-73. Compensation of Reporter for 4th Judicial District

Sec. 1. The official shorthand reporter for the 4th Judicial District shall receive a salary of not less than \$4,800 nor more than \$10,200 per annum, said salary to be fixed, determined, and set by the judge of the 4th District Court, and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of Rusk County, the salary so determined, fixed and set shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, except that when the salary of the official shorthand reporter for the 4th Judicial District shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said official shorthand reporter as provided in this Act, and not otherwise.

[Acts 1969, 61st Leg., p. 1748, ch. 581, eff. June 10, 1969. Amended by Acts 1971, 62nd Leg., p. 52, ch. 28, § 1, eff. March 18, 1971.]

Art. 2326j-74. Compensation of Reporters for 5th, 71st, 76th and 102nd Judicial Districts

From and after the passage of this Act, the official shorthand reporters for the 5th, 71st, 76th, and 102nd Judicial Districts of Texas shall each

receive a salary of not less than \$6,600 nor more than \$9,600 a year, in addition to the compensation for transcription fees as provide by law. The salaries shall be paid monthly upon approval of the Judges of the 5th, 71st, 76th, and 102nd Judicial District Courts, and shall be paid by the commissioners court of each of the counties comprising the 5th, 71st, 76th, and 102nd District Courts of Texas. Such salaries shall be payable out of the general fund, officers' salary fund, the jury fund, or any fund available for that purpose.

[Acts 1969, 61st Leg., p. 1861, ch. 622, § 1, eff. June 11, 1969.]

Art. 2326j-75. Compensation of Reporter for 26th Judicial District

Sec. 1. The Judge of the 26th Judicial District of Texas, composed of Williamson County, shall appoint an official shorthand reporter for the district in the manner provided for district courts.

Sec. 2. The reporter shall have the qualifications and duties provided by general law.

Sec. 3. The reporter is entitled to receive as compensation all transcript fees and an annual salary of not more than \$9,000.00, payable monthly, as authorized by the District Judge with the approval of the Commissioners Court.

Sec. 4. The Commissioners Court in the district shall determine whether to pay the reporter's salary from the general fund, the jury fund, or other fund available for the purpose.

[Acts 1969, 61st Leg., p. 1932, ch. 644, eff. Sept. 1, 1969.]

Art. 2326j-76. Compensation of Reporters for 30th, 50th, 78th, 89th, 100th and 110th Judicial Districts

Sec. 1. From and after the passage of this Act the official shorthand reporters for the 30th, 50th, 78th, 89th, 100th, and 110th Judicial Districts of Texas shall each receive a salary of not more than \$12,000 per annum, which shall be determined, fixed, and set by the judge of the district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of the district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and travel expenses, shall govern, save and except that when the salary of the official shorthand reporter for a district

named in Section 1 shall have been determined, fixed, and set by the judge of the district, the salary shall be paid to the official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 1949, ch. 651, eff. June 12, 1969. Amended by Acts 1971, 62nd Leg., p. 898, ch. 124, § 4, eff. May 10, 1971.]

Art. 2326j-77. Compensation of Reporter for 97th Judicial District

Sec. 1. From and after the passage of this Act, the official shorthand reporter for the 97th Judicial District of Texas shall receive an annual salary of not more than \$16,000, which salary shall be determined and fixed by the judge of the district. From and after the time that the judge enters an order in the minutes of the court in each county of the district, which order shall be a public record and open for inspection, and shall state specifically the amount of salary to be paid to the reporter, and files a copy of the order with each Commissioners Court of the district, the salary determined and fixed shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, the jury fund, or any other fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of law relating to the appointment, qualifications, and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees, shall govern, save and except that when the salary of the official shorthand reporter for the district is fixed and determined by the judge of the district, the salary shall be paid to the official shorthand reporter as provided by this Act, and not otherwise.

Sec. 3. The reporter shall receive, in lieu of the expenses provided for shorthand reporters in Chapter 56, Acts of the 41st Legislature, Regular Session, 1929, as amended (Article 2326a, Vernon's Texas Civil Statutes), in addition to the salary provided by this Act, an annual allowance to be determined and fixed by order of the district judge, not to exceed \$1200, as per diem for actual and necessary expenses, including travel and hotel expenses, while engaged in the discharge of his duties. The allowance shall be paid in 12 equal monthly installments by the counties comprising the district in proportion to the population which each county bears to the population of the whole district, according to the last preceding Federal Census.

[Acts 1971, 62nd Leg., p. 897, ch. 124, eff. May 10, 1971.]

Art. 2326j-78. Appointment and Compensation of Reporters for County and District Courts of Bexar County

The judges of the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, 175th, 186th, and 187th Judicial Districts, and of County Courts at Law Nos. 1, 2, and 3 of Bexar County and County Civil Court at Law of Bexar County, shall each appoint an official

shorthand reporter for such court or judicial district in the manner now provided for appointment of official shorthand reporters in this State. The appointment shall be evidenced by an order entered on the minutes of each court. The appointment when once made shall continue in effect from year to year unless otherwise ordered by the judge of the court in which such reporter serves. The compensation of the reporters shall be not more than \$16,500 per annum; the compensation shall be determined, set, and allowed by the judge of the court or courts with the approval of the Commissioners Court within such maximum compensation authorized hereby, in addition to compensation for transcript fees as provided by law; such compensation shall be paid semi-monthly out of the general fund, officers salary fund, or out of any other fund as may be available for the purpose, as may be determined by the Commissioners Court of Bexar County, in addition to compensation for transcript fees, fees for statements of facts, and other fees as provided by law.

[Acts 1971, 62nd Leg., p. 1402, ch. 382, § 1, eff. Aug. 30, 1971.]

Art. 2326j-79. Appointment and Compensation of Reporter for 196th Judicial District

Sec. 1. The Judge of the 196th Judicial District of Texas, composed of the county of Hunt, shall appoint an official shorthand reporter for said judicial district in the manner now provided for appointment of official shorthand reporters in this state; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than \$10,600 per annum, and the amount of such salary shall be determined, fixed, and the payment thereof authorized by the Judge of the 196th Judicial District, composed of the county of Hunt, and said salary shall be in addition to transcript fees, and allowance for hotel and traveling expenses as now provided by general law. Said salary when so fixed and determined by the judge of said judicial district shall be paid monthly, out of the general fund, officers' salary fund, or out of any fund available for the purpose as may be determined by the commissioners court of Hunt County.

Sec. 2. If any section, sentence, clause, phrase, or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. From and after the passage of this Act all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses shall in all respects govern, save and except that the salary of the official shorthand reporter for the 196th Judicial District of Texas, as provided in this Act, shall be determined, fixed, and the payment

thereof authorized by the judge of said judicial district, and not otherwise.

[Acts 1971, 62nd Leg., p. 1575, ch. 425, eff. May 26, 1971.]

Art. 2326j-80. Compensation of Reporter for 235th Judicial District

The annual salary of the official shorthand reporter for the 235th District Court shall be determined and fixed by the judge of the 235th District Court at a sum of not less than \$6,000 nor more than \$12,000.

[Acts 1971, 62nd Leg., p. 1807, ch. 535, § 3, eff. Sept. 1, 1971.]

Art. 2326j-81. Compensation of Reporter for 149th Judicial District

Sec. 1. That the Official Shorthand Reporter of the 149th Judicial District of Texas, composed of the County of Brazoria, may receive a maximum salary of Sixteen Thousand Five Hundred Dollars (\$16,500.00) per annum, in addition to all traveling expenses, transcript fees and all other compensation now provided by law to be paid to said Official Shorthand Reporter, the specific amount of said salary to be fixed by the District Judge of such Judicial District, and approved by the Commissioners Court of Brazoria County.

Sec. 2. The salary of the Official Shorthand Reporter as herein fixed shall be paid monthly by Brazoria County, Texas. Such salary shall be paid out of the general fund or out of the jury fund, or out of any fund available for the purpose.

[Acts 1971, 62nd Leg., p. 2415, ch. 763, eff. Aug. 30, 1971.]

Art. 2326j-81a. Compensation of Reporter for 149th Judicial District

Sec. 1. The official shorthand reporter of the 149th Judicial District may receive a maximum salary of \$16,500 per annum, in addition to all travel expenses, transcript fees, and all other compensation provided by law to be paid to the official shorthand reporters. The specific amount of the salary of the official shorthand reporter shall be fixed by the district judge of the 149th Judicial District and approved by the commissioners court of Brazoria County.

Sec. 2. The salary of the official shorthand reporter as herein fixed shall be paid monthly by Brazoria County in accordance with the amount set by the district judge of the 149th Judicial District. Such salary shall be paid out of the general fund or out of the jury fund, or out of any fund available for the purpose.

[Acts 1973, 63rd Leg., p. 1390, ch. 538, eff. June 14, 1973.]

Art. 2326k. Combined with Article 2326

Art. 2326l. Shorthand Reporters in District Courts and County Courts at Law in Counties of 613,000 or More Population

Sec. 1. In all counties in the State of Texas having a population of six hundred and thirteen

thousand (613,000) or more, according to the 1950 census, the Judge of each District Court, civil or criminal, and the Judge of each County Court at Law, civil or criminal, shall appoint an official shorthand reporter for such court. Said appointment shall be evidenced by an order entered in the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the Judge of the Court in which such reporter serves. The compensation of such reporters shall be fixed by the Commissioners Court after the recommendation of the Judge of the court in which such reporter serves at not less than Forty-eight Hundred Dollars (\$4,800) per annum and not more than Eight Thousand Dollars (\$8,000) per annum, in addition to compensation for transcripts, statements of fact and other fees.

Sec. 2. A certified copy of the order appointing such reporter and the recommendation of the Judge as to the salary to be paid such reporter shall be transmitted to the Commissioners Court of such counties, who shall annually make provision for the payment of any such salary set by the Commissioners Court out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a-1 and 2326c, Vernon's Annotated Civil Statutes. The last four mentioned Articles shall remain in full force and effect.

[Acts 1957, 55th Leg., p. 204, ch. 92.]

Art. 2326l-1. Shorthand Reporters in District Courts and County Courts at Law in Counties of 900,000 or More Population

Sec. 1. In all counties in the State of Texas having a population of 900,000 or more, according to the last preceding or any future Federal Census, the judge of each district court, civil or criminal, and the judge of each county court at law, civil or criminal, shall appoint an official shorthand reporter for such court. The compensation of such reporters shall be fixed by the judge of the court in which such reporter serves at not less than Six Thousand Dollars (\$6,000) per annum and not more than Eleven Thousand, Five Hundred Dollars (\$11,500) per annum, in addition to compensation for transcripts, statements of facts and other fees. The appointment of each such court reporter and the annual salary of such court reporter as fixed by the judge of the court in which such court reporter serves shall be evidenced by an order entered in the Minutes of each such court, which appointment and the salary so fixed shall continue in effect from year to

year unless and until changed by order of the judge of the court in which such court reporter serves.

Sec. 2. A certified copy of the order appointing such reporter and fixing the salary to be paid such reporter shall be transmitted to the commissioners court of such counties, who shall annually make provision for the payment of any such salary out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a-1 and 2326c, Vernon's Texas Civil Statutes. The last four mentioned Articles shall remain in full force and effect.

[Acts 1965, 59th Leg., p. 781, ch. 371, eff. Aug. 30, 1965.]

Saved From Repeal

Acts 1969, 61st Leg., p. 2119, ch. 723, § 3, provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326o, § 3.

Art. 2326l-2. Shorthand Reporters in District Courts and County Courts at Law in Counties of 650,000 to 900,000

In all counties in the State of Texas having a population of not less than six hundred and fifty thousand (650,000) nor more than nine hundred thousand (900,000) inhabitants, according to the last preceding Federal Census, the Judge of each District Court, civil or criminal, and the Judge of each County Court at Law, civil or criminal, shall appoint an official shorthand reporter for such court. Such appointment shall be evidenced by an order entered on the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the Judge of the Court in which such reporter serves. The compensation of such reporters shall be not less than Seventy-five Hundred Dollars (\$7,500) nor more than Ten Thousand Dollars (\$10,000) per annum; such compensation shall be determined, set, and allowed by the judge of such court or courts within such minimum and maximum compensation authorized hereby, in addition to compensation for transcript fees as provided by law; such compensation shall be paid in twelve (12) equal monthly installments out of the General Fund, Officers Salary Fund, the Jury Fund, or out of any fund available for the purpose, as may be determined by the commissioners court of any such county, and shall

be in addition to compensation for transcript fees as provided by law.

[Acts 1965, 59th Leg., p. 1005, ch. 492, § 1, eff. Aug. 30, 1965.]

Art. 2326m. Shorthand Reporters in County Courts at Law in Counties of 360,000 to 612,000

In all counties in the State of Texas having a population of not less than three hundred sixty thousand (360,000) nor more than six hundred twelve thousand (612,000), according to the 1950 Federal Census, the Judge of each District Court, civil or criminal, and the Judge of each County Court at Law, civil or criminal, shall appoint an official shorthand reporter for such court. Such appointment shall be evidenced by an order entered on the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the Judge of the Court in which such reporter serves. The compensation of such reporters shall be not less than Seventy-five Hundred Dollars (\$7500.00) nor more than Eighty-five Hundred Dollars (\$8500.00) per annum; such compensation shall be determined, set, and allowed by the judge of such court or courts within such minimum and maximum compensation authorized thereby, in addition to compensation for transcript fees as provided by law; such compensation shall be paid in twelve (12) equal monthly installments out of the General Fund, Officer Salary Fund, the Jury Fund, or out of any fund available for the purpose, as may be determined by the Commissioners Court of any such county, and shall be in addition to compensation for transcript fees as provided by law.

[Acts 1959, 56th Leg., p. 52, ch. 27, § 1.]

Art. 2326n. Reporters in Counties of 1,000,000, or More Population

Sec. 1. In all counties in the State of Texas having a population of one million (1,000,000) or more, according to the last preceding Federal Census, the judge of each district court, civil or criminal, and the judge of each county court at law, civil or criminal, shall appoint an official shorthand reporter for such court. Said appointment shall be evidenced by an order entered in the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the judge of the court in which such reporter serves. The compensation of such reporters shall be fixed by the commissioners court after the recommendation of the judge of the court in which such reporter serves at not less than Six Thousand Dollars (\$6,000) per annum and not more than Ten Thousand Six Hundred Dollars (\$10,600) per annum, in addition to compensation for transcripts, statements of facts and other fees.

Sec. 2. A certified copy of the order appointing such reporter and the recommendation of the Judge as to the salary to be paid such reporter shall be

transmitted to the Commissioners Court of such counties, who shall annually make provision for the payment of any such salary set by the Commissioners Court out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326b, 2327a-1 and 2326c, Vernon's Annotated Civil Statutes. The last four mentioned Articles shall remain in full force and effect.

[Acts 1959, 56th Leg., p. 485, ch. 215. Amended by Acts 1963, 58th Leg., p. 658, ch. 242, § 1.]

Art. 2326o. Shorthand Reporters in Counties of 2,000,000 or more; Appointment and Compensation

Sec. 1. In all counties in the State of Texas having a population of 2,000,000 or more, according to the last preceding federal census, the judge of each district court, and the judge of each county court at law, civil or criminal, shall appoint an official shorthand reporter for such court. The appointment of each such court reporter and his annual salary as fixed by the judge of the court in which such court reporter serves, shall be evidenced by an order entered in the minutes of each such court, which appointment and the salary so fixed shall continue in effect from year to year unless and until changed by order of the judge of the court in which such court reporter serves.

Sec. 2. A certified copy of the order appointing such reporter and fixing his salary shall be transmitted to the commissioners courts of such counties, who shall annually make provision for the payment thereof, out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments and shall be in addition to transcript fees, fees for statement of facts and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal articles 2326a, 2326b, 2327a-1, 2326c and 2326l-1, Vernon's Texas Civil Statutes. The last five mentioned articles shall remain in full force and effect.

[Acts 1969, 61st Leg., p. 2119, ch. 723, eff. June 12, 1969. Amended by Acts 1971, 62nd Leg., p. 1851, ch. 542, § 134, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 567, ch. 237, § 25, eff. Sept. 1, 1981.]

Art. 2327. In County Court

When either party to a civil case pending in the county court or county court at law applies there-

for, the judge thereof shall appoint a certified shorthand reporter, to report the oral testimony given in such case. A certified shorthand reporter shall be appointed to report the oral testimony given in any contested probate matter heard in a county court. In a county in which no certified shorthand reporter is a resident, a noncertified shorthand reporter or stenographer shall be appointed to report the oral testimony. The reporter or stenographer shall take the oath required of official court reporters, and shall receive not less than five dollars per day, to be taxed and collected as costs. In such cases the provisions of this title with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the court, shall apply to all statements of facts in civil and probate cases tried in said courts, and all provisions of law governing statement of facts and bills of exception to be filed in district courts and the use of same on appeal, shall apply to civil and probate cases tried in said courts.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 1761, ch. 713, § 32, eff. Aug. 27, 1979.]

Art. 2327a. Repealed by Acts 1947, 50th Leg., p. 565, ch. 329, § 1

Art. 2327a-1. Apportionment of Reporter's Salary Among Counties

Where any Judicial District in this State is composed of more than one county, and the District Court thereof has successive terms in either of such counties throughout the year, without more than two (2) days intervening between any of such terms, the salary of the official shorthand reporter of such District shall be paid by the several counties of the District, the same to be apportioned among such counties in proportion to their population according to the latest United States decennial census; provided that where such county is in two (2) different Judicial Districts, either one of which is composed of more than one county, in calculating such county's proportion of liability for the salary of the official shorthand reporter in any such District containing more than one county, such county's population shall be counted at one-half of its actual population as shown by the last preceding United States decennial census.

[Acts 1943, 48th Leg., p. 283, ch. 179, § 1.]

Saved From Repeal

This article was not repealed, affected or amended by Acts 1953, 53rd Leg., p. 1017, ch. 418, § 2, or repealed by Acts 1957, 55th Leg., p. 204, ch. 92, § 3 (article 2326l), or by Acts 1959, 56th Leg., p. 485, ch. 215, § 3 (article 2326n).

Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained herein shall be construed to repeal this article

and that this article shall remain in full force and effect. See article 2326l-1, § 3.

Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326j-6, § 3.

Acts 1969, 61st Leg., p. 2119, ch. 723, § 3, provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326o, § 3.

Art. 2327b. County Court Reporter in Counties of 40,905 to 41,000 Population

Sec. 1. In counties having a population of not less than forty thousand nine hundred and five (40,905) and not more than forty-one thousand (41,000) according to the last preceding Federal Census, there shall be and there is hereby created and established the office of court reporter of the County Court; such office to be called and known as the official Court Reporter of the County Court.

Sec. 2. In said counties the Judge of the County Court shall have the power to appoint an official court reporter for the County Court who shall possess the same qualifications, perform the same duties, as is now required of court reporters of the District Court and who shall hold the office of Court Reporter of the County Court for a term of two years from the date of such appointment or until his successor shall be appointed and qualified.

Sec. 3. Said official Court Reporter of said County Court shall be paid a salary of not to exceed Fifteen Hundred (\$1500.00) Dollars per year payable in twelve equal monthly payments on the first of each month during the year, out of the General Fund of the County.

Sec. 4. The Clerk of the County Court shall tax as costs the sum of Three (\$3.00) Dollars in each and every civil case filed in said court, on and after the passage and approval of this Act, in which an answer is filed.

[Acts 1937, 45th Leg., 2nd C.S., p. 1873, ch. 8.]

Art. 2327b-1. County Court Reporter in Counties of 22,100 to 22,500 Population

Sec. 1. In counties having a population of not less than twenty-two thousand, one hundred (22,100) and not more than twenty-two thousand, five hundred (22,500), according to the last preceding Federal Census, there shall be and there is hereby created and established the office of Court Reporter of the County Court; such office to be called and known as the Official Court Reporter of the County Court.

Sec. 2. In said counties the Judge of the County Court shall have the power to appoint an Official Court Reporter for the County Court, who shall possess the same qualifications, perform the same

duties as are now required of Court Reporters of the District Court, and who shall hold the office of Court Reporter of the County Court for a term of two (2) years from the date of such appointment, or until his successor shall be appointed and qualified.

Sec. 3. Provided, however, that the Commissioners Court of the county wherein such appointment is made shall approve the person appointed by the Judge of the County Court of said county.

Sec. 4. Said Official Court Reporter of such county shall be paid a salary of not to exceed Twelve Hundred Dollars (\$1200) per year, payable in twelve (12) equal monthly installments, on the first of each month during the year, out of the Jury Fund of the county. The amount of salary to be paid said Official Court Reporter shall be fixed by the Commissioners Court of such county.

[Acts 1939, 46th Leg., Spec.Laws, p. 616.]

Art. 2327c. Shorthand Reporters for County Courts at Law and County Criminal Courts in Certain Counties

Sec. 1. This Act shall apply to counties of this State which now have, or which may hereafter have, two (2) or more County Courts at Law and one (1) or more County Criminal Courts.

Sec. 2. The Judge of each County Court at Law and of each County Criminal Court shall appoint an official shorthand reporter for the respective Court over which he presides, who shall be skilled in such profession and shall be a sworn officer of the Court and shall hold such office at the pleasure of the Court, and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended, and all other provisions in law relating to "Official Court Reporters" shall and are hereby made to apply in all the provisions in so far as they are applicable to the official shorthand reporters herein authorized to be appointed and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of said county or counties, paid in the same manner that compensation of official shorthand reporters of the District Courts of said county or counties are paid.

The official shorthand reporter of said Courts shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but, where the testimony is taken by the said reporter a fee of Three Dollars (\$3) shall be taxed by the Clerk as costs in the case; the said Three Dollars (\$3) when collected, to be paid into the Treasury of the county in which said Court is located.

Sec. 3. All laws and parts of laws in conflict herewith are repealed to the extent of such conflict only.

Sec. 4. Should any portion of this Act be declared invalid, the same shall not invalidate the remaining portions of said Act.

Sec. 5. The County Judge, the County Auditor, the Commissioners Court, and any other officials charged with the preparation and approval of the county budget, are authorized to amend and shall amend the budget of such counties, as come within this Act, to provide for the payment of the compensation and salaries provided for official court reporters authorized by this Act.

[Acts 1949, 51st Leg., p. 460, ch. 247.]

Saved From Repeal

This article was not repealed, affected or amended by Acts 1953, 53rd Leg., p. 1017, ch. 418, § 2.

Art. 2327d. Shorthand Reporters for County Judges and for Certain Judges of Probate Court

Sec. 1. For the purpose of preserving a record of all hearings had before the County Judge of the counties of Texas, for the information of the Court and parties that may be interested therein, the Judge of the County Courts of Texas may appoint an official shorthand reporter for such Court who shall be well skilled in his profession, shall be a sworn officer of the Court, and shall hold office at the pleasure of the County Judge, and all provisions of the Civil Statutes of the State of Texas relating to the appointment of stenographers for District Courts shall apply, in so far as applicable to the official shorthand reporter herein authorized to be appointed by the County Judge of the County Courts of Texas. Provided, that in counties having a population of not less than five hundred thousand (500,000) inhabitants, according to the last preceding Federal Census, or any future Federal Census, there may be paid to the official shorthand reporter for the County Court of such county a salary in addition to compensation for transcript fees as provided by law, such salary to be paid out of the Officer's Salary Fund of such county.

Sec. 1A. For the purpose of preserving a record of all hearings had before the County Judge or any Judge of a Probate Court in counties having a population of not less than two million (2,000,000) according to the last preceding federal census, or any future federal census, the County Judge or any Judge of a Probate Court in such counties may elect to appoint an official shorthand reporter in any case pending before any of such courts. The official shorthand reporter so appointed shall be well skilled in his profession, shall be a sworn officer of the Court and shall hold office for the duration of the case in which he was appointed to serve.

[Acts 1951, 52nd Leg., p. 462, ch. 290, § 1. Amended by Acts 1955, 54th Leg., p. 804, ch. 295, § 1; Acts 1967, 60th Leg., p. 1204, ch. 539, § 1, eff. June 14, 1967; Acts 1971, 62nd Leg., p. 1842, ch. 542, § 102, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 567, ch. 237, § 26, eff. Sept. 1, 1981.]

4. MANDAMUS

Art. 2328. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

5. JUDICIAL COUNCIL

Art. 2328a. Judicial Council

Creation; Purposes

Sec. 1. There is hereby created the Texas Judicial Council for the continuous study of and report upon the organization, rules, procedure and practice of the judicial system of the State of Texas, the work accomplished and the results produced by that system and its various parts, and methods for its improvement.

Application of Sunset Act

Sec. 1a. The Texas Civil Judicial Council is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the council is abolished, and this Act expires effective September 1, 1987.

¹ Article 5429k.

Classes of Members

Sec. 2. The Council shall be composed of two classes of members, one designated as ex-officio, and the other as appointive.

Ex Officio Members

Sec. 3. (a) The ex officio members of the Council shall consist of the following: (1) the Chief Justice of the Supreme Court of Texas, who shall remain a member as long as he holds the position of Chief Justice; (2) the Presiding Judge of the Court of Criminal Appeals, who shall remain a member as long as he holds the position of Presiding Judge; (3) two Justices of the Courts of Appeals, to be designated by the Governor for staggered terms of four years with one justice's term expiring on February 1 of each odd-numbered year; (4) two presiding judges of the administrative judicial districts, to be designated by the Governor for staggered terms of four years with one judge's term expiring on February 1 of each odd-numbered year; (5) the Chairman and the immediate past Chairman of the Senate Jurisprudence Committee; and (6) the Chairman and the immediate past Chairman of the House Judiciary Committee.

(b) The Chief Justice of the Supreme Court may from time to time designate some other Justice of that Court to act in his stead, and at his pleasure, as member of the Council. The Presiding Judge of the Court of Criminal Appeals may from time to time designate some other Judge of that Court to act in his stead, and at his pleasure, as member of the Council.

(c) The foregoing references to justices and judges, other than the Chief Justice of the Supreme Court and the Presiding Judge of the Court of

Criminal Appeals, include respectively such retired justices and judges of the same grade as are legally eligible for assignment to part-time judicial duties.

(d) In the event the Chairman of the Senate Jurisprudence Committee or the Chairman of the House Judiciary Committee is reappointed to such position, his immediate predecessor shall continue to serve on the Council as immediate past Chairman, it being the intent of the Legislature that two members of the Senate and two members of the House be at all times members of the Council; provided, however, that in the case of legislative members, cessation of membership in the Legislature shall not terminate their membership on the Council, but they shall continue to serve for their full term notwithstanding their cessation of membership in the Legislature. In the event of a vacancy in a legislative membership, such vacancy shall be filled for the unexpired term only by the presiding officer of the appropriate house of the Legislature, and vacancies in other official memberships shall be filled in the same manner as the original appointment and for the unexpired term only.

(e) Ex officio members of the Council shall be entitled to all the privileges of full membership thereon and shall be regarded and treated in every respect as full members thereon.

Appointive Members; Tenure; Quorum

Sec. 4. The appointive members of the Council shall consist of nine resident citizens of the State of Texas, seven of whom shall be members of the State Bar of Texas and two of whom shall be persons not licensed to practice law, including at least one who is by profession a journalist. The Governor of Texas shall select the appointive members of the Council for six-year overlapping terms, three to be appointed to serve until July 1, 1975, three to serve until July 1, 1977, and three to serve until July 1, 1979, and thereafter their successors shall be appointed for terms of six years; provided that appointive members of the Council holding office on the effective date of this Act shall continue in office for the balance of the term to which they were appointed, and their successors shall be selected in the manner and for the term herein provided. Vacancies in the appointive membership of the Council shall be filled by appointment of the Governor for the unexpired term only.

All members of the Council shall continue to serve until their successors have been appointed and qualified.

Five members of the Council shall constitute a quorum for the transaction of any business of the Council.

Duties of Council

Sec. 5. It shall be the duty of the Council:

1. To make a continuous study of the organization of the courts; the rules and methods of procedure and the practice of the judicial system of the

State; of the work accomplished, the results attained and the uniformity of the discretionary powers of the courts, to the end that procedure may be simplified, business expedited, and justice better administered.

2. To receive and consider suggestions from judges, public officers, members of the bar, and citizens, touching remedies for faults in the administration of justice.

3. To formulate methods for simplifying judicial procedure, expediting the transaction of judicial business, and correcting faults in the administration of justice.

4. To gather judicial statistics and other pertinent data from the several judges and other court officials of the State.

5. To make a complete detailed report, on or before December 1st of each year, to the Governor and to the Supreme Court, of all its proceedings, suggestions and recommendations, and such supplemental reports from time to time as the Council may deem advisable. All such reports shall be considered public reports and may be given to the press as soon as filed.

6. To make investigations and reports upon such matters, touching the administration of justice as may be referred to the Council by the Supreme Court or the Legislature.

7. To hold one meeting in each calendar year, and such other meetings as may be ordered by the Council or under its authority, and at such time and place as may be designated by it or under its authority.

Powers of Council

Sec. 6. The Council shall have power:

1. To hold public meetings or hearings, by and through committees of three or more of its members, require the production of books and documents, require reports from the several courts of this State, including courts not of record, as may be deemed necessary, to administer oaths and take testimony.

For the purposes of any hearing, any Council officer, in advance of such hearing, or any Council member or officer sitting at such hearing, may issue under his official signature and cause to be served by registered or certified mail or by any adult person upon any prospective witness, a subpoena or like appropriate order. Upon the failure of a witness to testify, or upon his failure to appear or to produce books and documents as so ordered, any district judge of the county of residence of such witness shall, on written motion by, or on behalf of, the Council or Committee conducting said hearing, compel said witness to testify or, as the case may be, to appear and testify, by the same means, including attachment and penalties, whereby said judge may compel the testimony and appearance of

witnesses in the trial of a cause pending in his own court.

2. To elect from its membership a president and such other officers as it may deem advisable; provided the secretary need not be a member of the Council; and provided further that the president of the Council may appoint, for and during his term as president, such committees as he may deem necessary for the proper organization of the Council.

3. To make such rules and regulations as it may deem expedient for its government and that of its officers and committees; and to prescribe the duties of its officers and committees.

4. To appoint committees from its membership, and charge such committees with such of its duties and delegate to such committees such of its powers as it may deem proper.

5. To require the supplying of statistical data and other information pertaining to the amount and character of the civil and criminal business transacted by the courts of this State and other information pertaining to their conduct and operation; and to prescribe procedures and forms for the supplying of such statistical data and other information.

It shall be an official duty of every justice, judge, clerk or other officer of every court of this State to comply with the reasonable requirements of the Council for the supplying of statistical data appertaining to the amount and character of the business transacted by his court and of such other information concerning said court or the office of the clerk thereof as may be within the scope of the functions of the Council. Failure to supply such data or information within a reasonable time after request therefor shall be presumptively deemed a willful refusal to supply the same.

Due performance of the duty to supply data and information as aforesaid shall be enforceable by writ of mandamus, the corresponding actions for which shall be brought, and the corresponding courts shall have jurisdiction of the same, as follows: if against a district clerk or a clerk, judge or other officer of a trial court other than a district court, in a district court of the county of residence of the respondent; if against a district judge or clerk of a court of civil appeals, in the Court of Civil Appeals for the Supreme Judicial District in which the respondent resides; in all other cases, in the Supreme Court of Texas. The Attorney General of Texas shall file and prosecute the foregoing actions on behalf of the Council upon its written request, which shall be presumptively taken as the action of the Council if signed by its president or by as many as five of its members; but no such action shall be filed if the attorney general shall in writing certify his opinion that the same is without merit.

**Compensation Limited to Traveling and
Necessary Expenses**

Sec. 7. No member of the Council shall receive any compensation for his services as such member,

but shall be paid for actual traveling and other necessary expenses incurred in the discharge of his duties as such member, to be paid upon verified, itemized account approved by the President of the Council or by a Vice President thereof when so authorized in writing by the President. The necessary clerical expenses of the Council and its officers and committees shall be paid in like manner.

Partial Invalidity

Sec. 8. If any section or portion of any section of this Act shall for any reason be declared invalid, such invalidity shall not affect any other section or portion of section of this Act.

[Acts 1929, 41st Leg., 1st C.S., p. 51, ch. 19. Amended by Acts 1953, 53rd Leg., p. 12, ch. 6, § 1; Acts 1969, 61st Leg., p. 2425, ch. 812, §§ 1 to 5, eff. Sept. 1, 1969; Acts 1975, 64th Leg., p. 150, ch. 64, §§ 1, 2, eff. April 24, 1975; Acts 1977, 65th Leg., p. 1851, ch. 735, § 2.140, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 78, ch. 49, § 1, eff. April 11, 1979; Acts 1981, 67th Leg., p. 786, ch. 291, § 57, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2834, ch. 484, Art. II, § 9, eff. June 19, 1983.

Section 10 of art. II of the 1983 amendatory act provides:

"(a) A person appointed to the Texas Judicial Council who held office immediately preceding the effective date of this Act and who qualified for membership on the council as a justice of a court of appeals or as a presiding judge of an administrative judicial district is entitled to serve the remainder of the term for which he was appointed.

"(b) The term of office on the council succeeding a court of appeals justice's or an administrative judicial district judge's term that expires on January 1, 1985, expires on February 1, 1989. The term of office on the council succeeding a court of appeals justice's or an administrative judicial district judge's term that expires on January 1, 1987, expires on February 1, 1991."

**Art. 2328b. Office of Court Administration of
the Texas Judicial System**

Definitions

Sec. 1. In this Act, unless the context requires a different definition:

(1) "Court" means any tribunal forming a part of the judicial branch of government.

(2) "Trial court" means any tribunal forming a part of the judicial branch of government with the exception of the supreme court, the court of criminal appeals, and the courts of civil appeals.

(3) "Office of Court Administration" means the Office of Court Administration of the Texas Judicial System.

Promulgation of Rules

Sec. 2. The supreme court shall promulgate rules of administration for the efficient administration of justice in this state and other rules necessary for the enforcement of this Act. When promulgating rules of administration for the efficient administration of criminal justice in this state, the supreme court will seek the advice of the court of criminal appeals.

Creation of Office; Direction and Supervision; Duties

Sec. 3. (a) The Office of Court Administration of the Texas Judicial System is hereby created.

(b) The office of court administration shall operate under the direction and supervision of the supreme court. It shall perform the duties provided in this Act and such other duties as may be directed by the supreme court and shall provide the necessary staff functions for the efficient operation of the Texas Judicial Council.

Administrative Director

Sec. 4. (a) The supreme court shall appoint the administrative director of the courts, who shall serve at the will of the court and shall be subordinate to, and act by authority of and under the direction of, the chief justice of the supreme court. The administrative director shall direct the operations of the office of court administration and, as an additional duty of his office, shall serve as executive director of the Texas Judicial Council. He shall serve in such other capacities as may be directed by the supreme court or the chief justice.

(b) The administrative director shall devote full time to his official duties.

Employment of Personnel

Sec. 5. The administrative director, with the approval of the chief justice, shall employ such personnel as are necessary for the efficient operation of the office of court administration and of the Texas Judicial Council.

Duties of Administrative Director

Sec. 6. Under the direction and supervision of the chief justice, the administrative director shall implement the provisions of this Act and the rules of administration and other rules promulgated by the supreme court for the efficient administration of justice in this state. He shall:

(1) assist the justices and judges of the various courts in discharging their administrative duties;

(2) consult with and assist the administrative judges in discharging their duties under provisions of law and rules promulgated by the supreme court;

(3) make such recommendations to the supreme court as may be appropriate for the implementation of this Act;

(4) examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement and recommend forms and other documents used to record the business of the courts;

(5) examine the state of the dockets and practices and procedures of the courts and make recommendations for the promotion of the orderly and efficient administration of justice;

(6) prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system, and study and make recommendations on the expenditure of state funds appropriated for the maintenance and operation of the judicial system;

(7) consult with and assist the clerks of court and other officers and employees of the courts and of offices related to and serving the courts to provide for the efficient administration of justice;

(8) consult with and make recommendations to the court administrators and court coordinators of the courts of the state to provide for uniform administration and promote the efficient administration of justice in all courts of the state;

(9) perform such additional duties as may be assigned by the supreme court and by the chief justice; and

(10) prepare an annual report of the activities of his office to be published in the annual report of the Texas Judicial Council.

Clerical Personnel

Sec. 7. The authority of the courts to appoint clerical personnel is not limited by any provision of this Act.

Judge Acting Without Potential Jurisdiction

Sec. 8. Neither this Act nor any rule adopted under this Act may be construed to authorize a judge to act in a case of which his own court would not have potential jurisdiction under the constitution and laws of this state.

Judicial Discretion

Sec. 9. Neither this Act nor any rules adopted under its authority shall be construed to authorize any infringement upon the judicial discretion of any judge of the state in the trying of a case properly before his court.

[Acts 1977, 65th Leg., p. 98, ch. 45, eff. April 5, 1977.]

6. ENFORCEMENT OF SUPPORT

Arts. 2328b-1 to 2328b-3. Repealed by Acts 1965, 59th Leg., p. 1579, ch. 679, § 39, eff. Aug. 30, 1965

Art. 2328b-4. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing this article, enacts Title 2 of the Texas Family Code.

See, now, Family Code, § 21.01 et seq.

Acts 1973, 63rd Leg., p. 659, ch. 276, also amended § 25 of this article to read:

"In addition to the foregoing powers, the court of this State when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular: (a) To require the defendant to furnish a cash deposit or bond of such character and in such amount as the court may deem proper to

assure payment of any amount required to be paid by the defendant.

"(b) To require the defendant to make payments at specified intervals to the district clerk or probation department of the court.

"(c) To punish the defendant who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

"(d) To order the defendant (obligor) to pay as court costs a reasonable fee to any attorney or to the prosecuting attorney's office who represents the petitioner in any enforcement proceeding."

7. FOREIGN JUDGMENTS

Art. 2328b-5. Uniform Enforcement of Foreign Judgments Act

Definition

Sec. 1. In this Act, "foreign judgment" means a judgment, decree, or order of a court of the United States or of any other court that is entitled to full faith and credit in this state.

Filing and Status of Foreign Judgments

Sec. 2. A copy of any foreign judgment authenticated in accordance with an act of congress or statutes of this state may be filed in the office of the clerk of any court of competent jurisdiction of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the court in which the foreign judgment is filed. A filed foreign judgment has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, staying, enforcing, or satisfying as a judgment of the court in which it is filed.

Notice of Filing

Sec. 3. (a) At the time a foreign judgment is filed, the judgment creditor or the judgment creditor's attorney shall file with the clerk of the court an affidavit showing the name and last known post office address of the judgment debtor and the judgment creditor.

(b) The clerk shall promptly mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall note the mailing in the docket. The notice must include the name and post office address of the judgment creditor and if the judgment creditor has an attorney in this state, the attorney's name and address. The judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk does not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

Stay

Sec. 4. (a) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted and proves that the judgment

debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

(b) If the judgment debtor shows the court any ground on which enforcement of a judgment of the court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, and require the same security for satisfaction of the judgment that is required in this state.

Sec. 5. (a) A person filing a foreign judgment shall pay to the clerk of the court the amount as otherwise provided by law for filing suit in the courts of this state. Fees for other enforcement proceedings shall be as otherwise provided by law for judgments of the courts of this state.

(b) Filing fees are due and payable at the time of filing.

Optional Procedure

Sec. 6. The judgment creditor retains the right to bring an action to enforce a judgment instead of proceeding under this Act.

Uniformity of Interpretation

Sec. 7. This Act shall be interpreted and construed to achieve its general purpose to make the law of those states which enact it uniform.

Short Title

Sec. 8. This Act may be cited as the Uniform Enforcement of Foreign Judgments Act.

[Acts 1981, 67th Leg., p. 464, ch. 195, eff. May 25, 1981. Amended by Acts 1983, 68th Leg., p. 4504, ch. 731, § 1, eff. Sept. 1, 1983.]

Section 2 of the 1983 amendatory act provides:

"Sec. 2. This Act takes effect September 1, 1983, and applies to foreign judgments filed on or after that date."

Art. 2328b-6. Uniform Foreign Country Money-Judgment Recognition Act

Short Title

Sec. 1. This Act may be cited as the Uniform Foreign Country Money-Judgment Recognition Act.

Definitions

Sec. 2. In this Act:

(1) "Foreign country" means a governmental unit other than the United States, or a state, district, commonwealth, territory, or insular possession thereof, or the Panama Canal Zone, or the Trust Territory of the Pacific Islands.

(2) "Foreign country judgment" means a judgment of a foreign country granting or denying a sum of money, other than a judgment for taxes, a

fine or other penalty, or a judgment for support in matrimonial or family matters.

Applicability

Sec. 3. This Act applies to any foreign country judgment:

(1) that is final and conclusive and enforceable where rendered even though an appeal is pending or the judgment is subject to appeal; or

(2) that is in favor of the defendant on the merits of the cause of action and is final and conclusive where rendered, even though an appeal is pending or the judgment is subject to appeal.

Recognition and Enforcement

Sec. 4. Except as provided in Section 5 of this Act, a foreign country judgment meeting the requirements of Section 3 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign country judgment is enforceable in the same manner as the judgment of a sister state that is entitled to full faith and credit.

Grounds for Nonrecognition

Sec. 5. (a) A foreign country judgment is not conclusive if:

(1) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) the foreign country court did not have personal jurisdiction over the defendant; or

(3) the foreign country court did not have jurisdiction over the subject matter.

(b) A foreign country judgment need not be recognized if:

(1) the defendant in the proceedings in the foreign country court did not receive notice of the proceedings in sufficient time to enable him to defend;

(2) the judgment was obtained by fraud;

(3) the cause of action on which the judgment is based is repugnant to the public policy of this state;

(4) the judgment conflicts with another final and conclusive judgment;

(5) the proceeding in the foreign country court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court;

(6) in the case of jurisdiction based only on personal service, the foreign country court was a seriously inconvenient forum for the trial of the action; or

(7) it is established that the foreign country in which the judgment was rendered does not recognize judgments rendered in this state that, but for

the fact that they are rendered in Texas, conform to the definition of "foreign country judgment" in Section 2(2) of this Act.

Personal Jurisdiction

Sec. 6. (a) The foreign country judgment shall not be refused recognition for lack of personal jurisdiction if:

(1) the defendant was served personally in the foreign country;

(2) the defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him;

(3) the defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign country court with respect to the subject matter involved;

(4) the defendant was domiciled in the foreign country when the proceedings were instituted, or, being a body corporate had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign country;

(5) the defendant had a business office in the foreign country and the proceedings in the foreign country court involved a cause of action arising out of business done by the defendant through that office in the foreign country; or

(6) the defendant operated a motor vehicle or airplane in the foreign country and the proceedings involved a cause of action arising out of such operation.

(b) The courts of this state may recognize other bases of jurisdiction.

Stay in Case of Appeal

Sec. 7. If the defendant satisfies the court either that an appeal is pending or that he is entitled and intends to appeal from the foreign country judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

Saving Clause

Sec. 8. This Act does not prevent the recognition of a foreign country judgment in situations not covered by this Act.

Uniformity of Interpretation

Sec. 9. This Act shall be construed to carry out its general purpose to make uniform the law of those states that enact it.

Nonapplicability

Sec. 10. This Act does not apply to a judgment rendered before the effective date of this Act.

[Acts 1981, 67th Leg., p. 3069, ch. 808, eff. June 17, 1981.]

TITLE 43

COURTS—JUVENILE

Art.

- 2329 to 2338-1. Repealed.
- 2338-1.1. Jurisdiction of District and County Courts; Actions of Juvenile Judge Not Licensed as Attorney.
- 2338-1a. Contributing to Drug Dependency or Addiction.
- 2338-1b. Repealed.
- 2338-1c. Appointment of Retired Special Juvenile Court or Domestic Relations Court Judge to Sit for Regular Family District Court Judge.
- 2338-1d. Masters in Domestic Relations Court in Counties Over 2,000,000.
- 2338-1e. Domestic Relations Offices in Counties Over 2,000,000.
- 2338-2. Designation of District Court as Juvenile Court in Certain Counties.
- 2338-2a. Repealed.
- 2338-2b. Referee for Juvenile and District Courts of Wichita County.
- 2338-2c. Juvenile Court for Hopkins County; Judge.
- 2338-3 to 2338-9b.1. Repealed.
- 2338-9b.2. Masters in Dallas County Domestic Relations Courts.
- 2338-9c to 2338-11b. Repealed.
- 2338-12. Juvenile Court for Ector County; Compensation of Judge.
- 2338-13 to 2338-23. Repealed.

Art. 2329. Repealed by Acts 1943, 48th Leg., p. 313, ch. 204, § 24

For subject matter of the repealed article, see, now art. 2338-1.

Arts. 2330 to 2337. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing this article, enacts Title 2 of the Texas Family Code.

See, now, Family Code, § 11.01 et seq.

Art. 2338. Repealed by Acts 1943, 48th Leg., p. 313, ch. 204, § 24

For subject matter of the repealed article, see, now, art. 2338-1.

Art. 2338-1. Repealed by Acts 1973, 63rd Leg., p. 1485, ch. 544, § 3, eff. Sept. 1, 1973

Acts 1973, 63rd Leg., p. 1485, ch. 544, repealing this article, enacts Title 3 of the Texas Family Code.

See, now, Family Code, § 51.01 et seq.

Art. 2338-1.1. Jurisdiction of District and County Courts; Actions of Juvenile Judge Not Licensed as Attorney

Each district court, county court, and statutory county court exercising any of the constitutional jurisdiction of either a county court or a district court has jurisdiction over juvenile matters and may

be designated a juvenile court. Any action taken by a juvenile judge not licensed as an attorney by the State of Texas shall be subject to the trial de novo and appeal provisions as authorized by Sections 51.04, 51.18, and 56.01 of the Family Code.

[Acts 1979, 66th Leg., p. 387, ch. 178, § 1, eff. Aug. 27, 1979.]

Art. 2338-1a. Contributing to Drug Dependency or Addiction

(a) When any person is an habitual drunkard or an addict to cocaine, morphine or other narcotics, whether previously convicted or not, the parent, guardian or person having the custody of, or the person responsible for such habitual drunkard or narcotic addict, or any person who by any act encourages, causes, acts in conjunction with, or contributes to the delinquency, dependency or the neglect of such habitual drunkard or narcotic addict, or who shall in any manner cause, encourage, act in conjunction with or contribute to the delinquency, dependency or the neglect of any such habitual drunkard or narcotic addict, shall be fined not exceeding Five Hundred (\$500.00) Dollars or be imprisoned in jail not to exceed one year, or both. By the term "delinquency" as used herein is also meant any act which tends to debase or injure the morals, health or welfare of such habitual drunkard or narcotic addict, and includes drinking intoxicating liquor, the use of narcotics, going into or remaining in any bawdy house, assignation house, disorderly house, or road house, hotel, public dance hall where prostitutes, gamblers or thieves are permitted to enter and ply their trade, going into a place where intoxicating liquors or narcotics are kept, drunk, used or sold, or associating with thieves and immoral persons, or cause them to leave home or to leave the custody of their parents or guardian or persons standing in lieu thereof without first receiving their consent or against their will, or who by undue influence, cause such habitual drunkard or narcotic addict to unlawfully cohabit with any person known to them to be an habitual drunkard or narcotic addict.

(b) To the extent of any conflict, the offenses defined by the Penal Code or other law enacted subsequent to Chapter 488, Acts of the 51st Legislature, Regular Session, 1949, prevail over the offense defined by this article.

[1925 P.C. Amended by Acts 1929, 41st Leg., p. 238, ch. 103, § 1; Acts 1949, 51st Leg., p. 910, ch. 488, § 1; Acts 1983, 68th Leg., p. 1000, ch. 235, art. 3, § 1(b), eff. Sept. 1, 1983.]

Art. 2338-1b. Repealed by Acts 1983, 68th Leg., p. 1001, ch. 235, art. 3, § 1(c), eff. Sept. 1, 1983

See, now, Family Code, § 72.001 et seq.

Art. 2338-1c. Appointment of Retired Special Juvenile Court or Domestic Relations Court Judge to Sit for Regular Family District Court Judge

Absent, Disabled or Disqualified Regular Judge; Crowded Docket

Sec. 1. (a) When the regular judge of a Family District Court as created by the Family District Court Act in this state is absent or is from any cause disabled or disqualified from presiding, a retired judge of a special juvenile court or a domestic relations court may be appointed by the presiding judge of the administrative judicial district in which the appointed judge resides to sit for the regular judge of a Family District Court within the geographic limits of the respective administrative judicial district, provided the retired judge voluntarily retired from office and certifies his willingness to serve.

(b) When the docket of a Family District Court in this state becomes so excessive that the presiding judge of the administrative judicial district in which that court is located deems it an emergency, a retired judge of a special juvenile court or a domestic relations court residing within the geographic limits of the respective administrative judicial district, who meets the qualifications set out in Subsection (a) of this section, may be appointed by the presiding judge to sit for the regular judge for as long as the emergency exists.

(c) A presiding judge may, with the consent of a retired judge of a special juvenile court or a domestic relations court, within his district make an assignment outside of his judicial district with the specific authorization of the presiding judge of the district in which that assignment is made.

Bond and Oath of Retired Judge

Sec. 2. A retired judge appointed to sit for a regular judge under the provisions of this Act shall execute the bond and take the oath of office which is required by law for the regular judge for whom he is sitting.

Power and Jurisdiction

Sec. 3. A retired judge appointed under the provisions of this Act has all the power and jurisdiction of the court and the regular judge for whom he is sitting and may sign orders, judgments, decrees, or other process of any kind as "Judge Presiding" when acting for the regular judge.

Compensation

Sec. 4. A retired judge appointed to sit for the regular judge under the provisions of this Act shall receive for the services actually performed the same amount of salary which the regular judge is entitled

to receive for such services. The amount to be paid for such services shall be paid in the same manner as the regular judge is paid on certification by the presiding judge of the administrative judicial district that the retired judge has rendered the services and is entitled to receive the salary. Such payment shall be made from the item in the judiciary section, comptrollers department, of the appropriations act providing for payment of salaries of district judges and criminal district judges. This Act does not entitle the retired judge of a special juvenile court or a domestic relations court to participate in the state Judicial Retirement System. No part of the amount paid to a retired judge sitting for the regular judge shall be deducted or paid out of the salary of the regular judge.

Cumulative Effect

Sec. 5. The provisions of the Act are cumulative of all laws pertaining to the election or appointment of a special judge, and if, in addition to a retired judge appointed to sit temporarily for a regular judge, a special judge is needed, he shall be appointed or elected as now authorized by law.

[Acts 1975, 64th Leg., p. 1816, ch. 552, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1989, ch. 794, § 2, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 670, ch. 297, § 1, eff. Aug. 27, 1979.]

Art. 2338-1d. Masters in Domestic Relations Court in Counties Over 2,000,000

Authorization to Appoint Master; Termination; Qualifications; Compensation

Sec. 1. (a) Each judge of a court of domestic relations in a county of more than 2,000,000 population or any successor court thereto may appoint a master as provided in this Act. The services of the master may be terminated if the performance of his duties is unsatisfactory to the judge of the court, by which the master was appointed.

(b) A master shall be an attorney licensed to practice law in the State of Texas and shall be a citizen of this state. The compensation for a master shall be fixed by the judge of the court making such appointment. If the judge of the court determines that the parties litigant are unable to defray the costs of the master's compensation, such costs shall be paid out of the jury fund of the county.

Matters Referred to a Master

Sec. 2. If the judge of a court of domestic relations in such county or any successor court thereto deems it advisable, he may appoint a master and refer to the master any civil case involving motions of contempt for failure or refusal to pay child support, temporary support, or separate maintenance; motions for failure or refusal to comply with court orders concerning visitation with children growing out of separate maintenance and divorce actions; motions for changes of conservatorships; motions for revision of child-support payments; and motions for revision of visitation privileges.

Powers

Sec. 3. (a) In all cases designated in Section 2 of this Act, the judge of a court of domestic relations in a county of more than 2,000,000 population or any successor court thereto may authorize the master to hear evidence, to make findings of fact thereon, to formulate conclusions of law, and to recommend judgment to be entered in such cases. In all cases referred to the master, the order of reference may specify or limit the powers of the master and may direct him to report only on particular issues, or to do or perform particular acts, or to receive and report on evidence only, and may fix the time and place for beginning and closing hearings and for filing reports.

(b) Subject to the limitations and specifications stated in the order, the master shall have the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary and proper for the efficient performance of his duties under the order. He may require the production of evidence before him on all matters embraced in the reference, and he may rule on the admissibility of evidence, unless otherwise directed by the order of reference. He has the authority to issue summons for the appearance of witnesses and to swear the witnesses for the hearing and may examine them himself. A witness appearing before him that is duly sworn is subject to the penalties of perjury. If a witness after being duly summoned fails to appear or having appeared refuses to answer questions, on certification of such refusal to the referring court, the court may issue attachment against the witness and may fine or imprison the witness.

Report to Referring Judge; Notice to Parties

Sec. 4. On the conclusion of the hearing in each case, the master shall transmit to the referring judge all papers relating to the case, together with his findings and a statement that notice of his findings and of the right to a hearing before the judge has been given to all adult principals, minors, or parents, guardians, or custodians of any minor whose case has been heard by the master. This notice may be given at the hearing or otherwise as the referring court directs.

Disposition by Referring Judge

Sec. 5. After it is filed, the referring court may adopt, modify, correct, reject, or reverse the master's report or recommit it for further information as the court may deem proper and necessary in the particular circumstances of the case. Where judgment has been recommended, the court in its discretion may approve the recommendation and hear further evidence before rendition of judgment.

Hearing by Judge Upon Request

Sec. 6. Adult principals or a minor child or his parents, guardians, or custodians are entitled to a hearing by the judge of the referring court if within

three days after receiving notice of the findings of the master they file a request with the court for a hearing. The referring court may allow the hearing at any time.

Failure to Request Hearing

Sec. 7. If no hearing before the judge of the referring court is requested or the right to such hearing is waived, the findings and recommendations of the master become the decree of the court when adopted by an order of the judge.

Notice of Hearing by Master

Sec. 8. Prior to the hearing by the master, the parties litigant shall be given due notice as provided by law of the time and place of the hearing.

Jury Trial

Sec. 9. In any proceeding where a jury trial has been demanded, the master shall refer the case back to the referring court for a full hearing before the court and jury, subject to the usual rules of the court in such cases.

Appointment of Master Not Mandatory

Sec. 10. Nothing in this Act shall be interpreted to require any judge of a court of domestic relations to appoint a permanent or standing master to serve in such court.

[Acts 1977, 65th Leg., p. 1222, ch. 471, eff. June 15, 1977. Amended by Acts 1981, 67th Leg., p. 568, ch. 237, §§ 27, 28, eff. Sept. 1, 1981.]

Art. 2338-1e. Domestic Relations Offices in Counties Over 2,000,000**Creation; Powers; Chief Administrative Officer**

Sec. 1. In counties having a population in excess of 2,000,000, as shown by the last preceding United States Census, the county commissioners court may create a domestic relations office to provide services to establish and enforce court orders providing for the support and/or visitation rights to a child, to establish paternity or legitimation of a child, and to provide informational services to assist parties affected by a court order in understanding, complying with, and enforcing the duties and obligations in the court order pertaining to child support and rights of visitation. Upon such creation, said designated county office shall be directly responsible to the commissioners court. The chief administrative officer of the designated county office so created shall be appointed by a majority vote of the commissioners court of the county.

Application Fees

Sec. 2. The commissioners court of the county shall have the authority to set a schedule of reasonable application fees to be paid by applicants requesting services of the domestic relations office.

Attorney Fees

Sec. 3. The domestic relations office may receive reasonable attorney fees incurred or ordered by the court and taxed as costs in each proceeding.

Collection of Fees

Sec. 4. The chief administrative officer or his agent shall attempt, in a cost-effective manner, to collect the application fee and attorney fees incurred or ordered by the court.

Domestic Relations Office Fund

Sec. 5. All such fees provided for by this Act shall be paid to the county treasurer to be kept in a separate fund, such fund to be known as the "Domestic Relations Office Fund." This fund shall be administered by the commissioners court of the county for the purpose of assisting in paying the cost of maintaining the domestic relations office, including the payment of salaries and other expenses of the chief administrative officer and his assistants, the purchase of supplies and equipment, and all other necessary expenses of the office. The fund may be supplemented out of the general fund or other available funds of the county where necessary.

[Acts 1983, 68th Leg., p. 4381, ch. 703, eff. Sept. 1, 1983.]

Art. 2338-2. Designation of District Court as Juvenile Court in Certain Counties

Sec. 1. In counties having ten (10) or more District Courts, either temporary or permanent, and having a Juvenile Board composed of District Judges and the County Judge of said county, such Juvenile Board shall designate one (1) of the District Courts to be the Juvenile Court of such county and may change the designation of such Juvenile Court from time to time when in the opinion of the Juvenile Board the best interest of the people require it.

Provided, however, the Juvenile Board of any county having a population of eight hundred and six thousand (806,000) or more according to the last preceding Federal Census, may designate one or more District Courts, or one or more Courts of Domestic Relations, or the County Court, or one or more of both of such District Courts and Courts of Domestic Relations, or one or more of such District Courts, Courts of Domestic Relations and County Court or any combination thereof, as Juvenile Courts of such county, with all the rights and authority and subject to the same terms and restrictions as provided in this Act; provided, however, that the Juvenile Board of any county having a population of eight hundred and six thousand (806,000) or more according to the last preceding Federal Census, may make such new designation or designations as to it shall seem proper without reference to the provision of Section 4, requiring a new designation within any particular period of time, it being the legislative intent that the matter of designation

of one or more Juvenile Courts in any such county be within the discretion of the Juvenile Board of such county.

Sec. 2. Such Juvenile Courts shall give preference to child delinquency, dependency, neglect, support, change of custody and adoption, and to contempt proceedings growing out of or ancillary to such cases, and all other District Courts in such counties may from time to time transfer to such District Court as has been designated as the Juvenile Court of such county all such cases on their dockets.

Sec. 3. Immediately after the designation of a Juvenile Court for each county, as herein provided for, the Clerks of the Courts of such counties shall transfer all cases of juvenile delinquency on their dockets to the docket of the Juvenile Court so designated, under the direction of the Judges of said courts, and thereafter all cases of juvenile delinquency shall be filed in such Juvenile Courts.

In all counties having ten (10) or more district courts, in addition to cases of juvenile delinquency, all new cases of dependency, neglect, support, change of custody and adoption may be transferred to the docket of the Juvenile Court so designated under the direction of the Judges of said courts.

The jurisdiction, powers, and duties thus conferred upon the established courts hereunder are superadded jurisdiction, powers, and duties; it being the intention of the Legislature not to create hereby any additional offices.

Sec. 4. Pending the designation of Juvenile Courts under the provisions of this Act, all Juvenile Courts heretofore designated under the previous Law shall continue to function with all powers and jurisdiction heretofore vested in them; it being the intention of the Legislature, however, that the new designation shall be made in each county of the State within ninety (90) days after the effective date of this Act.

[Acts 1949, 51st Leg., p. 518, ch. 283. Amended by Acts 1959, 56th Leg., 2nd C.S., p. 86, ch. 4, § 1.]

Art. 2338-2a. Repealed by Acts 1965, 59th Leg., p. 569, ch. 289, § 19, eff. Aug. 30, 1965

Art. 2338-2b. Referee for Juvenile and District Courts of Wichita County**Authority to Appoint Referee; Qualifications; Costs**

Sec. 1. (a) The Judges of the Juvenile and District Courts of Wichita County are hereby authorized to appoint referees in civil cases as hereinafter provided.

(b) A referee shall be an attorney licensed to practice law in the State of Texas and shall be a citizen of this State. The compensation, if any, of the referee shall be found and taxed in the same manner as now provided by law for taxing costs in civil cases. The Judge of said Court shall determine if the parties litigant are able to defray the costs of

the referee's compensation and where so found and determined, such costs shall be taxed as costs against the parties litigant. However, if such costs are not taxed against the parties litigant, then such compensation, if any, shall be fixed by the Commissioners Court and shall be paid out of the jury fund of Wichita County. No costs shall be taxed against said county where both or either of said parties litigant own real property in the State of Texas or are otherwise financially able to defray said costs.

Cases in Which Referee may be Appointed by District Court

Sec. 2. Whenever the Judge of a District Court shall deem it advisable, he may appoint a referee and refer to said referee any civil case involving motions of contempt for failure or refusal to pay child support, temporary alimony, or separate maintenance; motions for failure or refusal to comply with court orders concerning visitation with children growing out of separate maintenance and divorce actions; motions for changes of child custody; motions for revision of child support payments; and motions for revision of visitation privileges.

Cases in Which Referee may be Appointed by Juvenile Court

Sec. 3. Whenever the Judge sitting as a Juvenile Court shall deem it advisable, he may appoint a referee and refer to said referee any civil case or cases before him involving children alleged to be dependent, neglected, or delinquent or any other matters over which the Juvenile Court is given exclusive jurisdiction.

Powers of Referee

Sec. 4. (a) In all such cases designated in Sections 2 and 3 of this Act, the Judge of the Juvenile or District Court may authorize the referee to hear evidence, to make findings of fact thereon, to formulate conclusions of law, and to recommend judgment to be entered in such cases. In all such cases referred to the referee, the order of reference may specify or limit the powers of the referee and may direct him to report only upon particular issues, or to do or perform particular acts; or to receive and report on evidence only, and may fix the time and place for beginning and closing hearings, and for filing reports.

(b) Subject to the limitations and specifications stated in the order, the referee shall have the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary and proper for the efficient performance of his duties under the order. He may require the production of evidence before him, upon all matters embraced in the reference, and he may rule upon the admissibility of evidence, unless otherwise directed by the order of reference. He shall have the authority to issue summons for the appearance of witnesses, and swear said witnesses for said hearing, and he may, himself, examine them. And said

witness appearing before him and being duly sworn shall be subject to the penalties of perjury. If the witnesses, after being duly summoned, shall fail to appear, or having appeared, shall refuse to answer questions, then upon certification of such refusal to the referring Court, said Court shall have the power to issue attachment against such witnesses, and to fine and imprison them.

Transmittal of Papers; Notice of Findings

Sec. 5. Upon the conclusion of the hearing in each case, the referee shall transmit to the referring Judge all papers relating to the case, together with his findings and a statement that notice of his findings and of the right to a hearing before the Judge has been given to all adult principals, minors, or parents, guardians, or custodians of any minor whose case has been heard by the referee. This notice may be given at the hearing, or otherwise as the referring Court directs.

Adoption or Rejection of Referee's Report

Sec. 6. After it is filed, the referring court may adopt, modify, correct, reject, or reverse the referee's report, or recommit it for further information, as the Court may deem proper and necessary in the particular circumstances of the case. Where judgment has been recommended, the Court in its discretion may approve the recommendation and hear further evidence before rendition of judgment.

Hearing Before Referring Court; Request

Sec. 7. Adult principals, a minor child, his parents, guardians, or custodians are entitled to a hearing by the Judge of the referring Court if, within three days after receiving notice of the findings of the referee, they file a request with such Court for a hearing. The referring Court may allow such a hearing at any time.

Adoption of Findings and Recommendations

Sec. 8. In case no hearing before the Judge of the referring Court is requested, or when the right to such hearing is waived, the findings and recommendations of the referee become the decree of the Court when adopted by an order of the Judge.

Notice of Hearing

Sec. 9. Prior to the hearing by the referee the parties litigant shall be given due notice as provided by law of the time and place of such hearing.

Demand for Jury Trial

Sec. 10. In any proceeding where a jury trial has been demanded, the referee shall refer the case back to the referring Court for a full hearing before the Court and jury, subject to the usual rules of the Court in such cases.

[Acts 1965, 59th Leg., p. 1350, ch. 612.]

Art. 2338-2c. Juvenile Court for Hopkins County; Judge

Sec. 1. The judges of the district courts of Hopkins County and the county judge of such county shall designate one of such district courts having a resident judge as the Juvenile Court for Hopkins County and the court so designated shall exercise such jurisdiction in addition to the duties now imposed upon such court by law; provided, however, that in the event neither of the judges of the district courts of such county is a resident of Hopkins County, the County Court of Hopkins County may be designated as the Juvenile Court of such county.

Sec. 2. The judge of the court so designated shall exercise the duties of Judge of the Juvenile Court of Hopkins County in addition to the duties now imposed upon him by law as District Judge or County Judge of Hopkins County.

Sec. 3. The judge designated as Judge of the Juvenile Court of Hopkins County, in addition to the compensation received as district judge or county judge, shall be paid a salary of not less than \$2,400 nor more than \$3,600 for his services as Judge of the Juvenile Court of Hopkins County, said additional salary to be set by the Commissioners Court of Hopkins County, and the salary so set shall be paid out of the General Fund of Hopkins County, the Salary Fund, or any fund available for the purpose, by the county in equal monthly installments.

[Acts 1969, 61st Leg., p. 1592, ch. 486, eff. June 10, 1969.]

Art. 2338-3. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(1), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-3a. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(2), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-4. Repealed by Acts 1977, 65th Leg., p. 2153, ch. 859, § 3.04(c), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-5. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(3), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-6. Repealed by Acts 1977, 65th Leg., p. 2153, ch. 859, § 3.04(c), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-7. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(4), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-7a. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(5), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-8. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(6), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-9. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(7), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-9a. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(8), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-9b. Repealed by Acts 1977, 65th Leg., p. 2153, ch. 859, § 3.04(b)(22), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-9b.1. Repealed by Acts 1977, 65th Leg., p. 2153, ch. 859, § 3.04(b)(31), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-9b.2. Masters in Dallas County Domestic Relations Courts**Appointment; Termination; Qualifications; Compensation; Costs**

Sec. 1. (a) Each judge of a court of domestic relations in Dallas County or any successor court thereto may appoint a full-time master as provided in this Act. The appointment shall be made subject to the approval of the commissioners court. The services of the master may be terminated if the performance of his duties is unsatisfactory to the judge of the court.

(b) A master shall be an attorney licensed to practice law in the State of Texas and shall be a citizen of this state. The compensation for a master shall be fixed by the commissioners court and shall be paid out of the jury fund of Dallas County. If the judge of the court determines that the parties litigant are able to defray the costs of the master's compensation, such costs may be taxed as costs against either or both of the parties.

Referral of Certain Civil Cases to Master

Sec. 2. If the judge of a court of domestic relations in Dallas County or any successor court thereto deems it advisable, he may appoint a master and refer to the master any civil case involving motions of contempt for failure or refusal to pay child support, temporary support, or separate maintenance; motions for failure or refusal to comply with court orders concerning visitation with children

growing out of separate maintenance and divorce actions; motions for changes of conservatorships; motions for revision of child-support payments; and motions for revision of visitation privileges.

Powers

Sec. 3. (a) In all cases designated in Section 2 of this Act, the judge of a court of domestic relations in Dallas County or any successor court thereto may authorize the master to hear evidence, to make findings of fact thereon, to formulate conclusions of law, and to recommend judgment to be entered in such cases. In all cases referred to the master, the order of reference may specify or limit the powers of the master and may direct him to report only on particular issues, or to do or perform particular acts, or to receive and report on evidence only, and may fix the time and place for beginning and closing hearings and for filing reports.

(b) Subject to the limitations and specifications stated in the order, the master shall have the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary and proper for the efficient performance of his duties under the order. He may require the production of evidence before him on all matters embraced in the reference, and he may rule on the admissibility of evidence, unless otherwise directed by the order of reference. He has the authority to issue summons for the appearance of witnesses and to swear the witnesses for the hearing and may examine them himself. A witness appearing before him that is duly sworn is subject to the penalties of perjury. If a witness after being duly summoned fails to appear or having appeared refuses to answer questions, on certification of such refusal to the referring court, the court may issue attachment against the witness and may fine or imprison the witness.

Findings; Notice

Sec. 4. On the conclusion of the hearing in each case, the master shall transmit to the referring judge all papers relating to the case, together with his findings and a statement that notice of his findings and of the right to a hearing before the judge has been given to all adult principals, minors, or parents, guardians, or custodians of any minor whose case has been heard by the master. This notice may be given at the hearing or otherwise as the referring court directs.

Action on Master's Report

Sec. 5. After it is filed, the referring court may adopt, modify, correct, reject, or reverse the master's report or recommit it for further information, as the court may deem proper and necessary in the particular circumstances of the case. Where judgment has been recommended, the court in its discretion may approve the recommendation and hear further evidence before rendition of judgment.

Hearing

Sec. 6. Adult principals or a minor child or his parents, guardians, or custodians are entitled to a hearing by the judge of the referring court if within three days after receiving notice of the findings of the master they file a request with the court for a hearing. The referring court may allow the hearing at any time.

Decree Upon Adoption by Court

Sec. 7. If no hearing before the judge of the referring court is requested or the right to such hearing is waived, the findings and recommendations of the master become the decree of the court when adopted by an order of the judge.

Notice of Time and Place of Hearing

Sec. 8. Prior to the hearing by the master, the parties litigant shall be given due notice as provided by law of the time and place of the hearing.

Jury Trial

Sec. 9. In any proceeding where a jury trial has been demanded, the master shall refer the case back to the referring court for a full hearing before the court and jury, subject to the usual rules of the court in such cases.

[Acts 1975, 64th Leg., p. 1943, ch. 638, eff. June 19, 1975.]

Art. 2338-9c. Repealed by Acts 1977, 65th Leg., p. 2153, ch. 859, § 3.04(b)(26), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-10. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(9), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-11. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(10), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-11a. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(11), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-11b. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(24), eff. Sept. 1 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-12. Juvenile Court for Ector County; Compensation of Judge

Sec. 1. The County Court at Law of Ector County shall be the Juvenile Court for Ector County and exercise such jurisdiction in addition to the duties now imposed upon such court by law.

Sec. 2. The Judge of the County Court at Law of Ector County shall exercise the duties of Judge of the Juvenile Court of Ector County in addition to the duties now imposed upon him by law as Judge of the County Court at Law of Ector County.

Sec. 3. The Judge of the County Court at Law of Ector County in addition to the compensation received as Judge of the County Court at Law of Ector County may be paid a salary, not to exceed Three Thousand Dollars (\$3,000.00), for his services as Judge of the Juvenile Court of Ector County, said additional salary to be paid out of the General Fund of Ector County on the order of the Commissioners Court of said county in equal monthly installments.

[Acts 1959, 56th Leg., p. 727, ch. 331.]

Art. 2338-13. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(12), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-14. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(13), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-15. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(15), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-15a. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(16), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-15b. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(23), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-15c. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(25), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-16. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(17), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-17. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(18), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-18. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(19), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-18a. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(27), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-19. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(20), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-20. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(21), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-21. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(28), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-22. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(29), eff. Sept. 1, 1977

See, now, the Family District Court Act, art. 1926a.

Art. 2338-23. Repealed by Acts 1977, 65th Leg., p. 2152, ch. 859, § 3.04(b)(30), eff. Sept. 1, 1977

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1. COMMISSIONER COURTS

Art. 2339. Election

Each county shall be divided into four commissioners precincts, and one commissioner shall be elected biennially in each precinct, and each commissioner shall hold his office for two years.

[Acts 1925, S.B. 84.]

Increase in Term of Office

Const. Art. 5, § 18, was amended in November, 1954, to increase the term of office of county commissioners from two to four years.

Art. 2340. Oath and Bond

Before entering upon the duties of their office, the county judge and each commissioner shall take the official oath, and shall also take a written oath that he will not be directly or indirectly interested in any contract with, or claim against, the county in which he resides, except such contracts or claims as are expressly authorized by law and except such warrants as may issue to him as fees of office. Each commissioner shall execute a bond to be approved by the county judge in the sum of three thousand dollars, payable to the county treasurer, conditioned for the faithful performance of the duties of his office, that he will pay over to his county all moneys illegally paid to him out of county funds, as voluntary payments or otherwise, and that he will not vote or give his consent to pay out county funds except for lawful purposes.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 2230, ch. 527, § 3, eff. June 12, 1981.]

Art. 2341. Vacancy

In case of vacancy in the office of commissioner, the county judge shall appoint some suitable person living in the precinct where such vacancy occurs, to

serve as commissioner for such precinct until the next general election.

[Acts 1925, S.B. 84.]

Art. 2342. The Court

The several commissioners, together with the county judge, shall compose the "Commissioners Court," and the county judge, when present, shall be the presiding officer of said court.

[Acts 1935, S.B. 84.]

Art. 2343. Quorum

Any three members of the court, including the county judge, constitute a quorum for the transaction of any business except that of levying a county tax.

[Acts 1925, S.B. 84. Amended by Acts 1965, 59th Leg., p. 1002, ch. 488, § 1, eff. June 10, 1965; Acts 1983, 68th Leg., p. 2647, ch. 455, § 1, eff. Jan. 1, 1984.]

Art. 2344. Seal

Each commissioners court shall have a seal, whereon shall be engraved either a star with five points or a design selected by the court and approved by the secretary of state, and the words, "Commissioners Court, _____ County, Texas," (the blank to be filled with the name of the County) which seal shall be kept by the clerk of said court and used in authentication of all official acts of the court, or of the presiding officer or clerk of said court, in all cases where a seal may be necessary for the authentication of any of said acts.

[Acts 1925, S.B. 84. Amended by Acts 1975, 64th Leg., p. 42, ch. 21, § 1, eff. March 20, 1975.]

Art. 2345. The Clerk

The county clerk shall be ex-officio clerk of the commissioners court; and he shall attend upon each term of said commissioners court; preserve and keep all books, papers, records and effects belonging thereto, issue all notices, writs and process necessary for the proper execution of the powers and duties of the commissioners court, and perform all such other duties as may be prescribed by law.

[Acts 1925, S.B. 84.]

Art. 2346. Process

All notices, citations, writs and process issued from said court shall be in the name of the "State of Texas," and shall be directed to the sheriff or any constable of a county and shall be dated and signed officially by the clerk, and shall have the seal of the court impressed thereon. All process of said court, when not otherwise directed by law shall be executed at least five days before the return day thereof, which return day shall be specified in the process. Subpoenas for witnesses may be executed and returned forthwith when necessary.

[Acts 1925, S.B. 84.]

Art. 2347. Notice Posted

Whenever the commissioners court shall be unable to secure the publication of any notice or report required by law in the manner and for the fee provided therefor, such notice or report may be made and published by posting one copy of such notice at the courthouse door, and one of said copies shall be posted at some public place in each commissioners precinct for thirty days prior to the next succeeding term of the commissioners court. No two such copies shall be posted in the same town or city.

[Acts 1925, S.B. 84.]

Art. 2348. Regular Terms

The regular terms of the commissioners court shall be commenced and be held at the court house on the second Monday of each month throughout the year and may continue in session one week; provided the court need not hold more than one session each quarter if the business of the court does not demand a session. Any session may adjourn at any time the business of the court is disposed of. Special terms may be called by the county judge or three of the commissioners, and may continue in session until the business is completed.

[Acts 1925, S.B. 84.]

Art. 2349. Minutes

The court shall require the county clerk to keep suitable books in which shall be recorded the proceedings of each term of the court; which record shall be read and signed after each term by the county judge, or the member presiding and attested by the clerk. The clerk shall also record all authorized proceedings of the court between terms; and such record shall be read and signed on the first day of the term next after such proceedings occurred.

[Acts 1925, S.B. 84.]

Art. 2350. County Commissioners Salaries

Sec. 1. In counties having the following assessed valuations, respectively, as shown by the total assessed valuations of all properties certified by the county assessor and approved by the Commissioners Court, for county purposes, for the previous year, from time to time, the County Commissioners of such counties shall each receive annual salaries not to exceed the amounts herein specified, said salaries to be paid in equal monthly installments, at least one-half ($\frac{1}{2}$), and not exceeding three-fourths ($\frac{3}{4}$), out of the Road and Bridge Fund, and the remainder out of the General Fund of the county; said assessed valuations and salaries applicable thereto being as follows:

Assessed Valuations	Salaries to be paid each Commissioner
Not to exceed \$3,500,000.00, as provided at end of this Section.	
\$ 3,500,001 and less than 6,000,000 not to exceed	\$1,500.00
\$ 6,000,001 and less than 9,000,000 not to exceed	\$1,800.00
\$ 9,000,001 and less than 10,000,000 not to exceed	\$2,000.00
\$ 10,000,001 and less than 12,000,000 not to exceed	\$2,200.00
\$ 12,000,001 and less than 20,000,000 not to exceed	\$2,500.00
\$ 20,000,001 and less than 30,000,000 not to exceed	\$3,000.00
\$ 30,000,001 and less than 75,000,000 not to exceed	\$3,600.00
\$ 75,000,001 and less than 120,000,000 not to exceed	\$4,000.00
\$120,000,001 and less than 140,000,000 not to exceed	\$4,800.00
\$140,000,001 and less than 400,000,000 not to exceed	\$5,500.00
\$400,000,001 and over not to exceed	\$6,000.00

In counties having assessed valuation of less than Three Million, Five Hundred Thousand Dollars (\$3,500,000) each Commissioner shall receive Five Dollars (\$5) per day for each day served as Commissioner, and a like amount when acting as ex-officio road superintendent in his Commissioner's precinct, providing in no event shall his total compensation exceed Twelve Hundred Dollars (\$1200) in any one year. Provided further, however, that in counties having National Forest Preserves and with less than Four Million, Five Hundred Thousand Dollars (\$4,500,000) valuation that the salaries of said Commissioners shall not exceed Eighteen Hundred Dollars (\$1800) per year.

Sec. 1a. The Commissioners Court in each county is hereby authorized to pay the actual traveling expenses incurred by each commissioner while traveling outside of the county on official county business.

Sec. 2. Provided that in any county in this State having a population of less than twenty thousand (20,000) inhabitants and which has a tax valuation of not less than Seventeen Million (\$17,000,000.00) Dollars and not exceeding Twenty-five Million (\$25,000,000.00) Dollars according to the last approved tax roll and with a total area of not less than nine hundred fifty (950) square miles and not exceeding nine hundred eighty (980) square miles, the compensation of each County Commissioner shall be Twenty-four Hundred (\$2,400.00) Dollars per annum; and in counties having a population of not less than fifteen thousand five hundred fifty (15,550) nor more than fifteen thousand five hundred sixty (15,560) according to the last preceding Federal Census,

and having an assessed valuation of not less than Twelve Million (\$12,000,000.00) Dollars according to the last approved tax rolls, the salary of each County Commissioner shall be One Thousand Eight Hundred (\$1,800.00) Dollars per annum, to be paid in twelve (12) equal installments as herein provided for in Article 2350 H; and in any county in this State having a population of not less than twenty-nine thousand two hundred ten (29,210) and not more than twenty-nine thousand six hundred thirty (29,630) according to the last preceding Federal Census, the salary of each County Commissioner shall be One Thousand Eight Hundred (\$1,800.00) Dollars per annum, to be paid in twelve (12) equal installments as herein provided for in Article 2350 H.

Sec. 2a. Provided that in counties in this State having a population of three hundred and fifty thousand (350,000) or more, according to the last preceding Federal Census, the County Commissioners shall each receive a salary of Seven Thousand, Two Hundred Dollars (\$7,200) per annum, to be paid in equal monthly installments.

Sec. 2b. In all counties in this State having a population of six hundred thousand (600,000) or more, according to the last preceding Federal Census, the County Commissioners shall each receive a salary of Eight Thousand, Four Hundred Dollars (\$8,400) per annum, to be paid in equal monthly installments from the same funds as such salaries are now being paid.

[Acts 1925, S.B. 94. Amended by Acts 1927, 40th Leg., p. 435, ch. 290, § 1; Acts 1927, 40th Leg., 1st C.S., p. 138, ch. 46, § 1; Acts 1933, 43rd Leg., p. 727, ch. 216; Acts 1933, 43rd Leg., 1st C.S., p. 220, ch. 83, § 1; Acts 1935, 44th Leg., p. 1036, ch. 362, § 1; Acts 1939, 46th Leg., Spec. Laws, p. 566, §§ 1, 2; Acts 1945, 49th Leg., p. 280, ch. 204, § 1; Acts 1949, 51st Leg., p. 460, ch. 246, § 1; Acts 1951, 52nd Leg., p. 381, ch. 243, § 1; Acts 1969, 61st Leg., p. 1624, ch. 503, § 1, eff. Sept. 1, 1969.]

Arts. 2350(1) to 2350(8). Omitted

These articles provided for compensation of commissioners in various counties, and were derived from:

Acts 1935, 44th Leg., p. 1036, ch. 362, §§ 2 to 4.
 Acts 1937, 45th Leg., p. 393, ch. 195, § 1.
 Acts 1937, 45th Leg., p. 565, ch. 277, § 1.
 Acts 1937, 45th Leg., 2nd C.S., p. 1831, ch. 13, § 1.
 Acts 1939, 46th Leg., Spec.Laws, p. 562, § 1.
 Acts 1939, 46th Leg., Spec.Laws, p. 570, § 2.
 Acts 1939, 46th Leg., Spec.Laws, p. 583, § 1.
 Acts 1941, 47th Leg., p. 224, ch. 154.
 Acts 1943, 48th Leg., p. 382, ch. 257.
 Acts 1943, 48th Leg., p. 637, ch. 362, § 1.
 Acts 1945, 49th Leg., p. 280, ch. 204, §§ 2, 3.
 Acts 1949, 51st Leg., p. 370, ch. 194, § 1.
 Acts 1953, 53rd Leg., p. 905, ch. 371, § 1.

See, now, arts. 2350 and 3883h to 3883i-3.

Art. 2350a. Omitted

This article provided for compensation of commissioners in certain counties of judicial districts composed of two counties, and was derived from Acts 1925, 39th Leg., p. 229, ch. 72, § 1. See, now, arts. 2350 and 3883h to 3883i-3.

Art. 2350b. Unconstitutional

This article, Acts 1925, 39th Leg., p. 302, ch. 118, § 1, was held unconstitutional by the Supreme Court in *Womack v. Carson* (1934) 123 T. 260, 70 S.W.2d 416. It related to the salary of county commissioners in counties having a population of not less than 17,000 according to the census of 1920, an area of not less than 1060, nor more than 1200, square miles, assessed property valuations of not less than \$10,000,000 and not containing a town or city of 7,500 population or more, but provided that it should not apply to certain named counties.

Arts. 2350c to 2350l. Omitted

These articles provided for compensation of commissioners in certain counties, and were derived from:

Rev.Civ.St.1911, art. 6901a.
 Acts 1925, 39th Leg., p. 279, ch. 102.
 Acts 1925, 39th Leg., p. 386, ch. 171.
 Rev.Civ.St.1925, art. 2350c.
 Acts 1929, 41st Leg., p. 241, ch. 106, § 1.
 Acts 1929, 41st Leg., p. 685, ch. 306, § 1.
 Acts 1929, 41st Leg., 1st C.S., p. 240, ch. 98, § 1.
 Acts 1929, 41st Leg., 2nd C.S., p. 94, ch. 56, § 1.
 Acts 1930, 41st Leg., 4th C.S., p. 27, ch. 16.
 Acts 1930, 41st Leg., 4th C.S., p. 44, ch. 24, § 1.
 Acts 1930, 41st Leg., 4th C.S., p. 45, ch. 25, § 1.
 Acts 1930, 41st Leg., 4th C.S., p. 86, ch. 44, § 1.
 Acts 1930, 41st Leg., 5th C.S., p. 193, ch. 50, § 1.
 Acts 1930, 41st Leg., 5th C.S., p. 199, ch. 56, § 1.
 Acts 1931, 42nd Leg., Spec.Laws, p. 428, ch. 213.
 Acts 1933, 43rd Leg., p. 50, ch. 24.
 Acts 1933, 43rd Leg., p. 396, ch. 154.
 Acts 1937, 45th Leg., p. 171, ch. 87, § 1.
 See, now, arts. 2350 and 3883h to 3883i-3.

Art. 2350m. Omitted

This article contained a tabulation of special acts covering salaries and expenses of commissioners in various counties. See, now, arts. 2350 and 3883h to 3883i-3.

Art. 2350n. Repealed by Acts 1959, 56th Leg., p. 502, ch. 221, § 7, eff. May 22, 1959

See now, art. 2350o.

Art. 2350o. Allowance for Traveling Expenses and Automobile Depreciation

Sec. 1. In any county in this State having a population of not more than twenty-one thousand, five hundred (21,500), according to the last preceding or any future Federal Census, the Commissioners Court is hereby authorized to allow each member of such Commissioners Court the sum of not exceeding Seventy-five Dollars (\$75) per month for traveling expenses and depreciation on his automobile while on official business within the county. Each member of such Commissioners Court shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county.

Sec. 2. In any county in this State having a population in excess of twenty-one thousand, five hundred (21,500) but not in excess of one hundred twenty-four thousand (124,000), according to the last preceding or any future Federal Census, the Commissioners Court is hereby authorized to allow each member of the Commissioners Court the sum of not exceeding One Hundred Dollars (\$100) per month for traveling expenses and depreciation on his automobile while on official business within the

county. Each member of such Commissioners Court shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county.

Sec. 3. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Sec. 4. Repealed by Acts 1971, 62nd Leg., p. 2489, ch. 811, § 2, eff. June 8, 1971.

Sec. 5. The term "members of the Commissioners Court" when used herein means the County Commissioners and the County Judge.

Sec. 6. The provisions of this bill shall apply only to those counties not furnishing an automobile, truck, or by other means providing for the traveling expenses of its commissioners, while on official business within the county.

[Acts 1959, 56th Leg., p. 502, ch. 221. Amended by Acts 1971, 62nd Leg., p. 2489, ch. 811, §§ 1, 2, eff. June 8, 1971; Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.]

Saved from Repeal

Article 2350o was saved from repeal by Acts 1962, 57th Leg., 3rd C.S., p. 71, ch. 26, § 3. See art. 2372f-2, § 3.

Art. 2350p. Allowance for Traveling Expenses and Automobile Depreciation

Sec. 1. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Sec. 2. As used in this Act, "members of the commissioners court" means the county commissioners and the county judge.

Sec. 3. This Act applies only to counties not furnishing an automobile or truck or by other means providing for the traveling expenses of members of their commissioners courts while on official business within the county.

Sec. 4. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Sec. 5. As used in this Act, "the last preceding federal census" means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes.

[Acts 1971, 62nd Leg., p. 1927, ch. 583, eff. June 1, 1971. Amended by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.]

2. POWERS AND DUTIES**Art. 2351. Certain Powers Specified**

Each commissioners court shall:

1. Lay off their respective counties into precincts, not less than four, and not more than eight, for the election of justices of the peace and constables, fix the times and places of holding justices

courts, and shall establish places in such precincts where elections shall be held; and shall establish justices precincts and justices courts for the unorganized counties as provided by law.

2. Establish public ferries whenever the public interest may require.

3. Lay out and establish, change and discontinue public roads and highways.

4. Build bridges and keep them in repair.

5. Appoint road overseers and apportion hands.

6. Exercise general control over all roads, highways, ferries and bridges in their counties.

7. Provide and keep in repair court houses, jails and all necessary public buildings.

8. Provide for the protection, preservation and disposition of all lands granted to the county for education or schools.

9. Provide seals required by law for the district and county courts.

10. Audit and settle all accounts against the county and direct their payment.

11. Provide for the support of paupers and such idiots and lunatics as cannot be admitted into the lunatic asylum, residents of their county, who are unable to support themselves. By the term resident as used herein, is meant a person who has been a bona fide inhabitant of the county not less than six months and of the State not less than one year.

12. Provide for the burial of paupers.

13. Punish contempts by fine not to exceed twenty-five dollars or by imprisonment not to exceed twenty-four hours, and in case of fine, the party may be held in custody until the fine is paid.

14. Issue all such notices, citations, writs and process as may be necessary for the proper execution of the powers and duties imposed by such court and to enforce its jurisdiction.

15. Said court shall have all such other powers and jurisdiction, and shall perform all such other duties, as are now or may hereafter be prescribed by law.

16. Said Court shall have the authority to use county road machinery and funds from the General Fund or Road and Bridge Funds in cleaning streams and in aiding flood control when such improvements are deemed to be of aid of the county in the maintenance and the building of county roads, in counties having a population of from nineteen thousand, eight hundred and fifty (19,850) to nineteen thousand, eight hundred and ninety-five (19,895) according to the last Federal Census.

17. a. The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is hereby empowered to create a revolving fund or funds and to make appropriations thereto out of the general revenue of such county; and such revolving fund shall be used by

such county only in cooperation with the United States Department of Agriculture to aid and assist in carrying out the purposes and provisions of an Act of Congress of the United States pertaining to the distribution of commodities to persons in need of assistance, under the direction of the United States Department of Agriculture; provided, however, that the county shall have on hand at all times either the moneys appropriated to such revolving fund or funds or the equivalent thereof in stamps issued by the United States Department of Agriculture under the Food and/or Cotton Stamp Plan, which stamps are convertible into cash at any time.

b. In such counties of this State exercising the powers herein granted, an issuing officer shall be appointed to carry out the provisions of this Act and to administer the funds herein appropriated. Such issuing officer shall be a citizen of the State of Texas and appointed by the County Judge of such County subject to the approval of the Commissioners Court thereof. He shall be required to furnish a good and sufficient surety bond in such amount and upon such terms and conditions as may be required by the Commissioners Court and the United States Department of Agriculture. Such issuing officer shall receive a salary, to be paid out of the general fund or any other fund of the county, except constitutional funds, not otherwise appropriated, not to exceed Two Hundred Dollars (\$200) per month, and may appoint such cashiers and other assistants as may be authorized by such Court. The premiums of all bonds which may be required of such issuing officer, cashiers or other assistants, shall be paid by the Commissioners Court out of any available funds therefor belonging to such county.

c. Provided however the powers herein granted to such counties may be exercised by two (2) or more counties in conjunction with each other and in cooperation with the United States Department of Agriculture. And when such powers are exercised by two (2) or more counties jointly, the County Judges of such counties shall appoint the issuing officer, fix such appointee's bond and to do all other things necessary to cooperate with the United States Department of Agriculture in the same and like manner as is herein granted to any one county of this State.

d. Provided that such Commissioners Courts of such counties may cooperate with any incorporated city or town within such county or counties on such conditions and requirements as may be promulgated by such Commissioners Court or Courts.

e. Whenever any county herein authorized to create such a revolving fund ceases to participate therein the issuing officer appointed under the provisions hereof shall forthwith reduce all stamps to their equivalent in money and return such moneys then on hand to the fund from which same was originally appropriated and render a full account of his administration thereof to the Commissioners Court or Courts as the case may be.

18(a) The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is empowered in all cases where said county has heretofore acquired, or may hereafter acquire, land for an airport through purchase or gift from any person or source whatever, including the Federal Government, or any agency thereof, to lease said land and/or the facilities thereof, or any part thereof to any person or corporation upon such terms as the Commissioners Court shall deem advisable for airport purposes, or other purposes, provided any such lease is not inhibited by the terms of the grant to such county. Said counties through such Commissioners Courts are also hereby expressly authorized and empowered to contract with reference to oil, gas or other minerals or natural resources which may be vested in said counties by virtue of the ownership of such airports and to execute and deliver to any person upon such conditions and for such consideration, including oil payments, gas payments, over-riding royalties, etc. as the Commissioners Court may deem advisable, mineral deeds or mineral leases of all or any part of said minerals, or the rights thereto, which are vested in the county and to generally contract for the exploration and development of the minerals underlying said land or any part thereof.

(b) The proceeds from the sale of any minerals or mineral rights, or the consideration for the execution of any mineral leases, including cash bonuses, delay rentals and royalties, need not be devoted to the maintenance, upkeep, improvement and operation of such airport, but may be expended by the Commissioners Court for any lawful purpose.

(c) The proceeds received, or to be received from any person from the lease of the surface of said land, or from the lease of the facilities thereof, or any part thereof, for purposes other than airport purposes, or for purposes other than those relating to the operation of an airport, may likewise be expended by the Commissioners Court for any lawful purpose.

(d) The proceeds received, or to be received, from any person for any lease of the surface of said land, or for the lease of the facilities thereof, or any part thereof, for airport purposes, or for purposes related to the operation of an airport, shall be devoted, first, to the maintenance, upkeep, improvement and operation of such airport and the facilities, structures and improvements thereof, but any surplus remaining at the close of any fiscal year of operation may be expended by such Commissioners Court for any lawful purpose.

(e) The proceeds received, or to be received, from any charges for the use of said airport for airport purposes shall be devoted, first, to the maintenance, upkeep, improvement and operation of such airport and the facilities, structures and improvements thereof, but any surplus remaining at the close of the fiscal year of operation may be expended by the Commissioners Court for any lawful purpose.

19(a) The Commissioners Court of each county of this State, in addition to the powers already conferred upon it by law, is expressly authorized and empowered to contract with the United States Government, or with any agency thereof, and particularly with the Federal Works Administrator, the Housing and Home Finance Administrator, and/or the National Housing Administrator, or their successor or successors, for the acquisition of any land, or interest in land, in such county, owned by the United States Government, or any agency thereof, and for the acquisition of any temporary housing on land which the United States Government, or any agency thereof, may own or control; and each such county in this State is authorized and empowered to acquire by purchase, gift or otherwise, any such land and any such housing from the United States Government, or any agency thereof, and to own and operate such land and housing.

(b) Each Commissioners Court in this State is authorized and empowered to adopt a resolution or order requesting the transfer to said county of any such land or housing, or interest therein, which the United States Government, or any agency thereof, is now, or may be hereafter, authorized to convey or transfer to such county, and each such county, through its Commissioners Court, is expressly authorized and empowered to bind itself to comply with any and all terms and conditions which the United States Government, or any agency thereof, may impose as a prerequisite to the transfer or conveyance of any of such land or housing, or either of them, or any interest therein; and any instrument or deed conveying to said county any such land or any such housing, or any interest therein, may contain any conditions and provisions, covenants and warranties which may be prescribed by the United States Government, or any agency thereof, and agreed upon by said county acting through its Commissioners Court, provided that such terms and conditions are not inhibited by the Constitution of the State of Texas.

(c) For the purpose of purchasing or otherwise acquiring said lands or housing, or both, and improving, enlarging, extending or repairing the same, the Commissioners Court of any county may issue negotiable bonds of the county and levy taxes to provide for the interest and sinking funds of any such bonds so issued, the authority hereby given for the issuance of such bonds and the levying and collection of such taxes to be exercised in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of Texas, 1925, as amended.¹

(d) Counties are expressly authorized and empowered to lease or rent any lands, housing, or facilities acquired by them pursuant to this Act and to establish and revise the rent or charges therefor; to arrange or contract for the furnishing by any person or agency, public or private, of services, or facilities for, or in connection with, any of such

lands, housing or facilities, or the occupants thereof;

(e) Said counties are further authorized to sell and convey all or any part of the land or housing so acquired or to lease or exchange same; and said counties are further expressly authorized to execute oil, gas or mineral leases covering all or any part of said lands so acquired on such terms and conditions as may be deemed advisable by the Commissioners Court and for such consideration, including oil payments, gas payments, overriding royalties, etc. as may be deemed advisable; and such counties, through their Commissioners Courts, are expressly authorized and empowered to execute conveyances of minerals or mineral rights, and to generally contract for the exploration and development of the minerals underlying said land, if any, or any part thereof.

20. The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is authorized and empowered in all cases where such county has acquired a water supply from subterranean waters for county purposes, to sell, contract to sell and deliver any or all of such water which is not needed for county purposes to any public or municipal corporation, or political subdivision of this State, including any water control and improvement district, or fresh water supply district now created and existing, or which may hereafter be created under the laws of this State; any such water sold or contracted to be sold and delivered to any such public or municipal corporation or political subdivision of this State, may be used or re-sold for any lawful purpose; and said Commissioners Court shall have the right to fix and determine the rate or rates at which such water shall be sold to any such public or municipal corporation or political subdivision of this State, and to enter into contracts to sell and supply such water at such determined rate or rates for any term of years not exceeding forty (40); and all monies received by the county from the sale of such water shall be placed to the credit of the General Fund of the county and may be expended for general county purposes as now or hereafter permitted by law.

[Acts 1925, S.B. 84. Amended by Acts 139, 46th Leg., Spec.Laws, p. 588, § 1; Acts 1941, 47th Leg., p. 204, ch. 146, § 1; Acts 1949, 51st Leg., p. 501, ch. 275, § 1; Acts 1949, 51st Leg., p. 503, ch. 276, § 1; Acts 1950, 51st Leg., 1st C.S., p. 87, ch. 24, § 1.]

¹ Article 701 et seq.

Art. 2351½. Change in Boundaries of Commissioners or Justice Precincts

(a) Whenever the Commissioners Court changes the boundaries of commissioners precincts or of justice precincts, it may specify in its order a future date, not later than the first day of January following the next general election, on which the changes shall become effective. If an election for any precinct office is held before the effective date of the order, the office shall be filled at the election by the

voters of the precinct as it will exist on the effective date of the change in boundaries. A person who has resided within the territory embraced in the new boundaries for the length of time required to be eligible to hold the office shall not be rendered ineligible by virtue of the precinct's not having been in existence for that length of time.

(b) When boundaries of commissioners or justice precincts are changed, the terms of office of the commissioners, justices of the peace, and constables then in office shall not be affected by such change, and each of them shall be entitled to serve for the remainder of the term to which he was elected even though the change in boundaries may have placed his residence outside of the precinct for which he was elected.

(c) Repealed by Acts 1981, 67th Leg., p. 748, ch. 280, § 2, eff. Aug. 31, 1981.

[Acts 1965, 59th Leg., p. 1523, ch. 664, § 1, eff. Aug. 30, 1965. Amended by Acts 1981, 67th Leg., p. 748, ch. 280, §§ 1, 2, eff. Aug. 31, 1981.]

Art. 2351a. Fire Fighting Equipment; Purchase Authorized in Certain Counties

Bridges, Etc. Protected

Sec. 1. The Commissioners Court in counties having a population of more than three hundred thousand (300,000) and less than three hundred and fifty thousand (350,000) inhabitants in accordance with the last preceding Federal Census, and in counties having a population of more than forty-eight thousand, five hundred (48,500) and less than forty-nine thousand (49,000) inhabitants, and in counties having a population of not less than twenty-two thousand and eighty-nine (22,089) nor more than twenty-two thousand, one hundred (22,100) inhabitants, and in counties having a population of more than six thousand, one hundred (6,100) and less than six thousand, one hundred and eighty (6,180) inhabitants in accordance with the last preceding Federal Census, shall have the authority to purchase fire trucks and other fire-fighting equipment by first advertising and receiving bids thereon as provided by law, to be used for the protection and preservation of bridges, county shops, county warehouses, and other property located without the limits of any incorporated city or town.

Contracts With Centrally Located Municipality for Operation and Maintenance

Sec. 2. The Commissioners Courts in such counties are empowered and authorized to enter into contracts with any centrally located municipality in the county for the operation and maintenance of said fire trucks and other fire-fighting equipment on such terms as the Commissioners Court may deem proper and expedient.

Provisions Cumulative; Partial Invalidity

Sec. 3. The provisions of this Act are cumulative of all other laws other than special laws and if any

section, subdivision, paragraph, sentence, or clause of this Act be held unconstitutional, the remaining portions thereof shall be valid.

[Acts 1937, 45th Leg., p. 1127, ch. 453. Amended by Acts 1939, 46th Leg., Spec.Laws, p. 587, § 1; Acts 1941, 47th Leg., p. 107, ch. 85, § 1.]

Art. 2351a-1. Fire Protection and Fire Fighting Equipment in All Counties; Contracts; Liability of Municipalities for Firemen's Acts

The Commissioners Court in all counties of this State shall be authorized to furnish fire protection and fire-fighting equipment to the citizens of such county residing outside the city limits of any incorporated city, town or village within the county and/or adjoining counties. The Commissioners Court shall have the authority to purchase fire trucks and other fire-fighting equipment by first advertising and receiving bids thereon, and is hereby authorized to issue time warrants of the county and to levy and collect taxes to pay the interest and principal thereon as provided by law. The Commissioners Court of any county of this state shall also have the authority to enter into contracts with any city, town or village within the county and/or adjoining counties, upon such terms and conditions as shall be agreed upon between the Commissioners Court and the governing body of such city, town or village, for the use of the fire trucks and other fire-fighting equipment of the city, town or village. It is specifically provided that the acts of any person or persons while fighting fires, traveling to or from fires, or in any manner furnishing fire protection to the citizens of a county outside the city limits of any city, town or village, shall be considered as the acts of agents of the county in all respects, notwithstanding such person or persons may be regular employees or firemen of a city, town or village. No city, town or village within a county and/or adjoining counties shall be held liable for the acts of any of its employees while engaged in fighting fires outside the city limits pursuant to any contract theretofore entered into between the Commissioners Court of the county and the governing body of the city, town or village.

[Acts 1941, 47th Leg., p. 567, ch. 360, § 1. Amended by Acts 1961, 57th Leg., p. 492, ch. 234, § 1.]

Art. 2351a-2. Fire Fighting Equipment; Purchase Authorized in Counties of 350,000 to 450,000; Contracts

Sec. 1. The Commissioners Court in counties having a population of more than three hundred and fifty thousand (350,000) and less than four hundred and fifty thousand (450,000) inhabitants in accordance with the last preceding Federal Census shall have the authority to purchase fire trucks and other fire-fighting equipment by first advertising and receiving bids thereon as provided by law, to be used for the protection and preservation of bridges, county shops, county warehouses, and other property

located without the limits of any incorporated city or town.

Sec. 2. The Commissioners Courts in such counties are empowered and authorized to enter into contracts with any centrally located municipality in the county for the operation and maintenance of said fire trucks and other fire-fighting equipment on such terms as the Commissioners Court may deem proper and expedient.

Sec. 3. The provisions of this Act are cumulative of all other laws other than special laws and if any section, subdivision, paragraph, sentence, or clause of this Act be held unconstitutional, the remaining portions thereof shall be valid.

[Acts 1941, 47th Leg., p. 681, ch. 424.]

Art. 2351a-3. Fire Fighting Equipment; Counties Over 350,000; Furnishing Equipment to Towns and Villages Having Volunteer Departments

"County" Defined

Sec. 1. The term "county" when used in this Act shall mean any county in Texas having a population of three hundred and fifty thousand (350,000) or more according to the last preceding Federal Census.

Authority to Furnish Equipment

Sec. 2. The Commissioners Court of the county is hereby authorized to and may furnish fire fighting equipment under the terms and provisions of this Act. It is the legislative intent and purpose that this Act be construed as permitting the Commissioners Court within their discretion to carry out the provisions of this Bill but the language in this Bill shall not be construed as being mandatory in nature.

Petition; Contract

Sec. 3. The governing authorities of any incorporated town or village of the county, which has a volunteer fire department recognized by the Insurance Commission of the State of Texas, may, by an order or resolution, a majority voting in favor thereof, petition the Commissioners Court of the county to enter into a contract to furnish fire fighting equipment as provided in this Act. The Commissioners Court may enter into the contract and furnish the fire fighting equipment where the petitioners show the incorporated town or village is eligible to receive the service and benefit of such equipment by compliance with the terms of this Act.

Duty of Commissioners Court

Sec. 4. When at least twenty-five (25) citizens, living in any unincorporated village, town or community, who have, or will organize within a reasonable time, a volunteer fire department recognized by the Insurance Commission of the State of Texas, and who are in all respects qualified to vote in a

county bond election, petition the Commissioners Court for fire fighting equipment, it may be the duty of the Commissioners Court to enter into a contract and furnish such fire fighting equipment, subject to and in accordance with the provisions of this Act.

"Fire Fighting Equipment" Defined

Sec. 5. The term "fire fighting equipment" referred to herein shall mean a four hundred-gallon booster tank mounted on a suitable truck chassis, equipped with a front-end pump and other necessary appliances and equipment. Total initial cost of each unit of fire fighting equipment shall in no instance exceed the sum of Two Thousand Seven Hundred and Fifty Dollars (\$2,750).

Provisions of Contract

Sec. 6. The contract referred to herein shall provide and be conditioned that the county may furnish the fire fighting equipment for the use and benefit of the petitioners, subject to the agreement and understanding that the petitioners shall furnish a satisfactory place in which to keep and house the fire fighting equipment and pay at their own expense all of the costs of operation of said fire fighting equipment, and furnish the personnel to operate the same. The county shall be charged with the duty of keeping the fire fighting equipment in good working condition and shall be responsible for all replacements and repairs required. The Commissioners Court shall determine when repairs and replacements are necessary for such equipment. The Commissioners Court may provide for at least one emergency unit of fire fighting equipment to be used by the petitioners while the regular unit is being repaired or replaced by the Commissioners Court. The Court shall require that all repairs, including labor and materials, shall be made, in so far as possible, in the shops of the Commissioners, and the Commissioners Court shall have the power to designate any one or all of said shops for such purposes. The Commissioners Court may use trucks or other equipment, now on hand, if they are unable to acquire new trucks or other equipment for the purpose of building or equipping said fire fighting equipment.

The petitioners shall be charged with the safe keeping of the fire fighting equipment. They shall be responsible to the county for any loss of such equipment from theft. They shall be responsible to the county for any loss resulting to said fire fighting equipment assigned them by reason of any negligence of any officer, agent or employee of any incorporated town or village or of any one of the twenty-five (25) petitioners in an unincorporated village, town or community handling or operating such equipment.

Bond

Sec. 7. Before any unit of fire fighting equipment is delivered to any petitioners, they shall give

bond with good and sufficient surety, payable to the county, in an amount to be fixed by the Commissioners Court, not to exceed the initial cost of the unit of fire fighting equipment, conditioned that they will pay to the county the amount of the actual loss to each unit of equipment, or any part thereof, resulting from theft or negligence as hereinafter provided.

"Petitioners" Defined

Sec. 8. The term "petitioners" as used herein shall mean any governing body of any incorporated town or village of the county. It shall also mean and include the number of petitioners not less than twenty-five (25) authorized herein to petition the Commissioners Court for fire fighting equipment, who reside in an unincorporated town, village or community.

Location of Equipment; Inspection

Sec. 9. Said fire fighting equipment shall remain in the county and the Commissioners Court shall at all times have the right to inspect and examine said equipment and shall have the right to repossess the same upon noncompliance by the petitioners with the terms of this Act.

Contracts for Use of Equipment

Sec. 10. The Commissioners Court may have, and it is hereby granted, the power and authority to contract with any city or cities within said county for the use of fire fighting equipment and the use and service thereof by the fire department of such city or cities for the purpose of fighting fires outside the city limits of such city or cities, upon such terms and conditions as may be mutually agreed upon by such Commissioners Court and the governing authorities of such city or cities, and said Commissioners Court and it is hereby authorized and empowered to pay out of the General Fund of said county such compensation for such services as may be agreed upon as hereinabove provided.

Costs of Administration

Sec. 11. The Court shall pay all costs of administering this Act out of the General Fund of the county.

[Acts 1943, 48th Leg., p. 566, ch. 336.]

Art. 2351a-4. Fire Fighting Equipment; Time Warrants or Bonds

The Commissioners Court of any county in this State is hereby authorized to purchase fire trucks and other fire fighting equipment to be used for the protection and preservation of bridges, county shops, county warehouses, and other county property located in the county but without the corporate limits of any incorporated city or town, and in payment thereof is hereby authorized to issue either time warrants or negotiable bonds, or both, of the county, and to levy and collect taxes against the county general fund in payment thereof; provided,

however, that any such warrants or bonds must have been authorized by a majority of the qualified property taxpaying voters, who had duly rendered the same for taxation, voting at an election duly called for that purpose by the Commissioners Court, such bonds and warrants to be issued and such taxes to be levied and collected in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas,¹ governing the issuance of bonds by cities, towns, and/or counties in this State; and provided further, that said warrants or bonds will be issued only in such amount or amounts as will at all times leave remaining and unencumbered sufficient taxes for general fund purposes to fully take care of all current expenses thereof.

[Acts 1949, 51st Leg., p. 1121, ch. 575, § 1.]

¹ Article 701 et seq.

Art. 2351a-5. Contracts With Volunteer Fire Departments for Fire Protection Services in Unincorporated Areas

The commissioners court of any county may contract with any incorporated volunteer fire department which is located within the county but not within the corporate limits of any city or town, for the purpose of furnishing fire protection services to areas of the county which are not within the corporate limits of a city or town. The terms of the contract may be as mutually agreed upon by the commissioners court and the volunteer fire department. The commissioners court may pay for the services under the contract out of the general fund of the county.

[Acts 1951, 52nd Leg., p. 371, ch. 235, § 1. Amended by Acts 1965, 59th Leg., p. 1053, ch. 516, § 1, eff. June 16, 1965.]

Art. 2351a-6. Rural Fire Prevention Districts

Organization Authorized

Sec. 1. Rural Fire Prevention Districts may be organized in the State of Texas under the provisions of Section 48-d of Article III of the State Constitution for the protection of life and property from fire and for the conservation of natural and human resources as in this Act provided.

District Within One County; Petition to County Judge

Sec. 2. (1) When it is proposed to create a Rural Fire Prevention District under the provisions of this Act wholly within one county, there shall be presented to the County Judge of that county a petition signed by not less than one hundred (100) of the qualified voters who own taxable real property within the proposed district, or in the event there are less than one hundred such voters then by a majority of such voters.

(2) The County Judge of each county shall have jurisdiction to receive and act on the petition if it shows:

(a) That the district is to be created and operated under the provisions of Article III, Section 48-d of the Constitution of Texas;

(b) Name of the proposed district, which shall be "_____ County Rural Fire Prevention District No. ____," filling in name of county and proper consecutive number;

(c) Designation of the boundaries of the proposed district by metes and bounds, or other sufficient legal description;

(d) That none of the land encompassed within said district is now included within any other rural fire protection district;

(e) The mail address of each petitioner.

(3) Said petition shall in addition contain the signed agreement of at least two of the petitioners therein, obligating themselves to pay the cost incident to the formation of the proposed district not to exceed One Hundred Fifty Dollars (\$150.00), which shall include, among any other necessary and incidental expenses, the cost of publication of notices and election costs.

Multi-County Districts; Petition

Sec. 2(a). (1) When it is proposed to create a Rural Fire Prevention District under the provisions of this Act which shall encompass territory not solely within one county, there shall be presented to the County Judge of each county wherein such Rural Fire Prevention District is sought to be created, a petition signed by not less than 100 of the qualified voters who own taxable real property within the proposed district and also in the county where such County Judge presides, or in the event there are less than 100 such voters within that area sought to be made a part of said district within such county, then by a majority of such voters residing therein.

(2) The County Judge of each county wherein such district is sought to be created shall have jurisdiction to receive and act on the petition if it shows:

(a) That the district is to be created and operated under the provisions of Article III, Section 48-d of the Constitution of Texas;

(b) Name of the proposed district which shall be "_____ Rural Fire Prevention District";

(c) Designation of the boundaries of the proposed district by metes and bounds or other sufficient legal description;

(d) That none of the land encompassed within the said district is now included within any other Rural Fire Prevention District;

(e) The mailing address of each petitioner residing in the county wherein the County Judge presides.

(3) Said petition shall, in addition, contain the signed agreement of at least two of the petitioners

therein, which two shall reside in the county wherein the County Judge presides, obligating themselves to pay the cost incident to the formation of the proposed district not to exceed One Hundred Fifty Dollars (\$150.00), which shall include among any other necessary and incidental expenses, the cost of publication of notices and election costs.

Filing Of and Hearing On Petition

Sec. 3. If the petition is in proper form, the County Judge shall file same with the County Clerk. The Commissioners Court shall at its next regular or special session set the place, day and hour when it will hear and consider the petition.

Notices of Hearing

Sec. 4. The County Clerk shall issue notices of such hearing, which shall state that such district is proposed and shall further state:

(a) That the district is to be created and operated under the terms of Article III, Section 48-d of the Constitution of Texas;

(b) Name of the proposed district;

(c) Designation of the boundaries of said districts, as stated in the petition therefor;

(d) The place, day and hour of hearing on the petition;

(e) and shall notify all persons who may have an interest therein that they are invited to attend said hearing and present their grounds, if any, for or against the formation of said district.

Said notice shall be prepared in multiple copies, one of which shall be retained by the clerk, and sufficient additional copies as may be necessary delivered to the Sheriff.

The Sheriff shall post one copy at the court house door at least twenty (20) days prior to the date of hearing, and have published in a newspaper of general circulation in the proposed district once a week for two consecutive weeks, the first publication thereof to be made at least twenty (20) days prior to the date of hearing.

The return of each officer executing such notice shall be endorsed or attached to a copy of the same, and show the execution of the same, specifying the dates of posting, and publication, and shall be accompanied by a printed copy of such publication.

Hearing on Petition by Commissioners Court; Jurisdiction and Powers

Sec. 5. At the time and place set for the hearing of the petition, or such subsequent date as may then be fixed, the Commissioners Court shall proceed to hear such petition and all issues in respect to the creation of such proposed district, and any person interested may appear before the court in person or by attorney and contend for or contest the creation of such district, and offer testimony pertinent to any issue thereon. Such court shall have exclusive

jurisdiction to determine all issues in respect to the creation of such district, may adjourn the hearing from day to day and from time to time as the facts may require, and shall have power to make all incidental orders deemed proper in respect to the matters before it.

Granting or Denying Petition; Fixing Boundaries of District

Sec. 6. If it shall appear on hearing by the court that the organization of a district as prayed for is feasible and practicable, would benefit the land included therein, and will be conclusive to the public safety, welfare and convenience, and aid in the conservation of the real property or natural resources within said district, the court shall so find and grant the petition and fix the boundaries thereof; otherwise it shall deny the petition.

Appeal to District Court by Persons Aggrieved

Sec. 7. Any person or other owner of real or personal property situated within said district as created, who may consider himself aggrieved by the decision of the Commissioners Court, may appeal to the district court in the same manner as is provided for appeals in cases involving estates of decedents.

Elections

Sec. 8. Upon granting of the petition, the Commissioners Court shall call an election to confirm the organization and authorize the levy of a tax, not to exceed three cents (3c) on the One Hundred Dollars (\$100.00) valuation. If it appears on the face of the petition that the proposed district is to encompass more than one county or portions thereof, then the Commissioners Court shall not call an election until such time as the Commissioners Court of any other county or such district is proposed shall have also granted the petition. When the foregoing has been accomplished, such election shall be held not less than thirty (30) nor more than sixty (60) days after the order calling the same; and notice of such election shall be given in the same mode and manner as hereinabove required for hearing on the petition to form the District. The notice shall contain the proposition submitted, the classification of voters who are authorized to vote, and the time and place for holding the election. Such time for holding the election if the district be multi-county shall be as near as practical to the time that the Commissioners Courts in the other counties have agreed to hold the election.

Incorporated City, Town or Village Included in Proposed District; Referendum

Sec. 8(a). If the area of the proposed District encompasses the territory of any incorporated city, town or village, the Commissioners Court, if such city, town or village lies within its county, in making the determinations required in Section 6 of this Act, shall also determine whether those findings would be the same as to the remaining portion of the

proposed district, excluding any or all such incorporated municipalities in the event any one or more of such incorporated municipalities should fail to cast a majority vote in favor of the district and the tax.

This finding shall be made as to each particular city, town or village whose territory is proposed to be included within the area of the proposed district.

No district hereafter created shall include the area of any incorporated city, town, or village, unless the majority of the electors residing in the municipality and participating in the election called by the Commissioners Court to confirm the district and levy the tax voted in favor of both the creation of the district and the levy of the tax.

Should a majority of the voters residing in a municipality and participating in the election vote against creation of the district or levy of the tax, the municipality shall not be included within the district, but its exclusion shall not affect the creation of the district embracing the remainder of the proposed territory if the findings of the Commissioners Courts made as required in Section 6 and in this section of this Act are favorable to the creation of the district, as thus restricted. Should any non-consenting city, town or village ever annex territory into such proposed rural Fire Prevention District, then the Board of Fire Commissioners shall, after due notice, immediately de-annex such area from its district and shall cease to provide any further services to the residents of that area.

Election Favoring Confirmation of District; Order of Commissioners Court

Sec. 9. If a majority of those voting at such election, as provided in Section 2 or Section 2(a) of this Act, vote in favor of the confirmation of the district, it shall thenceforth be deemed an organized Rural Fire Prevention District under this Act; and the Commissioners Courts of the several counties wherein such district is created shall enter orders accordingly in their minutes in the following substantial form:

Whereas, at an election duly and regularly held on the ____ day of _____, A.D. 19____, within that portion of _____ County, State of Texas, described as: (insert description unless the district is county-wide) there was submitted to the legal voters thereof the question whether the above described territory shall be formed into a Rural Fire Prevention District under the provisions of the laws of this state; and

Whereas, at such election _____ votes were cast in favor of formation of said district and _____ votes were cast against such formation; and

Whereas, the formation of such Rural Fire Prevention District received the affirmative vote of the majority votes cast at such election as provided by law;

Now, therefore, the County Commissioners Court of _____ County, State of Texas, does hereby

find, declare and order that the tract hereinbefore described has been duly and legally formed into a Rural Fire Prevention District (or a portion thereof) under the name of _____, under and pursuant to Article III, Section 48-d of the Constitution of Texas, and with the powers vested in such district conferred by law.

Districts Declared Political Subdivisions of State; Powers

Sec. 10. Such fire protection districts are hereby declared to be political subdivisions of the state, and shall have full authority to carry out the objects of their creation and to that end are authorized to acquire, purchase, hold, lease, manage, occupy and sell real and personal property or any interest therein; to enter into and to perform any and all necessary contracts; to appoint and employ the necessary officers, agents and employees; to sue and be sued; to levy and enforce the collection of taxes in the manner and subject to the limitations herein provided against the lands and other property within the district for the district revenues; to accept and receive donations; and to do any and all lawful acts required and expedient to carry out the purposes of this Act.

Further Powers of Districts

Sec. 11. Any fire protection district organized under the provisions of this Act shall further have the authority:

(1) To lease, own, maintain, operate and provide fire engines and all other necessary or proper apparatus, instrumentalities, machinery, and equipment for the prevention and extinguishment of fires in the district as authorized in this Act:

(2) To lease, own and maintain real property, improvements and fixtures thereon, suitable and convenient for housing, repairing and caring for fire-fighting equipment;

(3) To enter into contracts with any others, including incorporated cities or towns or other districts whereby fire fighting facilities and fire extinguishment services and/or emergency rescue and ambulance services may be available to the district, upon such terms as the governing body of the district shall determine. The contract may provide for reciprocal operation of services and facilities if the contracting parties find that such operation would be mutually beneficial, and not detrimental to the district.

(4) The Board of Fire Commissioners may cause inspections to be made within the district pertinent to the causes and prevention of fires therein, and may promote such educational programs as it may deem proper to more fully effect the purposes of this Act.

(5) To lease, own, maintain, operate and provide emergency rescue equipment and all other necessary or proper apparatus, instrumentalities, machinery, and equipment for the prevention of loss of life

from fire or other hazards, which may result in serious injuries to persons.

(6) To lease, own, maintain, operate and provide emergency ambulance service and all other necessary and proper equipment therewith for the prevention of loss of life from fire and other hazards which may result in serious injuries to persons.

(7) To do and perform all things in its discretion proper and necessary to fully carry out the intent of this Act.

Limitation on Indebtedness

Sec. 12. Except as provided in Sections 12A-12G of this Act, no indebtedness shall be contracted in any one year in excess of funds then on hand or which may be satisfied out of current revenues for the year. The Board of Fire Commissioners shall annually levy and cause to be assessed and collected a tax upon all properties, real and personal, situated within the district and subject to district taxation, in an amount not to exceed three cents (3c) on the One Hundred Dollars (\$100) valuation for the support of the district, and for the purposes authorized in this Act. Such tax levy shall be certified to the County Tax Assessor-Collector, who shall be the Assessor-Collector for the district.

Bonds and Notes Authorized

Sec. 12A. (a) To carry out any one or more powers of a Rural Fire Prevention District and on approval by a majority vote of the Commissioners Court of each county in which all or part of the district is located, the Board of Fire Commissioners of the district may issue bonds and notes in one or more issues or series that are payable from and secured by liens on and pledges of:

- (1) ad valorem taxes;
- (2) all or part of any of the revenues, income, or receipts of the district; or
- (3) a combination of these taxes, revenues, income, and receipts.

(b) The bonds and notes may be issued to mature serially or otherwise in not more than forty (40) years from the date of their issuance.

(c) Provision may be made for the subsequent issuance of additional parity bonds and notes, or subordinate lien bonds or notes, under terms and conditions stated in the resolution authorizing the issuance of the bonds or notes.

(d) The bonds, notes, and any interest coupons are investment securities under Chapter 8, Business & Commerce Code.

(e) The bonds and notes may be:

- (1) issued registrable as to principal alone or as to both principal and interest;
- (2) made redeemable before maturity;

(3) issued in the form, denominations, and manner, and under the terms, conditions, and details provided by the resolution; and

(4) sold in the manner, at the price, and under the terms, conditions, and details provided by the resolution.

(f) The bonds and notes bear interest at rates not to exceed the maximum rate allowed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

(g) If provided by the resolution, the proceeds from the sale of the bonds or notes may be used for:

- (1) paying interest on the bonds or notes during the period of the acquisition or construction of any facilities to be provided through the issuance of the bonds or notes;
- (2) paying expenses of operation and maintenance of the facilities;
- (3) creating a reserve fund for the payment of the principal of and interest on the bonds or notes; and
- (4) creating any other funds.

(h) Proceeds from the sale of the bonds and notes may be placed on time deposit or invested, as provided in the resolution, until needed.

(i) If the bonds or notes are issued payable by a pledge of revenues, income, or receipts, the district may pledge all or any part of its revenues, income, or receipts from fees, rentals, rates, and charges and proceeds and payments from contracts, to the payment of the bonds or notes, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds or notes. The pledged fees, rentals, rates, charges, proceeds, or payments shall be established and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds or notes, and, to the extent required by the resolution authorizing, or the trust indenture securing, the issuance of the bonds or notes, to provide for the payment of expenses in connection with the bonds or notes and the operation, maintenance, and other expenses in connection with the facilities.

(j) If the bonds or notes are payable wholly from ad valorem taxes, the Board of Fire Commissioners shall levy a tax at the time of the authorization of the bonds or notes sufficient to pay the principal of and interest on the bonds or notes as the interest and principal come due and to provide reserve funds if prescribed in the resolution authorizing, or the trust indenture securing, the bonds or notes.

(k) If the bonds or notes are payable both from ad valorem taxes and from revenues, income, or receipts of the district, the Board of Fire Commissioners, at the time of the authorization of the bonds or notes, shall levy a tax sufficient to pay the principal of and interest on the bonds and notes and to create and maintain any reserve funds.

(l) The rate of tax actually to be collected for any year shall be established taking into consideration the money that will be available for payment of the principal of and interest on the bonds or notes and for the creation of any reserve funds to the extent and in the manner permitted by the resolution authorizing, or the trust indenture securing, the bonds or notes.

Election to Approve Bonds and Notes

Sec. 12B. (a) Bonds and notes secured in whole or in part by taxes may not be authorized by the district until approved by a majority vote of the qualified voters of the district at an election called for that purpose.

(b) The Board of Fire Commissioners may order an election, and the order calling the election shall state the nature and the date of the election, the hours during which the polls will be open, the location of the polling places, the amount of bonds or notes to be authorized, and the maximum maturity of the bonds or notes.

(c) The Board of Fire Commissioners shall give notice of the election by publishing a copy of the order calling the election at least once in a newspaper with general circulation in the district. The notice must be published at least thirty (30) days before the date set for the election.

(d) At an election to approve bonds or notes payable wholly from ad valorem taxes, the ballots must be printed to provide for voting for or against the proposition: "The issuance of (bonds or notes) and the levy of taxes for payment of the (bonds or notes)." At any election to authorize bonds or notes payable from both ad valorem taxes and revenues, the ballots must be printed to provide for voting for or against: "The issuance of (bonds or notes) and the pledge of net revenues and the levy of ad valorem taxes adequate to provide for the payment of the (bonds or notes)."

(e) The Board of Fire Commissioners shall canvass the returns and declare the results of the election. If a majority of the votes cast at the election favor the issuance of the bonds or notes, the bonds or notes may be issued by the Board of Fire Commissioners, but if a majority of the votes cast at the election do not favor issuance of the bonds or notes, the bonds or notes may not be issued.

Bond Anticipation Notes

Sec. 12C. (a) A Rural Fire Prevention District may issue bond anticipation notes from time to time to carry out any one or more of its powers.

(b) The bond anticipation notes may be secured by a pledge of all or part of the ad valorem taxes and revenues, income, or receipts of the district.

(c) The district may from time to time authorize the issuance of bonds for the purpose of providing proceeds to pay the principal of and interest on bond

anticipation notes. The bonds shall be secured by a pledge of all or part of the ad valorem taxes or revenues, income, or receipts of the district and may be issued on a parity with or subordinate to outstanding bonds of the district.

(d) If the resolution authorizing the issuance of, or the trust indenture securing, the bond anticipation notes includes a covenant that the notes are payable from the proceeds of the subsequently issued bonds, it is not necessary for the district to demonstrate for the purposes of receiving the approval of the Attorney General or registration by the Comptroller of Public Accounts, that the ad valorem taxes or revenues, income, or receipts that may be pledged to payment of the notes will be sufficient to pay the principal of and interest on the notes.

Refunding Bonds

Sec. 12D. (a) The bonds or notes issued under this Act may be refunded or refinanced by the issuance of refunding bonds for the purpose and under the terms, conditions, and details determined by the Board of Fire Commissioners of the district.

(b) All pertinent and appropriate provisions of this Act are applicable to the refunding bonds, and the refunding bonds shall be issued in the manner provided in this Act for other bonds authorized under this Act.

(c) Refunding bonds may be sold and delivered in amounts necessary to pay the principal of, interest on, and redemption premium, if any, on bonds to be refunded at maturity or on any redemption date.

(d) The refunding bonds may be issued in exchange for the bonds being refunded, and the Comptroller of Public Accounts shall register the refunding bonds and deliver them to the holder or holders of the bonds being refunded, as provided by the resolution authorizing the refunding bonds. The exchange may be made in one delivery or in several installment deliveries.

(e) The bonds and notes issued by the district may be refunded in the manner provided by any other applicable law of this State.

Examination of Bonds and Notes by Attorney General; Registration by Comptroller of Public Accounts

Sec. 12E. (a) The bonds, notes, and bond anticipation notes issued under this Act and the appropriate proceedings authorizing their issuance must be submitted to the Attorney General for examination.

(b) If the bonds, notes, or bond anticipation notes recite that they are secured by a pledge of revenues of any contract, a copy of the contract and the proceedings relating to the contract may be submitted to the Attorney General.

(c) If the Attorney General finds that the bonds, notes, or bond anticipation notes are authorized as provided by law, and, that the contract, if submitted, is made as provided by law, he shall approve

the bonds, notes, or bond anticipation notes and the contract, if submitted.

(d) On approval, the bonds, notes, or bond anticipation notes shall be registered by the Comptroller of Public Accounts.

(e) After approval and registration, the bonds, notes, or bond anticipation notes and the contract are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with their terms for all purposes.

Deposit of Funds

Sec. 12F. (a) The Board of Fire Commissioners shall designate one or more banks to serve as depositories for the funds of the district.

(b) The funds of the district shall be deposited in a depository bank, except that:

(1) the funds pledged to pay bonds or notes may be deposited with banks named in the trust indenture or in the bond or note resolution; and

(2) the funds shall be remitted to the bank of payment for the payment of principal of and interest on the bonds and notes.

(c) To the extent that the funds in a depository bank or a trustee bank are not insured by the Federal Deposit Insurance Corporation, the funds must be secured in the manner provided by law for the security of county funds. The resolution or trust indenture, or both, securing the bonds or notes may require that any or all of the funds must be secured by obligations of or unconditionally guaranteed by the United States government.

Investment in Bonds and Notes; Security for Deposit of Public Funds

Sec. 12G. (a) The bonds and notes of a district are legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas.

(b) The bonds and notes are eligible to secure the deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and the bonds and notes are legal and sufficient security for the deposits to the extent of their value, and if in coupon form, when accompanied by all unmatured coupons.

Board of Fire Commissioners; Organization, Officers; Bond of Treasurer

Sec. 13. (1) The Board of Fire Commissioners, who shall be appointed by the Commissioners Court, shall be the governing body of the districts created under the provisions of this Act. They shall serve

for a term of two years and until their successors are appointed and qualified.

(2) Upon the canvass of the election returns and entering of the order creating the district (provided in Section 9), the Commissioners Court shall name five commissioners to serve until January 1st of the next year. On that date, the court shall designate three of such commissioners to serve for a term of two years and two commissioners to serve for one year. Annually on January 1st thereafter, the court shall appoint a successor to each commissioner whose term has expired. Vacancies on the board shall be filled by the Commissioners Court for their unexpired term.

Each of said fire commissioners shall take the official oath required of members of the Legislature of this state before entering upon his duties.

(3) Said fire commissioners shall choose from their number a president, vice-president, secretary and treasurer, who shall have and perform respectively, the duties usually incumbent upon their said offices. The office of secretary and treasurer may be vested in the same person.

The treasurer shall enter into and file with the county clerk his bond conditioned upon the faithful performance of the duties of his office. The sufficiency and amount of the bond shall be determined by the County Judge before it may be filed.

Multi-County District Board of Fire Commissioners; Election; Term; Oath; Officers; Bond of Treasurer

Sec. 13(a). (1) The Board of Fire Commissioners of a multi-county fire prevention district shall consist of five (5) members, who will be the governing body of the districts created under the provisions of this Act. They shall serve for a term of two years and until their successors are elected and have taken office.

(2) The County Judges of the county where such Rural Fire Prevention District lies of any Rural Fire Prevention district which is multi-county shall mutually establish a day convenient to them in the month of November to hold an election for the purposes of electing the Board of Fire Commissioners of the district. Any person who is a resident of the district and has attained the age of 18 years shall be eligible to run as Fire Commissioner. He shall give notice to the County Clerk of each county wherein the district lies of his intention to run for office. Such notice shall give his name, age, and address and state that he is serving notice of his intent to run as Fire Commissioner of the Rural Fire Prevention District. Such notice shall be sworn to before the County Clerk can receive it. Upon receipt of such notice the County Clerk shall call such candidate's name to be printed upon the ballots suitable to the County Clerk for an election of this character. The County Clerks of the counties wherein such multi-county district lies shall mutually appoint an election judge to certify the winners of the result of such election. After the election is held each of

the County Clerks or one of their deputies wherein the district lies shall prepare a statement of cost under oath of the election. Such statement shall be tendered to the newly elected constituted Board of the Rural Fire Prevention District. It shall be the duty of the Board of Fire Commissioners to order its proper official to reimburse each county for the cost expended by it for the election.

The term of the Board of Fire Commissioners shall commence on January 1 and run for two years. Then and thereafter elections of the Board shall be held in the month of November on the year after the election of the first Board at a day to be agreed upon by the County Judges wherein the district lies.

Two of the members of the first Board of Fire Commissioners shall have initial terms of one year. In November of the year of taking office another election shall be provided for these two offices. Then and thereafter there shall be one election every two years for these two officers. The two commissioners that shall run for office in the next year shall be the two who received the lowest number of votes in the first election of the board.

Each of said Fire Commissioners shall take the official oath required by members of the legislature of this State before entering upon duty.

(3) Said Fire Commissioners shall choose from their number a President, Vice-President, Secretary and Treasurer who shall have and perform, respectively, the duties usually incumbent upon their said offices. The offices of Secretary and Treasurer may be vested in the same person.

The Treasurer shall enter into and file with the County Clerk of the largest county in population according to the last preceding federal census wherein the district lies his bond conditioned upon the faithful performance of the duties of his office. The sufficiency and amount of the bond shall be determined by the County Judge of that county before it may be filed.

Powers and Duties of Fire Commissioners; Meetings; Records; Quorum; Compensation

Sec. 14. The Board of Fire Commissioners shall administer all the affairs of said district in accordance with the provisions of this Act; shall hold regular monthly meetings, and such other meetings as deemed advisable; and shall keep proper minutes and records of all their acts and proceedings. A majority of said board shall constitute a quorum.

No fire commissioner shall receive any compensation for his services, but when on official business of the district may be compensated for their reasonable and necessary expenses. All moneys of the district shall be disbursed by check signed by the treasurer countersigned by the president, but no payments from tax moneys shall be paid unless a sworn itemized account covering the same has been presented to and approved by the board.

The board shall not later than February 1st of each year render in writing to the Commissioners Court of the county an accounting of its administration for the preceding calendar year and of the financial condition of the district.

The board shall further render such reports as may be required from time to time by the State Fire Marshall and other authorized party or agency.

No fire commissioner shall become interested in any contract or transaction in which said district is a party whereby he may receive any money consideration or other thing of value, other than as a resident or property owner of the district.

Expansion of District Territory; Petition; Hearing; Notice; Resolution; Election; Debts or Taxes

Sec. 14a. (1) Qualified voters who own taxable real property in a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the Board of Fire Commissioners. The petition shall be signed by fifty (50) such voters or a majority of such voters, whichever number is less.

(2) The board by order shall set the time and place of the hearing on the petition to include the territory in the district. The hearing shall be held not less than thirty (30) days from the date of the order.

(3)(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed. The notices shall be posted for at least fifteen (15) days before the day of the hearing.

(c) The notice shall be published one time in a newspaper with general circulation in the county. The notice shall be published at least fifteen (15) days before the day of the hearing.

(4) If the board finds after the hearing that the addition would be feasible and practical and would be of benefit to the district, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.

(5)(a) Annexation of the territory is not final until ratified by a majority vote of the electors at a separate election held in the district and by a majority vote of the electors at a separate election held in the territory proposed to be added.

(b) If the district has outstanding debts or taxes, the same election shall determine also whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district.

(6) The ballots shall be printed to provide for voting for or against the following propositions:

(A) "Adding (description of territory to be added) to the _____ Rural Fire Prevention District."

(B) "(description of territory to be added) assuming its proportionate share of the outstanding debts and taxes of the _____ Rural Fire Prevention District, if it is added to such district."

(7) The notice of the election, the manner and time of giving the notice, the manner of holding the election, and qualifications of the voters shall be governed by other provisions of this Act, so far as applicable.

Liberal Construction of Act; Partial Invalidity

Sec. 15. The provisions of this Act and proceedings thereunder shall be liberally construed with a view to effect their objects. If any section or provision of this Act shall be adjudged to be invalid or unconstitutional, such adjudications shall not affect the validity of the Act as a whole, or any section, provision, or part thereof not adjudged to be invalid or unconstitutional.

Validation of Orders or Proceedings of Commissioners Court

Sec. 16. The order of any Commissioners Court by which a rural fire prevention district has been or has sought to be created or established, wholly within one county, are hereby in all things validated, ratified and confirmed, and such district shall be hereafter deemed to have been established and in existence as of the date of the entry of the order by the Commissioners Court which declared such rural fire prevention district to be in existence; provided, however, that this Act shall not apply to validate the organization or creation of such district unless each of the following steps have also been taken: (a) that the Commissioners Court has entered a finding that the court has investigated the benefits to be derived from the creation of the district and that all of the properties and persons within the territorial confines of the district will be benefited by the creation or existence of such district with the powers authorized under this law and under the provisions of Article III, Section 48-d, of the Constitution of Texas; and (b) the order creating the district has heretofore been filed in the deed records of the county, which order or supplement thereto shows the area of the district; and (c) the Commissioners Court has heretofore appointed fire commissioners for the governing of the rural fire prevention district; and (d) the proposition for the creation of the district, levying a tax, or both, has been submitted to the electorate and a majority of those participating in such election voted in favor of the district, the tax, or both, such election having been called by the Commissioners Court.

Taxation; Levy and Collection

Sec. 17. In those districts validated and declared to be and to have been established under the provisions of Section 16 of this Act, the district shall have the right to levy and collect the rate of tax of

not to exceed the rate of tax voted at the election required under the provisions of Section 16; provided, however, that if the election sought to authorize more than a tax of three cents (3¢) per One Hundred Dollars (\$100.00) valuation contrary to the provisions of Article III, Section 48-d of the Constitution of Texas, the provisions of this section shall not be effective.

Validation of Governmental Proceedings of Districts

Sec. 18. All governmental proceedings of the districts (which are validated by the provisions of Section 16 of this Act) are hereby in all things validated, ratified and confirmed.

Dissolution of District; Petition; Notice of Hearing

Sec. 19. (a) When it is proposed to dissolve a Rural Fire Prevention District created under this Act, a petition shall be presented to the Board of Fire Commissioners for the district signed by not less than one hundred (100) of the qualified voters who own taxable real property within the district. If there are less than one hundred (100) such voters, a majority of those qualified voters who own taxable real property in the district must sign the petition.

(b) If the petition is in proper form, the Board of Fire Commissioners shall set the day, place, and hour when it will hear and consider the petition.

(c) The Board of Fire Commissioners shall issue notices of the hearing which shall include:

- (1) the name of the district;
- (2) a description of the district's boundaries;
- (3) the proposal that the district be dissolved; and
- (4) the place, date, and time of the hearing on the petition.

(d) The notice shall be published in a newspaper of general circulation in the district once a week for two (2) consecutive weeks. The first published notice must appear at least twenty (20) days before the date of the hearing.

Hearing of Petition; Appeal

Sec. 20. (a) The Board of Fire Commissioners shall hear the petition and all issues concerning the dissolution of the district. Any person interested may appear before the board and oppose or support the proposed dissolution. The board shall grant or deny the petition.

(b) Any person or owner of real or personal property situated within the district may appeal the decision of the Board of Fire Commissioners to a district court in one (1) of the counties in which the district is located.

Election to Confirm Dissolution

Sec. 21. (a) On granting the petition, the board shall call an election to confirm the dissolution of the district.

(b) The election shall be held not less than thirty (30) days nor more than sixty (60) days after the date of the board's decision on the petition.

(c) Notice of the election shall be given in the same manner as required by Section 19 of this Act. The notice shall include:

- (1) the proposition to be submitted to the voters;
- (2) the classification of voters who are authorized to vote; and
- (3) the time and place for holding the election.

(d) The ballot shall be printed to provide for voting for or against the following: "Dissolving the Rural Fire Prevention District."

(e) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the Board of Fire Commissioners within ten (10) days after the date of the election. A copy of the results shall be filed with the County Clerk in any county in which the district is located and shall become a public record.

(f) If the majority of the voters voting in the election vote to dissolve the district, the Board of Fire Commissioners shall declare the result and proceed with dissolution.

(g) If the proposition to dissolve the district fails to carry at the election, the Board of Fire Commissioners may not order another election for the same purpose within one (1) year after the result is announced.

(h) After the dissolution of a Rural Fire Prevention District, no election may be held to create a new Rural Fire Prevention District within the boundaries of the old district for a period of one (1) year.

Administration of Property, Debts and Assets

Sec. 22. (a) The Board of Fire Commissioners shall continue to control and administer the property, debts, and assets of the district until all funds have been disposed of and all debts of the district have been paid or settled.

(b) The Board of Fire Commissioners may not dispose of the district's assets except for due compensation unless debts are transferred to another governmental entity or agency embracing the district or within the district, and the transfer will benefit the citizens of the district.

(c) After issuing the dissolution order the Board of Fire Commissioners shall:

- (1) determine the debt, if any, owed by the district; and
- (2) levy and collect a tax on the property included in the tax roll of the district in proportion of the debt to the value of the property.

(d) Each taxpayer may pay the tax at once, and the Board of Fire Commissioners shall have suit instituted, if necessary, to enforce payment of taxes

and to foreclose liens to secure the payment of taxes due the district.

(e) When all outstanding debts and obligations of the district are paid, the Board of Fire Commissioners shall order the secretary of the district to return all unused tax money to the taxpayers of the district on a pro rata basis. A taxpayer may request that his share of surplus tax money be credited to his county taxes. The board shall direct the secretary to transmit any funds so requested to the County Tax Assessor-Collector.

(f) After all debts have been paid and all assets and funds have been disposed of as provided in this Act, the Board of Fire Commissioners shall file a written report with the Commissioners Court of each county in which all or part of the district is located setting forth a summary of the actions taken by the Board of Fire Commissioners in the dissolution of the district. Within ten (10) days after receiving the report and after determining that the requirements of this Act have been fulfilled, each of the Commissioners Courts shall enter an order finding the Rural Fire Prevention District dissolved, and on entry of the order, the fire commissioners shall be discharged from liability under their bonds, and the district shall be officially dissolved.

[Acts 1957, 55th Leg., p. 130, ch. 57. Amended by Acts 1959, 57th Leg., p. 31, ch. 19, § 1; Acts 1967, 60th Leg., p. 1089, ch. 478, § 1, eff. June 12, 1967; Acts 1973, 63rd Leg., p. 609, ch. 260, §§ 1 to 9, eff. Aug. 27, 1973; Acts 1973, 63rd Leg., p. 768, ch. 341, § 1, eff. June 12, 1973; Acts 1977, 65th Leg., p. 1417, ch. 575, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 2316, ch. 841, § 4(f), (w), eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 472, ch. 827, §§ 1, 2, eff. Aug. 29, 1983.]

Art. 2351a-7. Fire-Fighter Training Facilities; Certificates of Indebtedness

Sec. 1. The commissioners court in all counties of this state shall be authorized, for and on behalf of each county, to issue negotiable certificates of indebtedness for the purpose of acquiring, purchasing, constructing, repairing, renovating, improving, and/or equipping fire-fighter training facilities and acquiring any real or personal property in connection therewith and to levy and pledge annual county ad valorem taxes under Article VIII, Section 9, of the Texas Constitution sufficient to pay the principal of and interest on said certificates of indebtedness as the same come due. When any such certificates of indebtedness are issued, it shall be the duty of the commissioners court annually to levy the aforesaid taxes and to cause the same to be assessed and collected in an amount sufficient to pay such principal and interest. Such certificates of indebtedness may be issued in one or more series or issues, shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the commissioners court. Said certificates of indebtedness and any interest coupons appertaining thereto shall be negotiable

instruments, and they may be made redeemable prior to maturity, may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by the commissioners court in the order authorizing the issuance thereof. Such certificates of indebtedness shall be sold for not less than their par value and accrued interest to date of delivery. The certificates of indebtedness may be issued by order of the commissioners court if the issuance is approved by a majority of the qualified voters of the county voting on the question at an election called by the commissioners court. The election shall be held on the next uniform election date authorized by Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code), that occurs at least 20 days after the day on which the election is called. The commissioners court shall order the ballot to be printed to provide for voting for or against the proposition: "Issuing certificates of indebtedness by the county to acquire, purchase, construct, repair, renovate, improve, or equip fire-fighter training facilities or to purchase real or personal property in connection with these facilities." Each qualified voter in the county may vote in the election. The aggregate principal amount of certificates of indebtedness issued under this Act may not exceed \$5,000,000.

Sec. 2. All certificates of indebtedness issued pursuant to this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such certificates of indebtedness have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such certificates of indebtedness shall be incontestable in any court or other forum for any reason and shall be valid and binding obligations in accordance with their terms for all purposes.

Sec. 3. All certificates of indebtedness issued pursuant to this Act shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said certificates of indebtedness also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said certificates of indebtedness, when

accompanied by any unmatured interest coupons appurtenant thereto.

Sec. 4. The commissioners court shall be authorized to operate and maintain the county's fire-fighter training facilities and to fix and collect fees and charges for services performed and information furnished to others by the use of said facilities. The commissioners court shall pay the expenses of operation and maintenance of said facilities from such fees and charges and/or from any other available county funds.

[Acts 1981, 67th Leg., p. 94, ch. 49, § 1, eff. Aug. 31, 1981.]

Art. 2351b-1. Fire Protection; Counties of Less Than 20,000 Population Authorized to Contract For with Municipalities

The Commissioners Courts in counties having a population of less than twenty thousand (20,000), according to the last preceding Federal Census, and a property valuation of more than One Hundred Million Dollars (\$100,000,000), according to the last approved county tax rolls, are authorized and empowered to enter into contracts and agreements with the governing bodies of municipalities within such counties for the purpose of furnishing fire protection within such counties, but outside the corporate limits of such municipalities, and to make appropriations for paying such municipalities for furnishing such fire protection.

[Acts 1939, 46th Leg., Spec.Laws, p. 586, § 1.]

Art. 2351b-2. Aid to State and Federal Agencies

From and after the date of passage of this Act the Commissioners Courts in all counties having a population of not less than twenty-two thousand and fifty (22,050) and not more than twenty-three thousand (23,000), according to the last preceding Federal Census, shall have the power and authority to provide for facilities and such financial aid as the said Commissioners Courts may deem necessary to Federal or State government agencies and bureaus having activities or maintaining projects within the county in which the said Commissioners Court is located.

[Acts 1939, 46th Leg., Spec.Laws, p. 585, § 1.]

Art. 2351b-3. Resettlement or Rural Rehabilitation Projects; Agreements Between Commissioners Courts and United States; Payments in Lieu of Taxes

Definitions

Sec. 1. The following definitions shall be applied to the terms used in this Act:

(1) "Agreement" shall mean contract and shall include renewals and alterations of a contract.

(2) "Political subdivision" shall mean any agency or unit of this State which is now, or hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied.

(3) "Services" shall mean such public municipal functions as are performed for property in, and for persons residing within, a political subdivision.

(4) "Project" shall mean any resettlement project or rural rehabilitation project for resettlement purposes of the United States located within a political subdivision and shall include the persons inhabiting such projects.

(5) "Governing body" shall mean the board, body, or persons in which the powers of a political subdivision as a body corporate, or otherwise, are vested.

Payments by United States in Lieu of Taxes, Agreements For

Sec. 2. The Commissioners Court of any county in this State is hereby authorized and empowered (a) to make requests of the United States, for and on behalf of the county and political subdivisions whose jurisdictional limits are within or coextensive with the limits of the county, for the payment of such sums in lieu of taxes as the United States may agree to pay, and (b) to enter into agreements with the United States, in the name of the county, for the performance of services by the county and such political subdivisions for the benefit of a project, and for the payment by the United States to the county, in one or more installments, of sums in lieu of taxes.

Contents of Agreements; Notice to Subdivision

Sec. 3. Each agreement entered into pursuant to Section 2 shall contain the names of the political subdivisions in whose behalf it is consummated and a statement of the proportionate share of the payment by the United States to which each political subdivision shall be entitled. The Commissioners Court shall immediately notify each political subdivision in whose behalf an agreement is entered into of the consummation thereof.

Filing Agreement; Receipts

Sec. 4. The Commissioners Court shall file one copy of any agreement for a payment of sums in lieu of taxes with the County Treasurer. On or before the date on which any payment of sums in lieu of taxes is due, the County Treasurer shall present a bill to the United States, in the name of the county, in the amount of such payment. Whenever such payment is received, the County Treasurer shall issue a receipt therefor in the name of the County.

Apportionment of Payments Received; Acceptance

Sec. 5. Immediately after receiving a payment in lieu of taxes, the County Treasurer shall, without any deduction, apportion and pay it to the several political subdivisions in accordance with the agreement under which the payment was received, notwithstanding any other law controlling the expenditure of county funds. The acceptance by the governing body of a political subdivision of its share of a payment in lieu of taxes shall be construed as an

approval of the agreement under which the payment was received. If any governing body shall refuse to accept a political subdivision's share of a payment in lieu of taxes, the County Treasurer shall refund the same, without any deduction, to the United States.

Powers of Subdivisions to Make Agreements With United States

Sec. 6. If the United States declines to deal with a Commissioners Court with respect to any political subdivision whose jurisdictional limits are within or coextensive with the limits of the county, or in the event the jurisdictional limits of a political subdivision lie within more than one county, that political subdivision is authorized to make requests of the United States for such payments in lieu of taxes as the United States may agree to pay. Such political subdivision is hereby empowered to enter into agreements with the United States for the performance by the political subdivision of services for the benefit of a project and for the payment by the United States to the political subdivision, in one or more installments, of sums in lieu of taxes.

Amount of Payments

Sec. 7. The amount of any payment of sums in lieu of taxes may be based on the estimated cost to each political subdivision, for and on whose behalf an agreement is entered into, of performing services for the benefit of a project during the period of an agreement, after taking into consideration the benefits to be derived by each political subdivision from such project, but shall not be in excess of the taxes which would result to each political subdivision from such project for said period if the real property of the project within each political subdivision were taxable.

Deposit of Moneys Received

Sec. 8. All money received by a political subdivision pursuant to Sections 5 and 6 shall be deposited in such fund or funds as may be designated in the agreement; provided, however, that if the agreement does not make such designation, the money shall be deposited in such fund or funds as the governing body of such political subdivision shall by appropriate resolution direct.

Services to be Furnished by Political Subdivisions for Project

Sec. 9. No provision of this Act shall be construed to relieve any political subdivision of this State, in the absence of an agreement for payment of sums in lieu of taxes by the United States, as provided in this Act, of the duty of furnishing for the benefit of a project all services which the political subdivision usually furnished to property in, and to persons residing within, the political subdivision without a payment of sums in lieu of taxes.

[Acts 1941, 47th Leg., p. 264, ch. 179.]

Art. 2351b-4. National Forests, Prorating Receipts From Federal Government

Whereas Congress has heretofore passed a law which provides that thereafter twenty-five per centum (25%) of all moneys received during any fiscal year from each national forest shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said forest is situated to be expended as the State or Territorial Legislature may prescribe for the benefit of the public schools and the public roads of the county or counties in which the national forest is situated, and whereas the Legislature of the State of Texas has not prescribed any method for prorating said funds, now, therefore, be it enacted that the Commissioners Courts of the counties in Texas in which such national forests are situated are hereby authorized to prorate all such funds received and to be received from the Federal Government for timber and all other income derived from such lands as follows:

Fifty per cent (50%) of such money received shall be allocated to the school districts in proportion to the area in said districts, and fifty per cent (50%) of same to the county for the benefit of the public roads in said county. Provided the Commissioners Court may transfer the fifty per cent (50%) received by said Court to the school districts.

[Acts 1945, 49th Leg., p. 29, c. 19, § 1.]

Art. 2351c. Court Houses and Criminal Court Buildings; Maintenance and Operation Employees Under Control of Commissioners' Courts in Counties of Over 500,000

In all Counties having a population of more than five hundred thousand (500,000), according to the last preceding or any future Federal Census, all employees necessary to the repair, maintenance, and operation of all court houses and Criminal Court Buildings shall be under the direction and control of the Commissioners' Court. The Court may designate a building superintendent who shall appoint all necessary employees subject to confirmation by the Commissioners' Court. The Court shall have the right to discharge any such employee at any time for cause. Such appointments shall be in writing, shall be signed by the employee, state the nature of the duties to be performed, the period for which such employment is made, the hours to be worked, and the amount to be paid, and shall conform to the requirements and be subject to the limitations provided by Section 19, Chapter 465, Acts of 1935, Second Called Session.¹ Such employments shall in no event extend beyond January 1st of the year succeeding the appointment, but may be renewed from year to year. The number of persons to be employed and the amounts to be paid shall be subject to the approval of the County Auditor. All laws regulating the making of employments, the accounting for funds, and all budget laws and regulations applicable in the Counties to which this Act applies shall apply to such employments, except

insofar as in conflict with this Act, in which event this Act shall control. All employees, including jail guards, matrons, elevator operators and other such employees engaged in the operation of the jails in such Counties shall continue to be employed and discharged by the Sheriff in the manner now provided by law, and all employees necessary for the proper conduct of the jails or the safekeeping of the prisoners shall be subject to the exclusive direction and control of the Sheriff of such County.

[Acts 1941, 47th Leg., p. 35, ch. 21, § 1.]

¹ Article 3912e.

Art. 2351d. Purchases Through State Board of Control

Sec. 1. The Commissioners Court of each county, from and after the effective date of this Act, is hereby authorized to purchase any road machinery, road equipment, tires and tubes to be used by the county through the State Board of Control. If the Commissioners Court elects to purchase such road machinery, road equipment, tires and tubes by and through the State Board of Control, such road machinery, road equipment, tires and tubes shall be purchased on competitive bids under such rules and regulations as may be made by the State Board of Control. Such purchases shall be made on requisition of the Commissioners Court. The Commissioners Court making such requisition for the purchase of any road machinery, road equipment and tires and tubes shall, when sending in the requisition therefor, include therewith a general description of the article desired and shall certify the funds that will be available to pay therefor.

Sec. 2. The State Board of Control shall have the power to make any rules or to adopt any regulations to effectuate the purpose of this Act.

Sec. 3. This Act shall be cumulative and in addition to all of the laws pertaining to the purchase of road machinery, road equipment, tires and tubes by counties and shall be construed as an additional method for such purchase.

Sec. 4. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act is held invalid, such invalidity shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity

[Acts 1949, 51st Leg., p. 345, ch. 172.]

Art. 2351e. Repealed by Acts 1977, 65th Leg., p. 1658, ch. 654, § 6, eff. June 15, 1977

See, now, arts. 2351f-1, 2351f-2.

Art. 2351f. Repealed by Acts 1977, 65th Leg., p. 1658, ch. 654, § 5, eff. June 15, 1977

See, now, arts. 2351f-1, 2351f-2.

Art. 2351f-1. Perpetual Trust Fund to Maintain Cemeteries

Sec. 1. The commissioners court of any county by resolution may authorize creation of a perpetual trust fund to provide for maintenance and upkeep of neglected and unkept public and private cemeteries in the county, and in the event such action is taken by the commissioners court, it shall appoint the county judge as trustee for such perpetual trust fund.

Sec. 2. The trustee may make reasonable rules and regulations relating to gifts, grants, and donations from any source and to amounts necessary for the permanent maintenance and upkeep of the cemeteries.

Sec. 3. (a) Any person interested in the maintenance and upkeep of neglected and unkept public or private cemeteries within the county may make donations to the trust fund, and acceptance of the funds by the trustee constitutes a permanent and perpetual trust fund for maintenance and upkeep of such cemeteries.

(b) On acceptance of the donations, the trustee shall instruct the county treasurer to issue to each donor a certificate which states:

- (1) the purpose of the donation;
- (2) the amount of the donation; and
- (3) any other information the trustee considers necessary.

Sec. 4. The trustee may invest and reinvest funds of the trust in interest-bearing bonds or securities of federal, state, and local governments, including municipalities and political subdivisions of the state.

Sec. 5. Interest, revenue or any other accrual or increase of funds in the trust fund shall be used only for maintenance and upkeep of neglected and unkept public and private cemeteries in the county, but the original amount of the trust fund shall remain intact as a permanent principal trust fund.

Sec. 6. The provisions of this Act shall not be construed to prevent any person who has an interest in a grave or burial lot or who has kinship within the third degree of affinity or consanguinity to those interred from caring for a particular grave or burial lot in any cemetery maintained and kept by the trustee under this Act.

Sec. 7. After a trust fund is established under this Act, if the county judge refuses to act as trustee, or if the county judge dies or resigns or renounces the trust, the district judge shall appoint a new trustee to carry out the trust. The new trustee appointed shall be a person other than a county commissioner.

Sec. 8. Except as provided for counties with a population of 8,200 or less, the trustee, the commissioners court, and other elected public officials of the county are hereby prohibited from paying or

using any public funds, or using county employees or county equipment and property for the purpose of maintenance and upkeep of neglected and unkept public and private cemeteries.

Sec. 9. If on September 1, 1976, a county owned a cemetery and continued to own it on January 1, 1979, or if during 1976 a county used county funds, employees, equipment, or property for the maintenance and upkeep of a county-owned cemetery, the county may continue to own the cemetery or to provide for its maintenance and upkeep, or both, and the prohibition stated in Section 8 of this Act does not apply. A county exercising the power granted herein shall file with the secretary of state a certified copy of its commissioners court certifying that such county qualifies under this section. Such order shall be kept in a register entitled "County-Owned and-Operated Cemeteries."

[Acts 1969, 61st Leg., p. 1652, ch. 516, eff. Sept. 1, 1969. Amended by Acts 1977, 65th Leg., p. 1658, ch. 654, § 4, eff. June 15, 1977; Acts 1979, 66th Leg., p. 497, ch. 228, § 1, eff. May 17, 1979; Acts 1983, 68th Leg., p. 4602, ch. 780, § 1, eff. June 19, 1983.]

Art. 2351f-2. Counties of 8,200 or Less; Ownership, Operation, and Maintenance of Cemeteries

Sec. 1. A county with a population of 8,200 or less according to the last preceding federal census may own, operate, and maintain cemeteries and may sell the right of burial within the cemetery. The sale of the right of burial is exempt from the requirements of Article 1577, Revised Civil Statutes of Texas, 1925, as amended. Revenue received from the sale of the right of burial may be used for the purchase of additional land to be used for cemetery purposes and for general upkeep of county cemetery property.

Sec. 2. The commissioners court of a county subject to this Act may spend money in the general fund for the purpose of maintenance and upkeep of public cemeteries in the county, and may dedicate up to one-eighth of the maximum allowable tax levy to that purpose.

Sec. 3. The commissioners court of a county subject to this Act shall serve as the Cemetery Board of the county and be responsible for the management of the cemetery property.

[Acts 1977, 65th Leg., p. 1657, ch. 654, §§ 1 to 3, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 4602, ch. 780, § 2, eff. June 19, 1983.]

Art. 2351g. Repealed by Acts 1965, 59th Leg., p. 1019, ch. 503, § 4, eff. Aug. 30, 1965**Art. 2351g-1. Acquisition of Land for Dumping and Garbage Disposal**

Sec. 1. Commissioners Courts of the counties of the State of Texas, are hereby authorized on behalf of the counties, to acquire by easement or in fee simple, lands on which to locate public dumping and garbage disposal grounds, and to expend moneys

out of the General Fund for the purpose of acquiring such easements or fee simple title, either by purchase or by condemnation.

Sec. 2. The location of such dumping or garbage disposal grounds, and the consideration to be paid therefore, shall be a matter committed to the sound discretion of the Commissioners Courts, taking into consideration the convenience of the people to be served, and the general health of, and the annoyance to, the community to be served by such dumping and garbage disposal grounds.

Sec. 3. Counties are hereby given the right of eminent domain in acquiring such grounds in accordance with the provisions of the eminent domain Statutes of the State of Texas; provided, however, that counties shall not have the right of eminent domain in acquiring such grounds as against corporations which also have the right of eminent domain by Statute.

Sec. 4. Chapter 464, Acts of the 54th Legislature, Regular Session, 1955 (codified as Article 2351g, Vernon's Texas Civil Statutes), is repealed.

[Acts 1965, 59th Leg., p. 1019, ch. 503.]

Art. 2351g-2. Repealed by Acts 1971, 62nd Leg., p. 1763, ch. 516, § 22, eff. Aug. 30, 1971

See, now, art. 4477-8.

Art. 2351h. Counties of 800,000 or More; Petty Cash Fund for County Welfare Department; Audits

Sec. 1. In all counties in the State of eight hundred thousand (800,000) population or over, the Commissioners Courts in providing for the support of paupers, through a County Welfare Department, may authorize the disbursement of not to exceed Two thousand, Five Hundred Dollars (\$2,500) to the head of such department to be used as a petty cash fund, so that immediate cash for transportation and other expenses of such paupers may be handled without delay. This fund must be established under such system as provided and installed by the county auditor of such county, with such reports as required by him to be made by the head of the Welfare Department.

In making payments to support such paupers as should be furnished support by the counties, the Commissioners Court may, with the concurrence of the county auditors, make one (1) payment to the head of the Welfare Department, with the actual disbursements to be made to such paupers by such head of the County Welfare Department on warrants designed by the county auditor, and further subject to his audit at any time. Such disbursements, if made in the prescribed manner, shall be reported on such forms and at such times as the county auditor may prescribe.

Sec. 2. This Act shall be cumulative with all other laws pertaining to this subject unless they be

in conflict with this Act, in which cases this Act shall govern.

[Acts 1957, 55th Leg., p. 223, ch. 106.]

Art. 2352. May Levy Taxes

Said court shall have the power to levy and collect a tax for county purposes, not to exceed twenty-five cents on the one hundred dollars valuation, and a tax not to exceed fifteen cents on the one hundred dollars valuation to supplement the jury fund of the county, and not to exceed fifteen cents for roads and bridges on the one hundred dollars valuation, except for the payment of debts incurred prior to the adoption of the amendment to the Constitution, September 25, A.D. 1883, and for the erection of public buildings, streets, sewers, water works and other permanent improvements, not to exceed twenty-five cents on the one hundred dollars valuation in any one year, and except as in the Constitution otherwise provided. They may levy an additional tax for road purposes not to exceed fifteen cents on the one hundred dollar valuation of the property subject to taxation, under the limitations and in the manner provided for in Article 8, Sec. 9, of the Constitution and in pursuance of the laws relating thereto.

[Acts 1925, S.B. 84.]

Art. 2352a. County Tax for Advertising

That in all counties in Texas having a population of at least 202,000 inhabitants and less than 210,000 inhabitants, as shown by the Census of 1920, a direct tax of not over five cents on the valuation of One Hundred Dollars may be authorized and levied by the Commissioners' Court of such county for the purpose of advertising said county and its county seat, provided that all such levy of taxes shall be submitted to the qualified tax-paying voters of the county and a majority vote shall be necessary to levy the taxes.

[Acts 1930, 41st Leg., 5th C.S., p. 182, ch. 42 § 1.]

Art. 2352b. Unconstitutional

This article, derived from Acts 1935, 44th Leg., 1st C.S., p. 1541, ch. 370, was a local law applicable only to El Paso County and hence void as making an unreasonable classification bearing no relation to the object sought to be accomplished by the act. *Miller v. El Paso County*, (1941) 136 T. 370, 150 S.W.2d 1000.

Art. 2352c. County Tax for Advertising in Counties of 40,000 to 50,000 Population; Board of County Development

Sec. 1. In all counties in this State having a population of not less than forty thousand (40,000) inhabitants and not more than fifty thousand (50,000) inhabitants, and containing a city having a population of not less than thirty thousand (30,000) inhabitants nor more than forty thousand (40,000) inhabitants, as shown by the last preceding Federal Census, a direct tax of not over five cents (5c) on the valuation of One Hundred Dollars (\$100) may be authorized and levied by the Commissioners Court

of such county, for the purpose of advertising and promoting the growth and development of said county and its county seat; provided that before the Commissioners Court of any such counties shall be authorized to levy any tax for such purpose, the qualified taxpaying voters of the county shall by a majority vote authorize the Commissioners Court to thereafter levy annually a tax not to exceed five cents (5c) on the one hundred dollars assessed valuation.

Sec. 2. The amount of money collected from such levy of taxes by the Commissioners Court of any such county shall be paid to the Board of County Development in twelve (12) monthly installments as collected. All moneys received by the Board of County Development from such tax shall be expended only for the purposes authorized by this Act, and such Board shall annually render an itemized account to the County Auditor of all receipts and disbursements.

Sec. 3. There is hereby created in such counties as may vote in favor of this tax a Board of County Development, which shall devote its time and efforts to the growth, advertisement, and development of any such county. The Board of County Development shall consist of five (5) members; two (2) to be appointed by the Commissioners Court of such counties, representative of the agricultural interest of such counties, and three (3) of whom shall be appointed by the Board of Directors of the Chamber of Commerce of the county seat of such county. Said members shall serve for a period of two (2) years from their appointment, without compensation, and until their successors are appointed and accept such appointment. Vacancies on such Board shall be filled in the same manner as the original appointments, and by the same agencies.

All members of such Board of County Development shall be qualified tax-paying voters of the county in which they are appointed to serve.

[Acts 1939, 46th Leg., Spec.Laws, p. 966.]

Art. 2352d. Appropriations for Advertising and Promoting Growth and Development by Certain Counties; Board of Development

Appropriation

Sec. 1. All counties in the State of Texas may appropriate from the General Fund of said counties an amount not exceeding Five Cents (5c) on the One Hundred Dollars (\$100) assessed valuation for the purpose of advertising and promoting the growth and development of such county; providing that before the Commissioners Court of any county may appropriate any sums for such purpose, the qualified taxpaying voters of said county shall, by a majority vote of the persons voting at such election, authorize the County Commissioners to thereafter appropriate not to exceed Five Cents (5c) on the One Hundred Dollars (\$100) assessed valuation.

Board of Development Fund; Budget

Sec. 2. The amount of money approved by the Commissioners Court for the Board of Development shall constitute a separate fund to be known as the Board of Development Fund and shall not be used for any other purpose. Each claim against the Board of Development shall be authorized and approved by the Board of Development before presented for payment and after such approval, shall be presented to the Commissioners Court and acted upon as all other claims against the Commissioners Court.

The Board of Development hereinafter provided for shall annually in advance, prepare and submit to the Commissioners Court a budget for the ensuing year in the same manner as required of counties. The money appropriated annually shall be governed by the discretion of the Commissioners Court, but in no event shall said sum be in excess of Five Cents (5c) on the One Hundred Dollars (\$100) assessed valuation.

Board of Development

Sec. 3. There is hereby created, in counties qualifying under this law, a Board of Development, which shall devote its time and effort for the purpose of advertising and promoting the growth and development of any such county. The Board of Development shall be authorized to expend any sums reasonably necessary to accomplish its purposes for personnel, rent, and materials, subject to the approval of the Commissioners Court.

The Board of Development shall consist of five (5) members, to be appointed by the Commissioners Court; said members shall serve for a period of two (2) years from their appointment, without compensation and until their successors are appointed and accept said appointment. Vacancies on such Board shall be filled by the Commissioners Court in the same manner as the original appointment.

Law as Cumulative; Maximum Appropriation

Sec. 4. This law shall be cumulative of all other laws authorizing counties to appropriate money, or to levy a tax for advertising and promotional purposes, and counties shall have the option of operating under any one applicable law, but in any event, the maximum amount of money which can be appropriated for such purpose shall not exceed the limits herein fixed.

Appropriations Validated

Sec. 5. Any sums heretofore appropriated or expended for advertising or promotional purposes under any such previous Acts are hereby validated.

[Acts 1941, 47th Leg., p. 341, ch. 186. Amended by Acts 1941, 47th Leg., p. 905, ch. 558, § 1; Acts 1951, 52nd Leg., p. 359, ch. 224, § 1; Acts 1955, 54th Leg., p. 899, ch. 351, § 1.]

**Art. 2352e. Water Supply for County Purposes;
Authority to Acquire Treatment
and Distribution Facilities**

Adoption of Provisions of Act by Commissioners Court

Sec. 1. The provisions of this Act may be adopted by an order of the Commissioners Court of any county within this state only upon the unanimous vote of the members of such court.

**Authority to Acquire or Construct Source of Supply;
Pools, Lakes, Reservoirs, Wells, Dams; Treatment
and Distribution Facilities; Limitation on Cost**

Sec. 2. The Commissioners Court of any county is hereby authorized to acquire by purchase, construction or otherwise an adequate source of fresh water, either surface or subterranean, for the purpose of supplying water to the courthouse and for other county purposes provided that such county shall comply with the provisions of Chapter I, Title 128, R.C.S. of Texas, 1925, as amended,¹ relating to water permits, where applicable; and in the furtherance of such project such county shall be authorized and empowered to purchase, construct, repair and maintain pools, lakes, reservoirs, wells, dams, and such treatment and distribution facilities as may be required, all of which is hereinafter sometimes referred to as the project; provided, however, that no project or projects adopted by any one county under the provisions of this Act shall exceed the total cost of Two Hundred Fifty Thousand Dollars (\$250,000), exclusive of interest.

¹ Article 7466 et seq. (repealed; see, now, Water Code).

Sale of Water Not Needed for County Purposes

Sec. 3. The Commissioners Court of any county is hereby authorized and empowered to sell, contract to sell, deliver and distribute any or all water of the project which is not needed for county purposes to any municipal corporation or political subdivision of this state now created or existing or hereafter established under the laws of the State of Texas, or to any individual, corporation or company under such terms and conditions as the court may determine to be in the best interests of the county, but in no event may the county sell water under the terms of this Section if an adequate public water supply is available to such municipal corporation, political subdivision, individual, corporation or company at the time the provisions of this Act are adopted by the county, nor shall the county sell water under this Act for irrigation purposes. The cost of supplying the water, including any increase in the cost of acquisition, storage, treatment and distribution facilities shall be considered a part of the cost of the project as such term is used in the preceding and following Sections.

**Bond Issue; Ad Valorem Tax; Rates and Charges for
Water; Limitation on Cost of Project**

Sec. 4. (a) For the purpose of paying the cost of the project, including, without limitation, legal, fiscal, engineering expenses, and interest during the

construction of the project, the county may, after approval in an election as hereinafter provided, issue its negotiable bonds payable from and secured by a pledge of the net revenues of the project. When so provided in the order, and after an election, authorizing the issuance of bonds, bonds issued by the county may be additionally secured by levy of an ad valorem tax on the taxable property of the county out of the Permanent Improvement Tax prescribed under Article 8, Section 9 of the Constitution. If the bonds are to be supported by a tax, the Commissioners Court shall levy such tax sufficient to pay the interest on the bonds as it accrues and the principal as it matures, but the order authorizing the issuance of the bonds may provide that the amount of tax to be collected each year may be reduced or abated to the extent that money is on hand from the pledged revenues applicable to the payment of interest and principal.

(b) As to bonds issued by the county secured solely by a pledge of net revenues of the project as aforesaid, it shall be the mandatory duty of the Commissioners Court to contract for and impose such rates and charges, for water supplied by the project as will be fully sufficient to operate and maintain the project and produce all amounts required to pay principal and interest on the bonds when due, and establish such reserves as may be provided in the order authorizing the issuance of such bonds.

(c) All water used by the county for its own facilities shall be paid for out of general funds of the county legally available for such purpose and no free service shall be allowed.

(d) Prior to the construction of the proposed work or any future additional improvements, works or construction, the Commissioners Court must enter a resolution ordering an election on a day certain. Based on such order, notice of such election shall be given, returns made, result declared, orders entered, tax levied, certified, assessed, or collected, and all other matters applicable shall be performed as required by the resolution and order. The order shall set forth the proposed project, the amount of bonds to be issued to pay for the same, their rate of interest and maturity dates, and shall show whether or not a tax shall be levied to redeem such bonds and if so the amount of the tax.

(e) In the event a majority of the electors who own taxable property in the county and who have duly rendered the same for taxation approve the issuance of the bonds, then the Commissioners Court shall issue such bonds as hereinafter provided. In no event shall any single project proposed by the Commissioners Court require the issuance of bonds whose total par value is in excess of Two Hundred Fifty Thousand Dollars (\$250,000).

(f) The Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof provided the bonds shall bear interest at not exceeding six per-

cent (6%) per annum and mature in not more than forty (40) years from their date and such order may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the county in relation to the acquisition of properties and the construction, maintenance, operation, repair and insurance of the project, and the custody, safeguarding, and application of all moneys, and may set forth the rights and remedies of the bondholders and may contain such other provisions as the Commissioners Court may deem reasonable and proper for the security of the bondholders, including but without limitation covenants prescribing all happenings or occurrences which constitute events of default and the rights, liabilities, powers and duties arising upon breach by the county of any of its duties or obligations. The bonds may be made redeemable prior to maturity in such manner and at such prices as may be determined by the Commissioners Court in the order authorizing their issuance. All bonds issued hereunder shall and are hereby declared to have all the qualifications and incidents of negotiable instruments under the Negotiable Instruments Law of Texas. The proceeds of the bonds shall be used solely to pay the cost of the project as above provided, and shall be disbursed under such restrictions as may be provided in the bond order, and there shall be and is hereby created and granted a lien upon such moneys until so applied in favor of the holders of the bonds. Pending use of the proceeds of the sale of such bonds for the construction of the project such proceeds may be invested in direct obligations of the United States Government having maturities not more than ninety-one (91) days from the date of investment. Unless otherwise provided in such order or indenture, if the proceeds of the bonds prove insufficient to pay the cost of the project, additional bonds may be issued under the methods herein prescribed to the amount of the deficit.

Bonds Not Supported by Tax Levy as Revenue Bonds

Sec. 5. If the bonds are not supported by a tax levy, they shall never constitute a debt of the county, but shall be solely a charge upon the pledged revenues, and shall never be reckoned in determining the power of the county to issue bonds or incur other debt for any purpose authorized by law, and each bond shall contain this cause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Bonds; Signature; Registration; Approval by Attorney General; Incontestability

Sec. 6. The bonds shall be signed by the county judge and attested by the county clerk, but the facsimile signature of such officials may be printed or lithographed on the bonds in accordance with the provisions of Chapter 293, Acts of the 54th Legislature, 1955.¹ The county treasurer shall register the

bonds, but he need not sign them. The seal of the Commissioners Court shall be impressed on the bonds or a facsimile of the seal may be printed or lithographed thereon. The bonds and the record relating to their issuance shall be presented to the Attorney General of Texas, and if they have been issued in accordance with the Constitution and this law he shall approve them. Upon approval by the Attorney General the bonds shall be registered by the Comptroller of Public Accounts, and thereafter the bonds and the provisions made for their security and payment shall be incontestable.

¹ Repealed; see, now, art. 717j-1.

Acquisition of Land and Easements; Eminent Domain; Relocation

Sec. 7. For the purpose of carrying out any power or authority conferred by this Act the county shall have the right to acquire land and easements, by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain.¹ The amount of and character of interest in land and easements thus to be acquired shall be determined by the Commissioners Court. In the event that the county, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting, or changing the grade of, or altering the construction of any highway, railroad, electric transmission line or pipeline or telephone or telegraph properties and facilities, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the county. The term "sole expense" shall mean the actual cost of relocation, raising, rerouting, change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

¹ Repealed; see, now, Property Code, § 21.001 et seq.

Additional Bonds; Pledge of Revenues; Security

Sec. 8. Additional bonds payable solely by a pledge of the net revenues of the project as well as additional bonds payable from the net revenues of the project and additionally secured by levy of an ad valorem tax on the taxable property of the county may be issued for the purpose of improving, repairing or extending the project or for any or all such purposes if permitted by the order authorizing the original issue of bonds, and if authorized by proper election.

Refunding Bonds; Issuance; Interest

Sec. 9. Subject to any restrictions which may appear in the bond authorizing order, the Commissioners Court may provide for the issuance of bonds for the purpose of refunding any of the bonds issued under this Act and at the time outstanding. The issuance of such refunding bonds, the maturities and other terms thereof, the rights of the holders thereof, and the duties of the county in

respect to the same, shall be governed by the foregoing provisions of this Act insofar as the same may be applicable, but no such refunding bonds shall be delivered unless delivered in exchange for the bonds authorized to be refunded thereby or unless sold and delivered to provide funds for the payment of matured or redeemable bonds maturing or redeemable within six (6) months. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total of interest to be paid.

Bonds as Legal Investments; Bonds as Security for Deposits of Public Funds

Sec. 10. All bonds issued under this law shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value.

Mandamus to Compel Levy and Collection of Taxes and to Perform Agreements

Sec. 11. The holder or holders of any of such bonds herein authorized to be issued shall have the right, in addition to all other rights, by mandamus or other proceedings in any court of competent jurisdiction to enforce his or their rights against the county and its employees and against the agents and the employees thereof, including but not limited to the right to require the county to impose and collect sufficient rates and charges to carry out the agreements contained in the bond order and to perform all agreements and covenants therein contained and duties arising therefrom.

Taxes Pledged to Pay Bonds

Sec. 12. Obligations issued pursuant to the provisions of this Act which are secured wholly or partially by a pledge of taxes out of the Permanent Improvement Tax prescribed under Article 8, Section 9 of the Constitution shall be considered as payable wholly from such tax for the purpose of determining the availability of taxing power of the county to pay obligations which are payable from such tax.

Law Cumulative

Sec. 13. This Act is declared cumulative of all other Acts or laws and the powers, rights and privileges and functions hereby conferred shall not prevent the exercise by any county of any and all

other powers, rights, privileges, or functions conferred upon such county by any other Act or law now existing or hereafter enacted. Specifically, nothing herein shall prevent any county from issuing warrants in connection with the project in the manner prescribed by Chapter 163, Acts of the 42nd Legislature, 1931, as amended.¹

¹ Article 2368a.

Facilities, Etc., Free From Taxation; Bonds Tax Exempt

Sec. 14. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state, and for the improvement of their commerce and property, the county in carrying out the purposes of this Act will be performing an essential governmental function and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom including any profits made on the sale thereof, shall at all times be free from taxation within this state.

Partial Invalidity

Sec. 15. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or ineffective, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered.

Time Limitation on Adoption by County

Sec. 15a. No county may adopt the provisions of this Act after September 1, 1963.

[Acts 1961, 57th Leg., p. 990, ch. 433.]

Art. 2352f. State Association of Counties; Membership Fees and Dues

Sec. 1. The commissioners court of each county within the state is authorized to approve the expenditure of county funds from the general fund for membership fees and dues assessed by a nonprofit state association or organization of counties if:

- (1) the membership in such association is approved by majority vote of the commissioners court;
- (2) such association is established and designed for the betterment of county government and the benefit of all county officials;
- (3) the expenditure authorized by this section is made in the name of the county;
- (4) such association is not affiliated in any way with a labor organization;
- (5) such association or any employee thereof, does not in any way, directly or indirectly, influence or attempt to influence the outcome of any legislation pending before the Legislature of the State of

Texas; provided, however, that nothing herein shall be construed to prevent any agent, servant, or representative of such association from providing information for any member of the Legislature, or from appearing before any committee thereof when requested to do so by said member or committee; and

(6) such association or any employee thereof does not, either directly or indirectly, make any contribution, gift or donation of any money, services or other valuable thing to any political campaign or does not endorse any candidate or group of candidates for public office.

Sec. 2. If any association or organization supported in whole or in part by tax money from a political subdivision engages in any act specified in Subdivisions (5) and (6) of Section 1 of this Act, any taxpayer of a political subdivision which pays fees or dues to such association or organization may bring suit to prohibit the political subdivision from making further expenditures to such association or organization and the court upon proof of the violation of any provision hereof shall enjoin any further payments or activity.

[Acts 1969, 61st Leg., p. 1120, ch. 365, eff. Sept. 1, 1969.]

Art. 2352g. Water Supply or Sewage System in Matagorda County

Sec. 1. Matagorda County, acting through its commissioners court, may acquire or construct and may operate a water supply or sewage system serving parts of the county outside the limits of an incorporated city or town.

Sec. 2. Matagorda County may enter management or lease agreements with another public or private entity for operation of a county water or sewage system acquired or constructed under this Act.

Sec. 3. Matagorda County may apply for and receive grants or other assistance from any state or federal governmental entity for the purposes of this Act.

[Acts 1977, 65th Leg., p. 1625, ch. 639, §§ 1 to 3, eff. Aug. 29, 1977.]

Art. 2352h. Contracts or Agreements for Water Supply or Sewer System in Counties Over 900,000

Contract or Agreement with District

Sec. 1. The commissioners court of a county having a population of more than 900,000, according to the last preceding federal census, may enter into contracts or other agreements with any district created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution under which the district will provide and operate a water supply or sewage system or both in parts of the county outside the limits of an incorporated city or town in the county.

Distribution of Federal and State Funds

Sec. 2. The commissioners court, by order, may distribute to a district that is a party to a contract or agreement under Section 1 of this Act, federal funds and state water conservation and development funds received by the county. Funds distributed by the commissioners court under this section shall be used only for the construction, renovation, and maintenance of a water supply or sewage system or both that is covered by a contract or other agreement made by the county under this Act.

Acts and Services to be Within District Powers

Sec. 3. The acts performed by and the services provided by a district under a contract or agreement under this Act must be within the scope of the powers, duties, and purposes of the district as provided by the laws under which the district was created.

Jeopardization of Quality of Service Prohibited

Sec. 4. No contract or agreement may be entered into under this Act if it will jeopardize the quality of service provided by the district to those persons residing in the district as determined by the Texas Department of Water Resources.

Contract or Agreement Covering City or Town Extraterritorial Jurisdiction; Approval

Sec. 5. Before a district and a county may enter into a contract or agreement under this Act covering any of the extraterritorial jurisdiction of a city or town as defined in the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), the parties must submit the contract or agreement to the city or town and must receive the approval of the city or town for the contract.

Area Outside District; Use of Funds Prohibited

Sec. 6. If a contract or agreement under this Act covers an area that is not located within the boundaries of the contracting district, no funds of the district may be used to carry out the provisions of the contract or agreement.

Approval of Contract or Agreement

Sec. 7. Before the parties to a contract or agreement under this Act enter into a binding contract or agreement, the parties shall submit the contract or agreement to and shall have it approved by the Texas Department of Water Resources. The Texas Department of Water Resources shall examine the contract or agreement to assure that the interests of the residents of the district will be served and protected and may submit suggested changes to the parties for inclusion in the contract or agreement before the department gives its final approval.

[Acts 1979, 66th Leg., p. 496, ch. 227, eff. May 17, 1979. Amended by Acts 1981, 67th Leg., p. 568, ch. 237, § 29, eff. Sept. 1, 1981.]

Art. 2352i. Hotel Occupancy Tax**Definitions**

Sec. 1. In this Act:

(1) "Hotel" means a building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term includes hotels; motels; tourist homes, houses, or courts; lodging houses; inns; rooming houses; or other buildings where rooms are furnished for a consideration, but "hotel" does not include a hospital, sanitarium, or nursing home.

(2) "Consideration" means the cost of the room in a hotel only if the room is one ordinarily used for sleeping, and does not include the cost of food served or personal services rendered to the occupant of the room not related to the cleaning and readying of the room for occupancy.

(3) "Occupancy" means the use or possession, or the right to the use or possession, of a room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than 30 days.

(4) "Occupant" means anyone who for a consideration uses, possesses, or has a right to use or possess a room in a hotel if the room is one ordinarily used for sleeping.

Hotel Occupancy Tax Authorized

Sec. 2. A county in which there is no incorporated city or town may levy, by adoption of a resolution by the commissioners court, a tax upon the cost of occupancy of any sleeping room furnished by any hotel, where the cost of occupancy is at the rate of \$2 or more per day. The tax may not exceed four percent of the consideration paid by the occupant of the sleeping room to the hotel.

Penalties and Interest

Sec. 2A. The owner or operator of a hotel shall report and remit the taxes collected under this Act to the county as provided by the resolution or an amendment to the resolution imposing the tax authorized by this Act. If the owner fails to pay the tax when due or file a report when required, the owner shall pay a penalty of five percent of the amount of the tax due. If the owner fails to pay the tax or file the report within 30 days after the day on which the tax was due or the report was required, he shall pay an additional penalty of five percent of the amount of the tax due. Delinquent taxes and accrued penalties draw interest at the rate of 10 percent a year beginning 60 days after the day on which the tax was due.

Disposition of Revenue

Sec. 3. The revenue derived from an occupancy tax authorized by this Act may only be used for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities including, but not limited to, civic center convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising for general promotional and tourist advertising of the county and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the commissioner's court;

(4) the encouragement, promotion, improvement, and application of the arts, including music (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms; and

(5) historical preservation and restoration.

[Acts 1981, 67th Leg., p. 404, ch. 168, eff. May 20, 1981. Amended by Acts 1983, 68th Leg., p. 407, ch. 82, § 1, eff. May 10, 1983.]

Section 3 of the 1983 amendatory act provides:

"(a) The penalties imposed by this Act apply to taxes that become delinquent on or after the effective date of this Act.

"(b) Interest under this Act begins to accrue on all taxes that on the effective date of this Act are 60 or more days delinquent."

Art. 2352j. County Equipment and Employees Used to Assist Other Governmental Entities

A commissioners court of a county may use its road equipment, other construction equipment, including trucks, and employees necessary to operate the equipment to assist another governmental entity on any project so long as the cost does not exceed \$3,000 if:

(1) the use of the equipment or employees does not interfere with the county's work schedule; and

(2) the county does not pay any costs related to the use of the equipment or employees that the county would not pay if the assistance were not given to the other governmental entity.

[Acts 1981, 67th Leg., p. 668, ch. 260, § 1, eff. May 29, 1981.]

Art. 2353. Tax Limit

No tax levied for the purpose of paying debts incurred prior to the eighteenth day of April, A.D. 1876, shall exceed two and one-half mills on the dollar, and no tax levied for the erection or repair of

public buildings shall exceed two and one-half mills on the dollar for any one year.

[Acts 1925, S.B. 84.]

Art. 2353b. Repealed by Acts 1983, 68th Leg., p. 1526, ch. 288, § 2, eff. Sept. 1, 1983

See, now, art. 6702-1, § 4.103.

Art. 2353c. Contracts for Accomplishment of Plans and Programs

The Commissioners Court of any county in the State may enter into contracts for the accomplishment of plans and programs for flood control and soil conservation with the Federal Soil Conservation Service, State Soil Conservation Districts, State Extension Service, Conservation and Reclamation Districts, Drainage Districts, Water Control and Improvement Districts, Navigation Districts, Flood Control Districts, Levee Improvement Districts and Municipal Corporations, as provided in Section 5 of Chapter 464 of the Acts of the Fifty-first Legislature, 1949,¹ and the responsibility for carrying out such plans and the expenditure of funds of the county and such agencies, districts and municipal corporations may by such agreement be divided between the parties or delegated to either the county or to one or more of said agencies, districts and municipal corporations, and such contracts may be for a specified term of years or until certain plans or programs have been accomplished, provided further that in the event any such agency, district or municipal corporation shall issue its bonds payable from and secured by revenues to be derived from any such contract it may be provided therein that such contract will continue in effect until such bonds, or any refunding bonds issued in lieu thereof, have been fully paid. Any contracts of the kind authorized hereby, which have heretofore been entered into, shall be valid and binding contracts.

[Acts 1951, 52nd Leg., p. 140, ch. 84, § 1. Amended by Acts 1955, 54th Leg., p. 1071, ch. 402, § 1. Renumbered from art. 7048b by Acts 1981, 67th Leg., p. 1784, ch. 389, § 38, eff. Jan. 1, 1982.]

¹ Article 2353b, § 5.

Art. 2353d. Local Option Elections in Certain Counties Respecting Annual Tax for Domestic Livestock Protective Fund

Additional Assistance to Law Enforcement Officers

Sec. 1. In all counties in this State having ten thousand (10,000) or more cattle, sheep, and goats rendered for taxation, the qualified voters of such county may, as hereinafter provided, employ additional assistance to the law enforcement officers of such county as hereinafter provided.

Upon the petition of ten (10) per cent of the qualified voters of such county, presented to the Commissioners Court in open Regular Session, requesting such Court to order an election to be held in such county to determine whether or not said

Court, when acting as a Board of Equalization in such county, shall levy, and cause to be assessed and collected an annual tax not to exceed one (1) cent per head on all sheep and goats and not to exceed five (5) cents per head on all cattle, within such county; said Court shall order such election to be held within such county, in accordance with the petition therefor; and said Court shall forthwith order such election to be held in the voting places within such county, upon a day not less than ten (10), nor more than twenty (20) days, from the date of said order and the order thus made, shall express the object of such election and shall be held to be prima facie evidence that all the provisions necessary to give it validity have been duly complied with; and provided further that such Court shall appoint such officers to hold such election as is now required to hold general elections. The expenses of such election shall be borne by the county wherein such election is ordered and held. In such election so held, the ballot shall read as follows:

“For the levy, assessment, and collection of an annual tax on cattle, sheep, and goats.”

“Against the levy, assessment, and collection of an annual tax on cattle, sheep, and goats.”

Returns of such election shall be made by the presiding officer of the precincts of such county where such election is held, to the County Judge of said county, who shall forthwith call the Commissioners Court together for the purpose of canvassing the returns; and if it shall be found by the Commissioners Court, upon a canvass of such returns, that a majority of the qualified voters of the county wherein such election is held, is in favor of the levy, assessment, and collection of the annual tax on sheep and goats of not more than one (1) cent per head and on cattle not more than five (5) cents per head, then said Court shall forthwith declare the results of said election and give public notice thereof by proclamation of said Court to be issued and posted at three (3) public places of the county in which such election is held; and shall thereafter, at the next succeeding meeting of said Court acting as the Board of Equalization for such county, levy and cause to be assessed and collected by the Assessor and Collector of Taxes for such county, not more than one (1) cent per head on all sheep and goats and not more than five (5) cents per head on all cattle within such county, on the 1st day of January preceding the date of such meeting.

Tax Moneys to be Deposited in Domestic Livestock Protective Fund

Sec. 2. All moneys assessed and collected by the Assessor and Collector of Taxes for each county of this State as provided for in Section 1 hereof, shall be paid by said Collector unto the County Treasurer of such County, and said Treasurer shall deposit said moneys to a fund to be known as “The Domestic Livestock Protective Fund,” and such moneys shall never be expended for any other purpose than is herein provided.

Employment of Enforcement Officers by Commissioners Court; Compensation; Duties; Reports

Sec. 3. To aid in the enforcement of all the Penal Laws of this State and in ferreting out and detecting any violation thereof, it shall be the duty of the Commissioners Court of such county adopting the provisions hereof, and they are hereby authorized and required to employ for such service, in addition to the officers now provided for by law, as many other competent and discreet persons as, in the judgment of said Court, is deemed necessary for said purposes, and shall fix their compensation; provided however, no such person, or persons, shall be paid in excess of Five Dollars (\$5) per day, while in actual service; and provided further that at no time, shall the moneys expended in the payment of such person, or persons, for such services, exceed the amount of money collected therefor. Such Court shall designate the duties to be performed by all such persons and shall require them to make monthly reports in writing to said Court as to the manner in which they have performed such duties.

[Acts 1937, 45th Leg., p. 831, ch. 408. Renumbered from art. 7155a by Acts 1981, 67th Leg., p. 1784, ch. 389, § 38, eff. Jan. 1, 1982.]

Art. 2354. When Tax Levied; Votes Required

(a) A county tax may be levied at any regularly scheduled meeting of the court when at least four members of the court are present.

(b) A county may not levy a tax unless at least three members of the court vote in favor of the levy.

[Acts 1925, S.B. 84. Amended by Acts 1983, 68th Leg., p. 2647, ch. 455, § 1, eff. Jan. 1, 1984.]

Art. 2354a. Expired

This article, derived from Acts 1943, 48th Leg., p. 381, ch. 256, § 2, expired by its own terms on May 1, 1945.

Art. 2355. To Fill Vacancies

The Court shall have power to fill vacancies in the office of: County Judge, County Clerk, joint District-County Clerk, Sheriff, County Attorney, County Treasurer, County Surveyor, County Hide Inspector, Assessor of Taxes, Collector of Taxes, Justices of the Peace, Constables, and County Superintendent of Public Instruction. Such vacancies shall be filled by a majority vote of the members of said Court, present and voting, and the person chosen shall hold office until the next general election.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 248, ch. 90, § 1; Acts 1983, 68th Leg., p. 82, ch. 12, § 1, eff. Aug. 29, 1983.]

Art. 2356. Bridges in Corporate Limits

Said court may erect bridges within the corporate limits of any city or town to the same extent and under the same conditions now prescribed by law for the construction of bridges outside the limits of any city or town. Said court and the governing body of any city or town may co-operate in the

erection of a bridge within the corporate limits of a city or town, and jointly erect such bridge upon terms and conditions mutually agreed upon; and either or both the city and county may issue its bonds to pay its proportionate part of the debt by complying with the requirements of the law regulating the issuance of bonds by counties and cities and towns.

[Acts 1925, S.B. 84.]

Art. 2357. Shall Keep in Repair

The commissioners court of counties owning bridges, situated within the corporate limits of cities and towns, shall keep the same in repair. This article shall not affect or diminish the liability of town and city corporations for injuries caused by defective condition of such bridges situated within the city limits.

[Acts 1925, S.B. 84.]

Art. 2358. May Contract for Supplies

The commissioners court by an order entered of record, may contract as hereinafter prescribed, with some suitable person or persons to supply the county with blank books, all legal blanks and stationery as may be required by law to be furnished the county officials.

[Acts 1925, S.B. 84.]

Art. 2359. Bids Advertised

The commissioners court shall advertise, at least once in every two years, for sealed proposals to furnish blank books, legal blanks, stationery and such other printing as may be required for the county for the term of such contract, and shall receive separate bids for the different classes hereinafter designated. Such advertisement shall be made by the county clerk, who shall notify by registered letter, each newspaper and job printing house in the county, and at least three stationery and printing houses in the State, of the time said contract is to be awarded, and of the probable amount of supplies needed.

[Acts 1925, S.B. 84.]

Art. 2360. New Bids Advertised For

Should supplies furnished by the successful bidder not be of the quality designated and provided for, then the commissioners court may declare such contract null and void, and from time to time advertise for sealed proposals as in the first instance, rejecting any or all bids as often as they may deem best.

[Acts 1925, S.B. 84.]

Art. 2361. Preference to Local Citizens

All things being equal, contracts must be awarded to a citizen or taxpayer of the county in which the contract is let.

[Acts 1925, S.B. 84.]

Art. 2362. Stationery Classified

The stationery shall be divided into four classes: Class "A" shall embrace all blank books and all work requiring permanent and substantial binding. Class "B" shall embrace all legal blanks, letter heads and other printing, stationery and blank papers. Class "C" shall embrace typewriter ribbons, pens, ink, mucilage, pencils, penholders, ink stands and ware of like kind. Class "D" shall embrace all election supplies of whatever nature and description, not furnished by the State. Each and every bid shall be upon a particular class, separate and apart from any other class. To the lowest bidder on each class shall be awarded the contract for all work of that class.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 3141, ch. 827, § 1, eff. Aug. 31, 1981.]

Art. 2363. Bond With Bid

Each bid shall be accompanied by a bond of the bidder, with two or more good and sufficient sureties, conditioned that, should the contract be awarded to him, he will without delay, upon being notified of such award, enter into a written contract, according to law and with his proposal, and will give such bond as may be required for the faithful performance of said contract.

[Acts 1925, S.B. 84.]

Art. 2364. Unlawful Interest in Contract

No member of the commissioners court or any county officer shall be, either directly or indirectly, interested in any such contract.

[Acts 1925, S.B. 84.]

Art. 2365. Contract Made in Open Court

All contracts shall be made in open court, with the lowest bidder, and all bids shall be spread in full on the minutes of the court.

[Acts 1925, S.B. 84.]

Art. 2366. Contract and Bond

The successful bidder shall enter into a written contract with the court, and shall give bond in the sum of two hundred and fifty dollars for each class or contract, to be approved by the county judge, conditioned for the faithful compliance with his bid and with the law, and shall be made payable to the county judge or his successors in office.

[Acts 1925, S.B. 84.]

Art. 2367. Affidavit With Bid

The manager, secretary or other agent or officer of the bidder shall attach to each bid an affidavit to the effect that affiant has full knowledge of the relations of the bidder with the other firms in the same line of business and that the bidder is not a member of any trust, pool or combination of any kind and has not been for six months last past, directly or indirectly concerned in any pool or agree-

ment or combination to control the price of supplies bid on, or to influence any person to bid or not to bid thereon.

[Acts 1925, S.B. 84.]

Art. 2367a. Counties and Cities; Identical Bids; Casting of Lots

Sec. 1. In all cases where bidding is required and where two or more responsible bidders submit the lowest and best bids in connection with a proposed county, city or district contract and these bids are identical in both amount and nature, the Commissioners Court of the county or the governing body of the city or district shall enter into a contract with only one of the responsible bidders and reject all other bids. The one bidder shall be selected by the casting of lots. The casting of lots shall be in such a manner as shall be prescribed by the County Judge or Mayor or governing body of the district, as the case may be, and shall be conducted in the presence of the governing body of the county, city or district at which time all qualified bidders or their legal representatives may also be present. Nothing herein shall prohibit the rejection of all bids by the awarding authority.

Sec. 2. The provisions of this Act shall be applicable to all counties, cities and districts in the State of Texas where bidding is required and contracts are to be let on the basis of the lowest and best bid, regardless of whether the bids are submitted pursuant to the provisions of a General Law, a Special Law, a city charter, or a city ordinance; provided, however, that the provisions of this Act shall not apply or be construed to apply to the bidding by any person, bank, banking corporation or association for designation as depository of public funds of any county, city or district or to the letting of contracts therefor, nor shall such provisions apply to bids submitted to an independent school district by those persons or corporations seeking appointment as treasurer of the School Fund under Article 2332, Revised Civil Statutes of Texas, 1925, as last amended by Chapter 48, Acts of the 56th Legislature, Regular Session 1959.

[Acts 1959, 56th Leg., p. 204, ch. 116. Amended by Acts 1959, 56th Leg., 3rd C.S., p. 385, ch. 10, § 1.]

Art. 2368. Repealed by Acts 1931, 42nd Leg., p. 269, ch. 163, § 10

See, now, art. 2368a.

Art. 2368a. Requirements Governing Advertising for Bids by Counties and Cities**Definitions**

Sec. 1. The word "city" as used in this Act shall include all cities and towns incorporated under General or Special Laws, and all cities operating under charter adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, unless especially excepted under the terms of this Act.

The term "governing body" as used in this Act shall include the governing body of every city, whether designated as "Board of Alderman," "City Council," "City Commission," or otherwise.

For the purposes of this Act the term "current funds," shall include money in the treasury, taxes in process of collection during such tax year, and all other revenues which may be anticipated with reasonable certainty during such tax year.

The term "bond funds" shall include money in the treasury already received from the sale of bonds, and the proceeds of bonds theretofore voted but not yet issued and delivered.

The term "time warrant" as used in this Act shall include any warrant issued by a city or county not payable out of current funds.

The short title of this Act shall be "Bond and Warrant Law of 1931."

Nothing in this Act shall be construed as to affect any bonds or warrants legally issued or authorized to be issued and for which a tax has been levied for the payment of interest and principal thereof, prior to the time when this Act shall become effective and under the laws existing at that time, nor as affecting the matters covered by House Bill No. 981, Acts of the 42nd Legislature, Regular Session,¹ provided that after June 1, 1932, the requirements of this Act with respect to notice, competitive bidding, and a referendum election shall also be complied with by all cities then acting under the provisions of said House Bill No. 981.

¹ Article 1118a.

Competitive Bidding for Contracts for Public Works; Notice to Bidders; Advertisement; Exceptions; Conflicting Provisions; Noncompliance With Law

Sec. 2. (a) No county, acting through its Commissioners Court, and no city in this state shall hereafter make any contract calling for or requiring an expenditure or payment in an amount exceeding five thousand dollars (\$5,000.00) out of any fund or funds of any city or county or subdivision of any county creating or imposing an obligation or liability of any nature or character upon such county or any subdivision of such county, or upon such city, without first submitting such proposed contract to competitive bids.

(b) Notice of the time and place when and where such contracts shall be let shall be published in such county (if concerning a county contract or contracts for such subdivision of such county) and in such city, (if concerning a city contract), once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. The court and/or governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and suffi-

cient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes of 1925, and the amendments thereto. However, the city or county in making any contract calling for or requiring the expenditure or payment of less than Fifty Thousand Dollars (\$50,000.00) may, in lieu of the bond requirement, provide in the contract that no money will be paid to the contractor until completion and acceptance of the work by the city or county. If there is no newspaper published in such county, the notice of the letting of such contract by such county shall be given by causing notice thereof to be posted at the County Court House door for fourteen (14) days prior to the time of letting such contract. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the City Hall for fourteen (14) days prior to the time of letting such contract. Provided, that in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens, or to preserve the property of such county, subdivision, or city, or when it is necessary to preserve or protect the public health of the citizens of such county or city, or in case of unforeseen damage to public property, machinery or equipment, this provision shall not apply; and provided further, as to contracts for personal or professional services; work done by such county or city and paid for by the day, as such work progresses; and the purchase of land and right-of-way for authorized needs and purposes, the provisions hereof requiring competitive bids shall not apply and in such cases the notice herein provided shall be given but only with respect to an intention to issue time warrants with right of referendum as contemplated in Sections 3 and 4 hereof respectively.

(c) Provisions in reference to notice to bidders, advertisement thereof, requirements as to the taking of sealed bids based upon specifications for public improvements or purchases, and the manner of letting of contracts, as contained in the charter of a city, if in conflict with the provisions of this Act, shall be followed in such city notwithstanding any other provisions of this Act. The provisions of this Act and of Article 5160, Revised Statutes of 1925, as amended, relating to the furnishing of surety bonds by contractors may be adopted by ordinance of the governing body of a city, notwithstanding conflicting city charter provisions.

(d) Any and all such contracts or agreements hereafter made by any county or city in this state, without complying with the terms of this section, shall be void and shall not be enforceable in any court of this state and the performance of same and the payment of any money thereunder may be enjoined by any property taxpaying citizen of such county or city.

Lump Sum Basis; Unit Price Basis; Changes in Plans and Specifications

Sec. 2a. Contracts for the construction of public works or the purchase of materials, equipment and supplies may be let under the provisions of Section 2 on a lump sum basis or on a unit price basis, as the governing body or Commissioners Court shall determine. In the event a contract is to be let on a unit price basis, the information furnished bidders shall specify the approximate quantities estimated upon the best available information, but the compensation paid the contractor shall be based upon the actual quantities constructed or supplied.

In the event it becomes necessary to make changes in the plans or specifications after performance of a contract has been commenced, or it becomes necessary to decrease or increase the quantity of work to be performed or materials, equipment or supplies to be furnished, the Commissioners Court or governing body shall be authorized to approve change orders effecting such changes but the total contract price shall not be increased thereby unless due provision has been made to provide for the payment of such added cost either by appropriating available funds for that purpose or by authorizing the issuance of time warrants as provided in the Act amended hereby.

Where any change order involves a decrease or increase in cost of fifteen thousand dollars (\$15,000) or less, the Commissioner's Court or governing body may grant general authority to one of its administrative officials to approve such change orders.

Provided, however, that the original contract price may not be increased under the provisions of this Section 2a by more than twenty-five (25%) per cent or decreased more than twenty-five (25%) per cent without the consent of the contractor to such decrease.

Contracts for Purchase of Machinery

Sec. 2b. Contracts for the purchase of machinery for the construction and/or maintenance of roads and/or streets, may be made by the governing bodies of all counties and cities within the State in accordance with the provisions of this Section. The order for purchase and notice for bids shall provide full specification of the machinery desired and contracts for the purchase thereof shall be let to the lowest and best bidder.

Issuance of Time Warrants

Sec. 3. When it shall be the intention of the Commissioners' Court, or of the governing body, to issue time warrants for the payment of all or any part of the proposed contract, the notice to bidders required under Section 2 of this Act shall recite that fact, setting out the maximum amount of the proposed time warrant indebtedness, the rate of interest such time warrants are to bear, and the maximum maturity date thereof.

Referendum on Bond Issues

Sec. 4. If, by the time set for the letting of the contract, as many as ten per cent (10%) in number of the qualified voters of said county, or city, as the case may be, whose names appear on the last approved tax rolls as property taxpayers, petition the Commissioners' Court, or governing body, in writing to submit to a referendum vote the question as to the issuance of bonds for such purpose, then such Commissioners' Court, or governing body, shall not be authorized to make said expenditure, and shall not finally award said contract unless the proposition to issue bonds for such purpose is sustained by a majority of the votes cast at such election. The law in reference to elections for the issuance of city and county bonds as contained in Chapters 1 and 2, Title 22, Revised Statutes of 1925,¹ shall govern in so far as consistent with the provisions of this Act. The law in reference to the issuance, approval, registration and sale of bonds as contained in Chapters 1 and 2, Title 22, Revised Statutes of 1925, shall govern in so far as consistent with the provisions of this Act. Provided, that all such bonds shall mature and be payable as provided herein for funding bonds.

If such petition is not so filed with the County Clerk, or the City Secretary or Clerk, then the Commissioners' Court or the governing body may proceed with the final award of the contract and with the issuance of said warrants, but in the absence of such petition, the Commissioners' Court or governing body may at its discretion also submit such question to a vote of the people.

¹ Articles 701 et seq. and 718 et seq.

Expenditures Permissible Without Notice or Referendum

Sec. 5. The notice required in Sections 2 and 3, and the right to referendum election defined in Section 4, shall not be applicable to expenditures payable out of current funds or bond funds, as above described, nor to additional expenditures by counties unless in excess of Five Hundred (\$500.00) Dollars for each One Million (\$1,000,000.00) Dollars, or a part thereof, of taxable property in said county, according to the last approved tax rolls; provided, however, that in counties of a valuation of less than Six Million (\$6,000,000.00) Dollars, said restriction of Five Hundred (\$500.00) Dollars for each One Million (\$1,000,000.00) Dollars shall not apply, but in lieu thereof the maximum authorized warrants shall be Three Thousand (\$3,000.00) Dollars annually; said Five Hundred (\$500.00) Dollars for every One Million (\$1,000,000.00) Dollars of property shall be the maximum amount of time warrants for all purposes to be issued by such county during the current calendar year; including the proposed expenditure, except in the counties of a valuation of less than Six Million (\$6,000,000.00) Dollars as above provided; and provided further than no such warrants shall ever be issued by a county in excess of One Hundred Thousand (\$100,000.00) Dollars for any one

year, without the duty to give notice and the right to referendum provided in Section 3. If in excess of the maximum, the expenditure cannot be authorized until the expiration of the time for filing the petition for referendum vote has expired. The notice required and the right to referendum election defined in Sections 2, 3 and 4 shall not be applicable to expenditures payable out of the current funds or bond funds, as above described, nor to additional expenditures by cities unless in excess of Seven Thousand, Five Hundred (\$7,500.00) Dollars for cities having a population of five thousand (5,000) people, or less, as shown by the Federal Census immediately preceding; in excess of Ten Thousand (\$10,000.00) Dollars for cities having a population of more than five thousand (5,000), and less than twenty-five thousand (25,000) as shown by the Federal Census immediately preceding; in excess of Twenty-five Thousand (\$25,000.00) Dollars for cities having a population of more than twenty-five thousand (25,000) and less than fifty thousand (50,000), as shown by the Federal Census immediately preceding, and in excess of One Hundred Thousand (\$100,000.00) Dollars for cities having a population of more than fifty thousand (50,000) as shown by the Federal Census immediately preceding. Said respective amounts above described shall be the maximum amounts of time warrants for all purposes to be issued by such cities during the current calendar year, without the duty to give notice and the right to referendum, provided in Sections 2, 3 and 4; otherwise, the expenditure cannot be authorized until the expiration of time for the filing of petition for referendum vote has expired, including the proposed expenditure.

Provided, that in case of public calamity caused by fire, flood, storm, or to protect the public health, or in case of unforeseen damage to public property, machinery or equipment, the Commissioners Court or the governing body may issue such time warrants as are necessary to provide for the immediate repair, preservation or protection of public property and the lives and health of the citizens of such county or city, irrespective of the limitations contained in this Section and the restrictions imposed by Sections 2, 3 and 4 hereof.

Improvements Exempt From Operation of Act

Sec. 6. The provisions of Sections 2, 3 and 4 of this Act shall not apply to expenditures for, or relating to paving drainage, street widening and other public improvements, the cost of at least one-third of which is to be paid by or through special assessments levied on properties to be benefited thereby. The provisions of this Act shall not affect projects for public improvements theretofore lawfully authorized by a vote of the people, and where there may be a deficiency of funds to complete same in accordance with the plans and purposes authorized by the voters. The provisions of this Act shall not apply to bonds or warrants issued

under Title 118, Revised Civil Statutes of 1925,¹ pertaining to sea walls.

¹ Article 6830 et seq.

Provisions Inapplicable to Reconstruction or Repair of Court Houses or Jails

Sec. 6a. The provisions of Section 4 of the "Bond and Warrant Law of 1931"¹ shall not apply to the issuance of warrants for the building, construction, reconstruction and/or repair of a court house and/or jail in any county where the court house has been torn down or demolished and where notice was given under Section 2 of said Bond and Warrant Law prior to the taking effect of this Act, and there was no county court house at the time such notice was published, but in such cases warrants may be issued for the building, construction, reconstruction and/or repair of court houses and/or jails, without notice, and no election shall be called upon any petition filed under Section 4 of said Bond and Warrant Law. All proceedings for the issuance of warrants, and all warrants issued or to be issued for any such purpose or purposes in any such case are hereby validated.

¹ This article.

Refunding Indebtedness; Procedure

Sec. 7. The Commissioners' Court of any county or the governing body of any city in the State of Texas may pass all necessary orders and ordinances to provide for funding or refunding the whole or any part of any legal debt of such county or city, by canceling evidences thereof and issuing to the holders or creditors, notes, bonds or treasury warrants, with or without coupons, bearing interest payable annually, or semi-annually, at a rate not to exceed six per cent (6%) per annum. The exercise of such authority shall be regulated as follows:

(a) Such Commissioners' Court and such governing bodies shall have the right at all times to issue refunding bonds for the refunding of any outstanding bonds legally issued and outstanding matured interest on any legally issued outstanding bonds, subject to laws applicable to the issuance of refunding bonds and without the necessity of any notice or right to a referendum vote.

(b) Such Commissioners' Courts and governing bodies shall have the power to provide for funding the whole or any part of any legal debt of their respective counties or cities, existing at the time this Act becomes effective, except that which was created upon the condition that it should never become a charge upon the general revenues of such county or city, but canceling the evidences of such indebtedness and issuing to the holders or creditors, notes, bonds, or treasury warrants; provided that if funding bonds are delivered, the evidences of the original indebtedness shall be surrendered to the Comptroller of the State of Texas and cancelled by him prior to the registration of such funding bonds, and prior to their delivery to said holders or creditors.

(c) Such Commissioners' Courts and such governing bodies shall have the power to fund or refund any and all outstanding legal indebtedness, existing at the time this Act becomes effective, into notes or treasury warrants with or without coupons, in accordance with this Act and in accordance with the law as it exists at the time this Act becomes effective.

The funding bonds hereby authorized shall be payable serially not exceeding forty (40) years from the date thereof, unless the Commissioners' Court or governing body affirmatively adjudge that the financial condition of such county or city will not permit in such installment as will make the burden of taxation to support same, approximately uniform throughout the term of said bond issue. Such bonds shall be executed and issued in the same manner now provided by law for the execution and issuance of bonds to refund outstanding county or city bonds. Said bonds shall bear interest not exceeding six per cent (6%) per annum, and shall be approved by the Attorney General and registered by the State Comptroller in the same manner as other county or city refunding or funding bonds.

(d) After this Act becomes effective, no item of indebtedness thereafter issued, except bonds and matured coupons thereon, and except items of indebtedness to be issued under contracts made before this law becomes effective, shall be funded or refunded except in the manner hereinafter in this subsection prescribed, to-wit:

Notice of intention to issue such funding bonds, including a statement of the amount and purpose of such bonds, shall be published at least once a week for three (3) successive weeks in a newspaper of general circulation within such county, or within such city, as the case may be, at least thirty (30) days before the meeting of the Commissioners' Court or of the governing body, at which time it is proposed to issue such bonds. If no newspaper is published in such county or city, as the case may be, such notice may be posted at the Courthouse door of the county, or at the City Hall, as the case may be. At any time before the date fixed for the issuance of such bonds, not less than ten per cent (10%) of the qualified property taxpaying voters of the county, as shown by the records in the office of the County Tax Collector, or in the office of the City Tax Collector, as the case may be, may file a petition in the office of the County Clerk or City Secretary or Clerk, praying the Court or the governing body to order an election for the purpose of submitting the proposition to issue such bonds to a vote of the qualified property taxpaying voters of the county or city as the case may be. Upon the filing of such petition, such Court or governing body shall at the next meeting thereof, order an election to be held in such county or city to determine whether or not such funding bonds shall be issued as indicated in such petition.

The Commissioners' Court or governing body shall determine the time and the place or places of holding said election; and the manner of holding same shall be governed by the laws of the State regulating elections for the issuance of other county or city bonds under Chapters 1 and 2, Title 22, Revised Civil Statutes of 1925. If the proposition for the issuance of such bonds be sustained by a majority of the property taxpaying voters, voting at such election, then such bonds shall be authorized and shall be issued by such Commissioners' Court or governing body.

In the event no such petition is presented to the Commissioners' Court or governing body within the time hereinabove prescribed, no election on the proposition shall be required, and such Court or governing body shall then have the power to pass all necessary orders to provide for canceling or funding the indebtedness described in such published notice of intention to fund said debts, and may cancel the evidences thereof by issuing to the holders the necessary amount of funding bonds.

The funding bonds hereby authorized shall be payable serially not exceeding forty years from the date thereof, unless the Commissioners' Court or governing body affirmatively adjudge that the financial condition of such county or city will not permit, in such installments as will make the burden of taxation to support same, approximately uniform throughout the term of said bond issue. Such bonds shall be executed and issued in the same manner now provided by law for the execution and issuance of bonds to refund outstanding county or city bonds. Said bonds shall bear interest not exceeding six per cent (6%) per annum, and shall be approved by the Attorney General and registered by the State Comptroller in the same manner as other county or city refunding or funding bonds.

The Commissioners' Court of any county and the governing body of any city shall at all times have power without notice or the right to referendum to fund or refund any item of indebtedness created in accordance with the provisions of this Act to prevent or relieve a default or an impending default in the payment of principal or interest.

Tax Levy for Payment of Bonds or Warrants

Sec. 8. It is hereby made the duty of all Commissioners' Courts and of all governing bodies, as the case may be, to levy, and have assessed and collected, taxes sufficient to pay the interest as it accrues and the principal as it matures on all bonds and time warrants issued in accordance with the provisions of this Act. The same duties in reference to the levying, assessment and collection of taxes, as are imposed by the provisions of Chapters 1 and 2, of Title 22, Revised Civil Statutes of 1925,¹ to assure the payment of taxes on bonds therein authorized, are imposed on said Commissioners' Courts and said governing bodies in reference to all bonds and time warrants issued in accordance with this Act; provided that if a tax, meeting the require-

ments of Article 11, Sections 5 and 7 of the Constitution shall have been levied to pay principal and interest thereon, any bond or warrant may thereafter be funded or refunded through the issuance of funding or refunding bonds or warrants irrespective of the fact that due to decline of property values or for other reasons, the City or County seeking to issue such funding or refunding bonds or warrants does not then have available taxing power sufficient to pay the principal and interest of such funding or refunding bonds or warrants.

¹ Articles 701 et seq., 718 et seq.

Refunding Inapplicable to Utility Bonds Payable From Revenues

Sec. 8a. Provided any city or town which has theretofore issued bonds, warrants, certificates, or other securities payable from revenues and income of any utility or utilities owned by such city or town may fund, refund, or extend such bonds, warrants, certificates or other securities, without the necessity of complying with the referendum provisions hereof, provided such refunding does not increase the amount of such indebtedness, taking into consideration interest adjustments; provided, however, that no such bonds, warrants, certificates, or other securities payable from revenues, or from the income of any utility, which may be funded, refunded or extended by a city or town, shall ever be made a charge upon moneys raised or to be raised by taxation.

Bonds Issued in Violation of Act Invalid

Sec. 9. Any warrant bond, funding bond, refunding bond or other evidence of debt or obligation created, or attempted to be created, by the County Commissioners' Court of any county, or the governing body of any city in this State, in violation of or contrary to the provisions of this Act, shall be void, and the payment thereof may be enjoined by any taxpaying citizen of such county, or any taxpaying citizen of such city, in any court of competent jurisdiction in such county.

Provided, however, that notwithstanding anything contained in this Act, Articles 709 to 715, inclusive, of the Revised Statutes of Texas for 1925, shall apply with full force and effect to all bonds, funding bonds and refunding bonds issued under this Act.

Application to Special Charter Cities

Sec. 10. In all cities operating under Special Charter the provisions of this Act shall apply, providing for a referendum vote where the proposed expenditure is not payable out of current funds, or bond funds, and requires the issuance of time warrants in excess of the permitted amount. This Act shall not repeal provisions of Special Charters providing any additional rights to referendum elections. The rights, power and duties conferred on and imposed on all cities in reference to the issuance of funding or refunding bonds and warrants shall be applicable to all cities, irrespective of charter provi-

sions to the contrary. All laws, General and Special, and parts of laws in conflict herewith are hereby expressly repealed. Article 2368, Revised Civil Statutes of 1925, is expressly repealed.

Mortgage of Utility Systems Permissible

Sec. 11. Nothing herein shall be so construed as to preclude any city or town in this State, whether organized under General or Special Law or operating under Special Charter, from encumbering or mortgaging its light system, water system, sewer system or any other utility, either, both or all, and the franchise and the income thereof and everything pertaining thereto acquired or to be acquired, to secure the payment of funds to purchase same or to make or purchase extensions, additions, or improvements thereto, as contemplated in Articles 1111 to 1118, both inclusive, of the Revised Civil Statutes of Texas, 1925, with amendments thereto, or by valid provisions of the charter of such city or town, or by the provisions of Article 1175, revised Civil Statutes of Texas, 1925; provided that in making such contracts or agreements or encumbrances and in issuing revenue bonds, warrants or other obligations to be paid out of the property and income from such system or systems, the governing body of such city or town shall comply with the provisions of this Act in regard to notice and competitive bids and the right to a referendum of such question.

Provided, however, that no competitive bids shall be required in case the municipality proposes to acquire an existing utility plant, and in such cases the voters shall be entitled to a referendum, only on the question of whether or not the utility shall be purchased, in the manner and under the conditions set forth in this Act.

Provided, further, that notwithstanding any provisions of this Act, and notwithstanding any provision of its Special Charter, if such city or town is acting under authority of House Bill No. 981, passed by the Regular Session of the 42d Legislature,¹ the requirements of this Act in reference to notice, competitive bids and the rights to referendum shall not apply until after June 1, 1932.

¹ Article 1118a.

Inapplicable to Warrants Based or Issued on Current Funds

Sec. 11a. Nothing contained in this Act shall be construed as requiring any city to give any notice as a condition precedent to issuing warrants payable out of current funds of said city and the issuance of any such warrants by any such city shall not be subject to the terms and provisions of this Act; provided, however, that at the time of the authorization of such warrants the Governing Body of the city, shall also pass an order setting aside such an amount of the current funds as will discharge the principal and interest of the warrants issued and based upon such current funds. And thereafter the so appropriated portion of such current funds shall not be used for any purpose other than to discharge

said warrants. And no such warrants shall ever be refunded, but they must be discharged out of the designated funds.

[Acts 1931, 42nd Leg., p. 269, ch. 163. Amended by Acts 1931, 42nd Leg., 1st C.S., p. 42, ch. 24, § 1; Acts 1935, 44th Leg., p. 105, ch. 35, § 1; Acts 1937, 45th Leg., p. 179, ch. 95, § 1; Acts 1947, 50th Leg., p. 283, ch. 173, § 1; Acts 1949, 51st Leg., p. 1064, ch. 549, § 1; Acts 1949, 51st Leg., p. 1098, ch. 560, § 1; Acts 1951, 52nd Leg., p. 281, ch. 164, § 1; Acts 1953, 53rd Leg., p. 383, ch. 105, § 1; Acts 1965, 59th Leg., p. 240, ch. 105, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 870, ch. 376, § 1, eff. June 8, 1967; Acts 1973, 63rd Leg., p. 635, ch. 269, § 1, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 1342, ch. 507, § 1, eff. June 14, 1973; Acts 1979, 66th Leg., p. 540, ch. 256, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1902, ch. 770, § 8, eff. June 13, 1979; Acts 1979, 66th Leg., p. 2147, ch. 824, § 1, eff. June 14, 1979; Acts 1981, 67th Leg., p. 2433, ch. 622, § 1, eff. June 15, 1981; Acts 1981, 67th Leg., p. 2532, ch. 672, § 1, eff. June 15, 1981; Acts 1981, 67th Leg., p. 3242, ch. 853, § 1, eff. June 17, 1981.]

Saved From Appeal

Acts 1949, ch. 36, p. 67 (art. 2368f), relating to the issuance of the time warrants in counties with a population in excess of 300,000 by § 3 excepts § 2 of this article, as amended, from the repeal of the conflicting laws except as to the warrants authorized by that act.

Acts 1971, 62nd Leg., p. 2824, ch. 923, enacting the Certificate of Obligation Act (art. 2368a.1), provided in § 10 that nothing therein shall be construed as repealing the Bond and Warrant Law of 1931.

Art. 2368a.1. Certificate of Obligation Act

Citation of Act

Sec. 1. This Act shall be known and may be cited as "The Certificate of Obligation Act of 1971".

Definitions

Sec. 2. When used in this Act, unless otherwise apparent from the context:

(a) "Bond funds" shall mean money received from the sale of bonds by the issuer.

(b) "Certificate" means a certificate of obligation authorized to be issued under the terms of this Act.

(c) "City" means any incorporated municipality of this State incorporated under the provisions of (i) any general or special law provided the municipality has the power to levy an ad valorem tax of not less than \$1.50 on each \$100 valuation of taxable property therein, or (ii) the home rule amendment to the Constitution.

(d) "Contractual obligation" shall mean any contract entered by an issuer through its governing body executed pursuant to Section 6 or Section 7 of this Act. No such contract shall be required to be in writing where (i) work is to be done by the regular salaried employees of an issuer, (ii) the

work is to be paid for as the work progresses, and (iii) legal services.

(e) "County" means a political subdivision of the State of Texas created and established under Article IX, Section 1, of the Constitution of Texas.¹

(f) "Current funds" shall mean money in the treasury, taxes in the process of collection during the then current budget year of the issuer, and all other revenues which may be anticipated with reasonable certainty during such budget year.

(g) "Governing body" shall mean the board, council, commission, court or other body or group which is authorized to issue bonds for or on behalf of an issuer.

(h) "Issuer" means a city or county.

¹ Acts 1979, 66th Leg., p. 1902, ch. 770, § 8, provides, in part, that: "all of Section 2(e) of The Certificate of Obligation Act of 1971 (Article 2368a.1, Vernon's Texas Civil Statutes) following the word 'Texas' are repealed." Prior thereto, § 2(e) read:

"County" means a political subdivision of the State of Texas created and established under Article IX, Section 1, of the Constitution of Texas which, according to the Federal Census then preceding has a population of less than 350,000."

Since "Texas" appeared twice in the prior text, § 2(e) may now read:

"County" means a political subdivision of the State of Texas."

Certificates Authorized; Amount, Public Works Construction

Sec. 3. (a) The governing body of an issuer may authorize certificates for the purpose of paying any contractual obligation to be incurred for the construction of any public work or for the purchase of materials, supplies, equipment, machinery, buildings, land and rights-of-way for authorized needs and purposes, or for the payment of contractual obligations for professional services (including tax appraisal engineers, engineering, architectural, attorneys, mapping, auditing, financial advisors, fiscal agent) or for any one or more of such purposes.

(b) Certificates may be authorized in an amount not in excess of 25% of any contractual obligation incurred for construction of public works in order to provide for change orders as work progresses (as contemplated by Section 6) but only such amount of certificates as required to discharge contractual obligation after execution of such change orders shall be delivered by an issuer.

Claims and Accounts; Funding or Exchange

Sec. 4. The governing body of an issuer may provide that claims and accounts may thereafter be incurred for such authorized purposes to represent an undivided interest in certificates simultaneously authorized and may provide for the funding or exchange of such claims and accounts for a like total principal amount of such certificates with any amount in excess of the principal amount of certificates delivered at any one time may be paid in cash or carried forward to a subsequent exchange of claims and accounts for certificates. While the authorization of certificates (and the indebtedness

thereby evidenced) may precede the execution of the contract or contracts under the provisions of this section, nothing in this section shall be construed as an exception to the requirement for the receipt of competitive bids under Section 6.

Notice to Bidders

Sec. 5. No certificates of indebtedness may be authorized by any issuer unless the notice to bidders (where the same is required) states (i) the successful bidder or bidders will be required to accept such certificates in payment of all or a portion of the contract price or (ii) that the governing body of any issuer has made provision for the contractor to sell and assign such certificates to another and that each bidder is required (at the time of the receipt of bids) to elect whether he will accept such certificates in payment of all or a part of the contract price or assign such certificates in accordance with such arrangements.

Competitive Bids; Notice, Publication; Change Orders, Payment of Added Cost; Rejection of Bids; Performance Bond

Sec. 6. (a) Except as provided herein, the governing body of an issuer shall hereafter make no contract calling for or requiring the expenditure or payment or creating or imposing an obligation or liability of any nature upon such city, county, or subdivision of the county in an amount exceeding \$5,000 without first submitting such proposed contract to competitive bids.

(a-1) Repealed by Acts 1981, 67th Leg., p. 3243, ch. 853, § 3, eff. June 17, 1981.

(b) Notice of the time, place, when and where such contract shall be let shall be given in accordance with the provisions of (i) Section 2, or Section 2(a) of the Bond and Warrant Law of 1931, as amended¹ or (ii) the home rule charter of an issuer or (iii) this Act. If such notice is given under the provisions of this Act, it shall be published once a week for two consecutive weeks in a newspaper as defined in Chapter 84, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 28a, Vernon's Texas Civil Statutes), of general circulation in the city or county which is to receive bids, the date of the first publication to be 14 days prior to the date set for the receipt of bids, and shall specify that plans and specifications for the work to be done or specifications for machinery, supplies, equipment or materials to be purchased are on file with a designated official of the issuer where they may be examined without charge. All contracts for the construction of public works, the purchase of materials, equipment, supplies, or machinery let under the provisions of this Act shall be let to the lowest responsible bidder and may be let on a lump sum basis or on a unit price basis, as the governing body shall determine. In the event a contract is to be let on a unit price basis, the information furnished bidders shall specify the approximate quantities estimated upon the best available information,

but the compensation paid the contractor shall be based upon the actual quantities constructed or supplied.

(c) After performance of a construction contract has been commenced, if it becomes necessary to (i) make changes in the plans or specifications or (ii) decrease or increase the quantity of work to be performed or materials, equipment or supplies to be furnished, the governing body shall be authorized to approve change orders effecting such changes but the total contract price shall not be increased thereby unless due provision has been made to provide for the payment of such added cost either by appropriating current or bond funds for that purpose, by authorizing the issuance of certificates, or by any one or more such procedures, but the original contract price may not be increased by more than twenty-five per cent (25%) or decreased more than twenty-five per cent (25%) without the consent of the contractor to such decrease.

(d) The governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works and is for or requires the expenditure of the amount of money requiring competitive bidding under Subsection (a-1) of this section, then the successful bidder shall be required to give a good and sufficient payment and performance bond each in the full amount of the contract price, executed by some surety company authorized to do business in this State in accordance with the provisions of Article 5160, Revised Civil Statutes of Texas, 1925, as amended.

¹ Article 2368a.

Advertisements for Bids, Exceptions; Sale of Certificates; Use of Proceeds; Registration, Etc.; Legal Investments and Security for Deposits

Sec. 7. The provisions of Section 6 of this Act relating to advertisement for competitive bids shall not apply in the following instances:

- (1) in case of a public calamity where it becomes necessary to act at once to relieve the necessity of the citizens or to preserve the property of such city or county; or
- (2) where it is necessary to preserve or protect the public health of the citizens of such city or county; or
- (3) in the case of unforeseen damage to public property, machinery or equipment; or
- (4) contracts for personal or professional services; or
- (5) work done by employees of the issuer and paid for as such work progresses; or
- (6) the purchase of land, buildings, existing utility systems or rights-of-way for authorized needs and purposes; or
- (7) expenditures for or relating to improvements to a city water system, sewer system, streets or drainage (any one or all) where the cost of at least

one-third (1/3) of which is to be paid by special assessments levied against properties to be benefited thereby; or

(8) where the entire contractual obligation is to be paid from bond funds or current funds, or where an advertisement for bids has previously been published (in the manner authorized or permitted in Section 6) but the current funds or bond funds are not adequate to permit the awarding of a contract and the certificates are to be issued to provide the deficiency; or

(9) the sale of any public security as such term is defined in Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended by Chapter 3, Acts of the 61st Legislature, 2nd Called Session, 1969.¹

Certificates authorized to be issued for the purpose or purposes specified in this section, in the discretion of the governing body of the issuer, may be sold for cash and the proceeds thereof shall be used only for the purpose or purposes for which the same were authorized; provided, (i) accrued interest received, if any, shall be deposited in the interest and sinking fund established for the payment of such certificates and (ii) no certificate may be sold for cash to pay for work done by employees of the issuer and paid for as such work progresses and (iii) a certified copy of the proceedings relating to the authorization of such certificates shall be submitted to the Attorney General of Texas and be approved by such officer as having been authorized in accordance with the provisions of this Act. It shall be the duty of the Attorney General of Texas to examine the proceedings relating to the authorization of such certificates and the provisions of Article 709 through Article 716, inclusive, of Title 22 of the Revised Civil Statutes of Texas, 1925, as amended, and Chapter 204, Acts of the 57th Legislature, Regular Session, 1961, as amended by Chapter 290, Acts of the 60th Legislature, Regular Session, 1967,² shall apply to and govern the execution, approval, registration, and validity of such certificates. From and after the registration of such certificates by the Comptroller of Public Accounts, the same shall be incontestable for any cause.

Certificates approved by the Attorney General shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for any sinking funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas. Such certificates shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas, and shall be lawful and sufficient security for said

deposits at their face value when accompanied by all unmatured coupons, if any, appurtenant thereto.

¹ Article 717k-2.

² Article 717j-1.

Constructing or Equipping Jail

Sec. 7A. (a) Certificates issued for payment of any contractual obligation to be incurred for constructing or equipping a jail may be sold for cash subject to the same restrictions and conditions applicable to the sale of certificates for cash under Section 7 of this Act.

(b) Section 6 of this Act, relating to advertisement for competitive bids, is applicable to the incurring of contractual obligations for constructing or equipping a jail under this section.

(c) The provisions of this section shall apply to and be available for use by any county within the state without regard to population.

Certificates as Debt and Security

Sec. 8. Certificates shall be a debt of the issuer within the meaning of Article XI, Sections 5 and 7 of the Constitution of Texas, and when delivered shall be deemed and construed (i) to be a "Security" within the meaning of Chapter 8, Investment Securities, Uniform Commercial Code (Chapter 785, Acts of the 60th Legislature, Regular Session, 1967)¹ and (ii) to be a general obligation of the issuer within the meaning of Chapter 784, Acts of the 61st Legislature, Regular Session, 1969.²

¹ Business and Commerce Code, § 8.101 et seq.

² Article 717k-3.

Certificates Payable From and Secured By Other Revenues; Delivery

Sec. 8a. The governing body of an issuer, in lieu of or in combination with the existing source provided herein for the payment of certificates, may (under the provisions of this Section):

(i) provide that such certificates will be payable from and secured by other revenues, if the issuer is otherwise authorized by the Constitution or statutes to secure or pay any kind or type of general or special obligation by or from such revenues, and

(ii) deliver the certificates so secured in exchange for services or property in the manner and with the effect provided in other Sections of this law, or sell the same for cash under this Section.

Notice of Intention to Issue Certificates; Contents and Publication; Petition of Protest; Election

Sec. 8(b). Except for certificates issued for the purposes specified in paragraphs numbered (1) through (5) of Section 7, no certificates, irrespective of their sources of payment, may be authorized under Section 9 of this Act until the issuer has caused notice of its intention to issue such certificates to be published in a newspaper, as defined in Chapter 84, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 28a, Vernon's

Texas Civil Statutes), of general circulation in area of the issuer. Such notice shall (i) state the time and place the issuer tentatively proposes to authorize the issuance of certificates, the maximum amount that may be authorized, the purpose thereof, and the manner in which the issuer then proposes to provide for payment of such certificates (by taxes or revenues, either or both) and (ii) be published once a week for two consecutive weeks, the date of the first publication at least fourteen (14) days prior to the date tentatively set for the passage of the order or ordinance authorizing the issuance of such certificates. If prior to the date tentatively set for the authorization of the issuance of the certificates or prior to such authorization a petition signed by 5% of the qualified electors of the issuer is filed with the County Clerk (if the issuer is a county) or the City Secretary or City Clerk (if the issuer is a city) protesting the issuance of such certificates, the issuer shall not be authorized to issue certificates for such purpose unless the issuance thereof is approved at an election called, held, and conducted in the manner provided for bond elections under Chapter 1 of Title 22, Revised Civil Statutes of Texas, 1925, as amended.¹

¹ Article 701 et seq.

Authorization of Certificates; Payment; Options for Redemption; Maturity; Interest

Sec. 9. Certificates may be authorized by (i) an order duly passed and adopted by the governing body of a county (upon compliance with Article 2343 and Article 2354, Revised Civil Statutes of Texas, 1925, as amended) or (ii) an ordinance adopted by the governing body of a city. Certificates shall be payable at such times, be in such form and denomination or denominations, either in coupon form or registered as to principal and interest, or both, may contain such options for redemption prior to scheduled maturity, and be payable at such place or places and contain such other provisions as the governing body of the issuer may determine, but in no event shall any certificate mature over a period in excess of 40 years from the date thereof, or bear interest at a rate in excess of that prescribed by Chapter 3, Acts of the 61st Legislature, 1969, as amended by Chapter 3, Acts of the 61st Legislature, 2nd Called Session, 1969.¹

¹ Article 717k-2.

Cumulative Effect; Purpose; Conflict

Sec. 10. The provisions of this Act shall be cumulative of other laws and nothing herein shall be construed as repealing the Bond and Warrant Law of 1931, as amended.¹

¹ Article 2368a.

It is the purpose and intent of this Act to (i) provide an alternate procedure with respect to certain financing which is now subject to being accomplished under the said Bond and Warrant Law of 1931 which is not so cumbersome and (ii) provide a new class of securities which may be issued and

delivered within the financial capabilities of an issuer upon compliance with the procedures herein set forth.

In the event of conflict between the provisions of this Act and the Bond and Warrant Law of 1931, an issuer may proceed under either of such procedures and it shall not be necessary for the governing body to designate the statute under which action is being taken.

Use by Home Rule City

Sec. 10(a). Except as permitted by the first sentence of Section 6(b) of this Act (relating to the permissive advertising procedures for competitive bids for home rule cities), the provisions and procedures of this Act shall apply to and may be utilized by any home rule city and without reference to any provision of law or charter to the contrary.

Construction; Alternative Procedure; Severability

Sec. 11. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the issuer shall have the power by resolution to provide an alternative procedure conformable to such Constitutions. If any provision of the Act shall be invalid, such fact shall not affect the validity of any other provision of this Act, and the Legislature hereby declares that it would have enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

[Acts 1971, 62nd Leg., p. 2824, ch. 923, eff. June 15, 1971. Amended by Acts 1973, 63rd Leg., pp. 1777, 1778, ch. 652, §§ 1 to 3, eff. June 16, 1973; Acts 1979, 66th Leg., p. 542, ch. 256, § 2, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 664, ch. 292, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1902, ch. 770, § 8, eff. June 13, 1979; Acts 1981, 67th Leg., p. 535, ch. 218, § 1, eff. May 28, 1981; Acts 1981, 67th Leg., p. 2532, ch. 672, § 2, eff. June 15, 1981; Acts 1981, 67th Leg., p. 3243, ch. 853, §§ 2, 3, eff. June 17, 1981; Acts 1983, 68th Leg., p. 5727, ch. 1094, § 1, eff. June 19, 1983.]

Section 2 of Acts 1981, 67th Leg., p. 535, ch. 18, the emergency provision, provided, in part:

"The fact that the Certificate of Obligation Act of 1971 is currently unclear as to the power to issue certificates for the purpose of acquiring urgently needed buildings for public purposes and the crowded condition of the calendars in both houses create an emergency * * *."

Art. 2368a.2. Public Property Finance Act

Short Title

Sec. 1. This Act shall be known and may be cited as the Public Property Finance Act.

Purpose

Sec. 2. The legislature finds and determines that the acquisition, use, and purchase of property by governmental agencies and the financing of such

activities are necessary to the efficient and economic operation of government. This Act facilitates a public purpose by furnishing governmental agencies with a feasible means to acquire, use, purchase, and finance public property.

Definitions

Sec. 3. In this Act:

(1) "City" means any city, town, or village incorporated in this state, whether governed by the general laws of the state or the laws pertaining to home-rule cities.

(2) "Conservation and reclamation district" means any district or authority organized or operating pursuant to Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution.

(3) "Contract" means an agreement entered into pursuant to this Act.

(4) "County" means a political subdivision of the State of Texas created and established under Article IX, Section 1, of the Texas Constitution.

(5) "Governing body" means the board, council, commission, agency, court, or other body or group that is authorized by law to acquire property for each respective governmental agency.

(6) "Governmental agency" means any city, county, school district, conservation and reclamation district, hospital organization, or other political subdivision of the State of Texas.

(7) "Hospital organization" means any district, authority, board, or joint board organized pursuant to the laws of this state for hospital purposes.

(8) "Net effective interest rate" means, with reference to a contract, the interest amount deemed by the governing body of a governmental agency to accrue on a contract and shall be calculated as simple interest.

(9) "Net interest cost" means the total of all interest to accrue and come due on a contract through the last date a payment is due on the contract, plus any discount or minus any premium included in the contract price or principal sum.

(10) "Person" means any individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(11) "Property" means personal property, appliances, equipment, facilities or furnishings, or an interest therein, whether movable or fixed, deemed by the governing body of the governmental agency to be necessary, useful, or appropriate to one or more purposes of the governmental agency, but shall not include real property.

(12) "School district" means any independent school district, common school district, community college district, junior college district, or regional college district organized pursuant to the laws of this state.

Authority to Contract for Property

Sec. 4. (a) The governing body of a governmental agency is authorized to execute, perform, and make payments under contracts with any person for use, acquisition, or purchase of any property. The contracts may be on the terms and conditions that are deemed appropriate by the governing body. Contracts may be in the form of a lease, a lease with option or options to purchase, installment purchase, or any other form deemed appropriate by the governing body. All contracts shall be obligations of the governmental agency. The contracts may be for a term approved by the governing body, and in each case, the contract may contain an option or options to renew or extend the term and may be made payable from a pledge of all or any part of any revenues, funds, or taxes or revenues, or funds and taxes available to the governmental agency for its public purposes.

(b) Each contract which retains to the governing body of the governmental agency the continuing right to terminate at the expiration of each budget period of the governmental agency during the term of the contract shall be considered to be a commitment of the governmental agency's current revenues only. All applicable constitutional requirements of approval by the voters shall be met. The contracts may provide for the payment of interest on the unpaid amounts of the contract at a rate or rates and may contain prepayment provisions, termination penalties, and such other provisions as shall be determined within the discretion of the governing body of the governmental agency. Subject only to applicable constitutional restrictions, the governing body has authority to obligate taxes or revenues for the full term of the contract for the payment of the contract. The net effective interest rate on any such contract shall not exceed the net effective interest rate at which public securities may be issued in accordance with Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes).

Compliance with Other Acts

Sec. 5. Each governmental agency currently subject thereto shall comply with the terms of Chapter 163, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), in entering into contracts, including the requirement that certain contracts be awarded pursuant to public bids, except that it is not necessary for a governmental agency to submit the question of entering into a contract to a referendum.

Approved and Registered Contracts

Sec. 6. After a contract providing for payment aggregating \$100,000 or more by a governmental agency is authorized by the governing body, the contract and the record relating to the contract may, at the discretion of the governmental agency,

be submitted to the attorney general for his examination as to the validity of the contract. If the contract has been made in accordance with the constitution and laws of the state, the attorney general shall approve the contract, and the contract then shall be registered by the comptroller of public accounts. After the contract has been approved by the attorney general and registered by the comptroller of public accounts, the validity of the contract is incontestable for any cause. The legal obligations of the lessor, vendor, or supplier of the property to the governmental agency shall not be diminished in any respect by the approval and registration of a contract.

Contract as Authorized Investment

Sec. 7. A contract entered into pursuant to this Act is a legal and authorized investment for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas.

Term of Contracts

Sec. 8. A contract may have any term not to exceed 25 years.

Construction and Effect of Act

Sec. 9. This Act is wholly sufficient authority within itself for entering into contracts and the performance of the other acts and procedures authorized by this Act, without reference to any other laws, or any restrictions or limitations contained therein, except as specifically provided in this Act. When contracts are entered into under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control, except that any governmental agency may use the provisions of any other law, not in conflict with the provisions of this Act, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act. This Act shall be liberally construed to effectuate its purpose. Notwithstanding any contrary provision, this Act does not apply to a contract solely for the construction of improvements to real property.

[Acts 1979, 66th Leg., p. 1839, ch. 749, eff. Aug. 27, 1979.]

Art. 2368a.3. Competitive Bidding on Public Works Contracts

Applicability

Sec. 1. This Act applies to:

- (1) a county;
- (2) an incorporated city, town, or village;
- (3) a common or independent school district;

(4) a special district or authority created under Article III, Section 52, or Article XVI, Section 59, Texas Constitution;

(5) a hospital district or authority;

(6) a housing authority; or

(7) an agency or instrumentality of a unit of government described in one of the preceding subdivisions.

Procedure for Bidding

Sec. 2. If a governmental entity covered by this Act is required by statute to award a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property on the basis of competitive bids, such bidding shall be accomplished as provided herein.

Advertisement for Bids

Sec. 3. (a) The governmental entity shall advertise for bids. The advertisement for bids must include a notice that:

(1) describes the work;

(2) states where the bidding documents, plans, specifications, or other data may be examined by all bidders; and

(3) states the time and place for submitting bids and the time and place that bids will be opened.

(b) The advertisement must be published as required by law. If no legal requirement for publication exists, the advertisement must be published at least twice in one or more newspapers of general circulation in the county or counties where the work is to be performed. The second publication must be no later than the 10th day before the first day on which bids may be submitted.

(c) The governmental entity must mail a notice containing the information required under Subsection (a) of this section to any organization that:

(1) requests in advance that notices for bids be sent to it;

(2) agrees in writing to pay the actual cost of mailing the notice; and

(3) certifies that it circulates notices for bids to the construction trade in general.

(d) The governmental entity shall mail a notice required under Subsection (c) of this section not later than the date on which the first newspaper advertisement under this section is published.

Opening of Bids

Sec. 4. Bids may be opened only by the governing body at a public meeting or by an officer or employee of the governmental entity at or in an office of the governmental entity.

Award of Bid

Sec. 5. A governmental entity shall have the right to reject any and all bids. Contracts covered by this Act shall be awarded to the lowest, responsible bidder, but a contract may not be awarded to a bidder who is not the lowest bidder unless prior to the award each lower bidder is given notice of the proposed award and is given an opportunity to appear before the governing body of the governmental entity or the designated representative of the governing body and present evidence concerning the bidder's responsibility.

Effect of Noncompliance

Sec. 6. A contract awarded in violation of this Act is void.

General Provisions

Sec. 7. (a) To the extent a municipal home-rule charter conflicts with this Act, the charter prevails.

(b) The provisions of the Professional Services Procurement Act (Article 664-4, Vernon's Texas Civil Statutes) are not affected by this Act.

(c) This Act does not apply to a contract which does not call for or require the expenditure of more than \$10,000 out of the funds of the governmental entity.

Repealer

Sec. 8. The last sentence of Section 2 of the Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes) and all of Section 2(e) of The Certificate of Obligation Act of 1971 (Article 2368a.1, Vernon's Texas Civil Statutes) following the word "Texas" are repealed.

[Acts 1979, 66th Leg., p. 1901, ch. 770, §§ 1 to 8, eff. June 13, 1979.]

Art. 2368a.4. Competitive Bids Not Required for Certain Expenditures When Only One Supplier Available

Sec. 1. If a law requires a county to follow a competitive bidding procedure for certain purchases requiring the expenditure of \$5,000 or less, the law does not apply to a purchase that is for items that are available for purchase from only one supplier.

Sec. 2. If a county makes a purchase covered by Section 1 of this Act, the county auditor or other appropriate county officer or employee may not refuse payment for the purchase because a competitive bidding procedure was not followed.

[Acts 1983, 68th Leg., p. 3009, ch. 518, eff. Aug. 29, 1983.]

Art. 2368a-1. Validation of Contracts, Scrip, Warrants and Proceedings

In every instance, since the approval by the Governor of Texas on May 3, 1947 of Chapter 173, Acts of the 50th Legislature of Texas, Regular Session, 1947,¹ where the Commissioners Court of a county or the governing body of a city in this State has

entered into contracts for the construction of public works, the purchase of land or interests in land, or the furnishing of materials, supplies, equipment, labor, supervision or professional services, and has authorized or issued scrip or time warrants to pay or evidence the indebtedness of such county or city for the cost of such public works, land, materials, supplies, equipment and personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved; provided that no such scrip or time warrants shall be ratified, validated, confirmed and approved by this Act unless the Commissioners Court or governing body, as the case may be, shall have heretofore specifically found and declared that such county or city has actually received the full benefit of the work performed or the land, materials, supplies, equipment or services furnished to the full extent of the amount of scrip or time warrants so authorized or issued. It is expressly provided, however, that this Section 2 shall not validate, ratify or confirm any contract, time warrant or scrip warrant executed or issued by any county with a population in excess of three hundred twenty-five thousand (325,000) according to the last preceding Federal Census, or any contract, time warrant or scrip warrant the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1949, 51st Leg., p. 1098, ch. 560, § 2.]

¹ Amending art. 2368a, § 2.

Art. 2368a-2. Validation; Contracts, Scrip, Warrant and Proceedings; Bonds and Proceedings for Issuance

Sec. 1. [Adds §§ 2a, 2b to art. 2368a.]

Sec. 2. In every instance since the approval by the Governor of Texas on May 11, 1951, of Chapter 164, Acts of the 52nd Legislature, Regular Session, 1951 (Senate Bill No. 105, page 281),¹ where the Commissioners Court of a county or the governing body of a city in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city for the cost of such public works or improvements, land, materials, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved; provided, that such scrip or time warrants themselves shall not be ratified, validated, confirmed and approved by this Act unless the Commissioners Court or the governing body, as the case may be,

shall have heretofore specifically and officially found and declared in effect that such county or city has actually received the full benefit of the work performed or the land, materials, supplies, equipment or services furnished to the full extent of the amount of scrip or time warrants so authorized and issued. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work, where such Commissioners Court or governing body shall have heretofore specifically and officially found and declared in effect that such county or city has actually received the full benefit of the work performed or the materials and supplies furnished to the full extent of the amount of scrip or time warrants so issued, are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred thousand (300,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. All proceedings, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city authorizing the issuance of bonds for the purpose of refunding time warrants issued by any county or city and all refunding bonds heretofore issued for such purpose are hereby in all things validated, ratified, approved and confirmed, and such refunding bonds now in process of being issued and authorized by proceedings, ordinances, and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, ordinances, resolutions or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of three hundred thousand (300,000), according to the last preceding Federal Census, or any proceedings, ordinances, resolutions or other instruments, or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1953, 53rd Leg., p. 383, ch. 105.]

¹ Article 2368a, §§ 5, 6.

Art. 2368a-3. Validation of Contracts, Scrip and Time Warrants; Exceptions

In every instance, since the approval by the Governor of Texas on May 3, 1947, of Chapter 173, Acts of the Fiftieth Legislature of the State of Texas,

Regular Session, 1947,¹ where the Commissioners Court of a county or the governing body of a city in this State has entered into a contract for the construction of public works, the purchase of land or interests in land, or the furnishing of materials, supplies, equipment, labor, supervision or professional services, and has authorized or issued scrip or time warrants to pay or evidence the indebtedness of such county or city for the cost of such public works, land, materials, supplies, equipment and personal services, all such contracts, scrip and time warrants issued by the Commissioners Court or a governing body, whether issued to the contractor for the construction of public works, the seller of land or interests in land, or issued to the person, firm or corporation furnishing materials, supplies or equipment and personal services, or issued to the person, firm or corporation furnishing money to the county or governing body in the purchase of time warrants, where the county receives full face value of the time warrants and the time warrants do not exceed four per cent (4%) interest and there has been no fraud whatsoever upon the part of the person, firm or corporation buying said time warrants, and the said county or governing body received full face value for such time warrants, and the proceedings adopted by the Commissioners Court or governing body as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved; however, it is expressly provided that this Act shall not validate, ratify or confirm any contract, time warrant or scrip warrant, executed or issued by any county with a population in excess of three hundred and twenty-five thousand (325,000), according to the last preceding Federal Census, or any contract, time warrant or scrip warrant the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1953, 53rd Leg., p. 920, ch. 382, § 1.]

¹ Article 2368a, § 2.

Art. 2368a-4. Validation of Contracts, Scrip and Time Warrants; Proceedings; Refunding Bonds; Exceptions

Sec. 1. In every instance since the approval by the Governor of Texas, on June 8, 1953, of Chapter 382, Acts of the Fifty-third Legislature, Regular Session, 1953,¹ where the Commissioners Court of a county in this State has entered into contracts or agreements, or has incurred and recognized or approved claims for the construction of public works or improvements, for the purchase of land or interests in land, including right of ways for public roads or highways and the fencing of right of ways on and along public roads or highways, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders authorizing the issuance of scrip or interest-bearing time warrants to pay for or to evidence the indebtedness incurred by such county for the cost of such public works or improvements, land, interests in land, including

right of ways for public roads or highways and the fencing of right of ways on or along public roads and highways and such materials, supplies, equipment, labor, supervision or professional or personal services, all such contracts or agreements and claims, and assignments of such claims and such scrip and interest-bearing time warrants, and the proceedings adopted by such Commissioners Court relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip and interest-bearing time warrants heretofore issued by the Commissioners Court of any county in this State in payment for or to evidence the indebtedness incurred for work done by such county and paid for by the day as the work progressed, and for materials, supplies, equipment, labor, supervision or professional or personal services purchased or secured in connection with such work, are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any scrip or interest-bearing time warrants issued by the Commissioners Court of a county in this State unless the proceedings of such Commissioners Court shall have heretofore found or declared, in effect, that such county has received full value and consideration for the issuance of such scrip or interest-bearing time warrants. It is expressly further provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of one hundred and sixty-five thousand (165,000) inhabitants according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, orders, resolutions, and other instruments heretofore adopted or executed by any Commissioners Court in this State authorizing the issuance of bonds for the purpose of refunding time warrants issued by any such county and all refunding bonds heretofore issued for such purpose are hereby in all things validated, ratified, approved and confirmed, and such refunding bonds now in process of being issued and authorized by proceedings, orders and resolutions heretofore adopted by any such Commissioners Court may be issued irrespective of the fact that such Commissioners Court in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, orders, resolutions or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of one hundred and sixty-five thousand (165,000) inhabitants, according to the last preceding Federal Census, or any proceedings, orders, resolutions or other instruments, or bonds the valid-

ity of which is involved in litigation at the time this Act becomes effective.

[Acts 1955, 54th Leg., p. 914, ch. 362.]

¹ Article 2368a-3.

Art. 2368a-5. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. In every instance since the approval by the Governor of Texas on May 11, 1951, of Chapter 164, Acts of the 52nd Legislature, Regular Session, 1951 (Senate Bill No. 105, page 281),¹ where the Commissioners Court of a county or the governing body of a city (including home-rule cities) or town in this state has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including home-rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including home-rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding federal census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental Acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including home-rule cities) or town, and of all officers and officials thereof, authorizing the issuance of or pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including home-rule cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued

irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental Acts, orders, resolutions or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding federal census, or any proceedings, governmental Acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1957, 55th Leg., p. 543, ch. 253.]

¹ Article 2368a, §§ 5, 6.

Art. 2368a-6. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. In every instance since the approval by the Governor of Texas on May 11, 1951, of Chapter 164, Acts of the 52nd Legislature, Regular Session, 1951 (Senate Bill No. 105, page 281),¹ where the Commissioners Court of a county or the governing body of a city (including home-rule cities) or town in this state has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including home-rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including home-rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental Acts, orders, ordinances, resolutions, and other instruments

heretofore adopted or executed by a Commissioners Court or governing body of a city (including home-rule cities) or town, and of all officers and officials thereof, authorizing the issuance of or pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including home-rule cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental Acts, orders, resolutions or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental Acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1959, 56th Leg., p. 700, ch. 321.]

¹ Article 2368a, §§ 5, 6.

Art. 2368a-7. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. In every instance since the approval by the Governor of Texas of Chapter 321, Acts of the Fifty-sixth Legislature, Regular Session, 1959,¹ where the Commissioners Court of a county or the governing body of a city (including Home Rule Cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home Rule Cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home Rule Cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with

such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of two hundred and fifty thousand (250,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home Rule Cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including Home Rule Cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of two hundred and fifty thousand (250,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1961, 57th Leg., p. 245, ch. 126.]

¹ Article 2368a-6.

Art. 2368a-8. Validation of Contracts, Scrip or Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. In every instance since the approval by the Governor of Texas of Chapter 321, Acts of the Fifty-sixth Legislature, Regular Session, 1959,¹ where a county or a city (including Home Rule Cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, products, services, personal services, professional services, equipment, labor, or supervision and has heretofore adopted contracts, orders or ordinances to authorize the payment therefor out of any fund or funds of such county, city (including Home Rule Cities) or town or the issuance of scrip or time warrants to pay or evidence the indebtedness of

such county or city (including Home Rule Cities) or town for the cost of such public works or improvements, land, material, supplies, products, services, personal services, professional services, equipment, labor, or supervision, all such contracts, scrip and time warrants and the proceedings adopted by or in behalf of the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home Rule Cities) or town and paid for by the day as the work progressed and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant or time warrant executed or issued by any county or city (including Home Rule Cities) with a population of less than two hundred and fifty thousand (250,000) or any county with a population of more than three hundred and fifty thousand (350,000) according to the last preceding Federal Census, or any contract, scrip warrant or time warrant the validity of which is now in litigation.

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home Rule Cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including Home Rule Cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county or city (including Home Rule Cities) with a population of less than two hundred and fifty thousand (250,000) or counties with a population of more than three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is now in litigation.

[Acts 1961, 57th Leg., 1st C.S., p. 30, ch. 9.]

¹ Article 2368a-6.

Art. 2368a-9. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions; Elections for City Officials

Sec. 1. In every instance since the approval by the Governor of Texas on May 15, 1961, of Chapter 126, Acts of the Fifty-seventh Legislature, Regular Session, 1961,¹ where the Commissioners Court of a county or the governing body of a city (including Home-Rule cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home-Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home-Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work and for professional or personal service rendered to the county, city or town, and each of these are hereby in all things validated, ratified, confirmed and approved and all such warrants shall be payable in accordance with their respective terms. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant or time warrant executed or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental Acts, orders, ordinances, resolutions and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home-Rule cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to refunding bonds for the purpose of refunding scrip or time warrants issued by any county or city (including Home-Rule cities) or town and all such warrants and all refunding bonds, heretofore issued for such purpose, and each of these are hereby in all things validated, ratified, approved and confirmed. Such refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued, irrespective of the fact that the Commissioners Court

or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental Acts, orders, resolutions or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental Acts, orders, ordinances, resolutions or other instruments, or bonds, the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. If any section, subsection, paragraph, sentence, clause, phrase or word in this Act, or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity.

Sec. 4. All actions heretofore taken by the Commissioners Court of any county in ordering the holding of an election for the selection of a mayor and aldermen of a city, town or village heretofore incorporated under the General Laws of the State of Texas, and all orders of such court in canvassing the returns and declaring the results of such elections are hereby in all things ratified and confirmed, and the persons so declared or found to have been elected by the said Court as the result of such election, and their successors in office, shall be and are hereby recognized as the governing body of such city, town or village irrespective of whether such municipal corporation was originally established or incorporated under the aldermanic or commission form of government.

[Acts 1963, 58th Leg., p. 959, ch. 384.]

¹ Article 2368a-7.

Art. 2368a-10. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. [Amends art. 2368a, § 2.]

Sec. 2. In every instance since the approval by the Governor of Texas of Chapter 384, Acts of the 58th Legislature, Regular Session, 1963,¹ where the Commissioners Court of a county or the governing body of a city (including Home-Rule cities) or town in this state has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home-Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or

professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home-Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. All proceedings, governmental acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home-Rule cities) or town, and of all officers and officials thereof authorizing the issuance, delivery of or in anywise pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including Home-Rule cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of three hundred fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1965, 59th Leg., p. 240, ch. 105, §§ 2, 3.]

¹ Article 2368a-9.

Art. 2368a-11. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. In every instance where the Commissioners Court of a county or the governing board of a city (including Home-Rule cities) or town in this

state has entered into contracts for, or has determined the advisability thereof by giving notice of intention to issue interest-bearing time warrants in payment therefor, the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home-Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home-Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work and for professional or personal services rendered to the county, city or town, and each of these are hereby in all things validated, ratified, confirmed and approved and all such warrants shall be payable in accordance with their respective terms. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant or time warrant executed or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home-Rule cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to refunding bonds for the purpose of refunding scrip or time warrants issued by any county or city (including Home-Rule cities) or town and all such warrants and all refunding bonds, heretofore issued for such purpose, and each of these are hereby in all things validated, ratified, approved and confirmed. Such refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued, irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or

issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, or bonds, the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1967, 60th Leg., p. 157, ch. 83, eff. April 27, 1967.]

Art. 2368a-12. Validation of Contracts, Warrants, Assessments, Acts and Proceedings, etc. of Certain Counties, Cities and Towns

Contracts for Construction, Etc., Scrip or Time Warrants Issued and Related Proceedings

Sec. 1. In every instance where the Commissioners Court of a county or the governing board of a city (including Home Rule cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work and for professional or personal services rendered to the county, city or town, and each of these are hereby in all things validated, ratified, confirmed and approved and all such warrants shall be payable in accordance with their respective terms. In all instances where such city or county has entered into contract with or paid the State of Texas for the construction of drainage improvements through the issuance and delivery of time warrants authorized for the purpose of acquiring and purchasing lands necessary for rights-of-way and to defray all expenses incidental thereto, and the governing body of such city or county has determined and found that the construction of drainage improvements for which the contract was entered or payment made was essential to the acquisition of rights-of-way for State or federal highways (which may or may not also be classed as city streets), all such contracts or payments and the delivery of time warrants therefor are hereby in all things validated,

ratified and confirmed as are such findings made by such governing body.

Proceedings, Governmental Acts, Orders, Etc., Authorizing Issuance of Refunding Bonds

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home Rule cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to refunding bonds for the purpose of refunding scrip or time warrants issued by any county or city (including Home Rule cities) or town and all such warrants and all refunding bonds, heretofore issued for such purpose, and each of these are hereby in all things validated, ratified, approved and confirmed.

Bond Elections and Proceedings

Sec. 3. In every instance where the governing body of a city (including Home Rule cities) or a town or a county has heretofore provided for the calling and holding of an election for the authorization of bonds or has authorized the issuance of refunding bonds to refund time warrants or other obligations, all such election proceedings and proceedings for the authorization of such bonds and refunding bonds are hereby in all things validated, ratified and confirmed.

Leases and Attempted Leases of Nursing Homes or Interests Therein by Counties

Sec. 4. In every instance where the County Court or Commissioners Court in any county of this State acting as such court has leased or attempted to lease a nursing home or an interest therein belonging to said county to any person, firm, or corporation, and where the County Court or Commissioners Court has made, executed, and delivered to any such person, firm, or corporation an instrument purporting to lease such nursing home, and where the lessee or his successors has enlarged or developed the facility, then all such leases or attempted leases are hereby validated, ratified, confirmed, and approved.

Form of Government Change by Cities of 950 to 1,100

Sec. 4a. The adoption of an ordinance to change the form of government of a general law city with a population between 950 and 1,100 from commission to aldermanic is hereby in all respects validated as of the date of such proceedings.

Acquisitions of Property by Counties and Conveyances to University of Texas

Sec. 5. All actions of a Commissioners Court of any county in this State in acquiring property and the subsequent conveyance of such property by deeds of record in any county in this State to the Board of Regents of The University of Texas, as trustees, for the use and benefit of The University

of Texas are hereby ratified and confirmed and in all things approved.

Assessments by Cities for Street or Highway Improvements and Liens and Liabilities Thereby Created

Sec. 6. All assessments and reassessments for street or highway improvements and the liens and liabilities created thereby heretofore levied or purported to be levied by any and all cities in the State against properties abutting their streets or highways and against the owners of such properties, and all proceedings of the governing bodies of such cities levying or purporting to levy such assessments or reassessments are in all respects validated and shall have the force and effect provided by the provisions of Chapter 106 of the 40th Legislature, 1st Called Session, 1927, as amended,¹ except that nothing herein shall be construed to validate or to legalize any assessment lien levied or attempted to be levied against any property or interest in property exempt at the time the improvements were ordered from the lien of special assessment for street improvements.

¹ Article 1105b.

Assignable Certificates of Special Assessment

Sec. 7. All assignable certificates of special assessment issued in evidence of such assessments or reassessments are hereby validated according to their terms. Any city which has not yet issued assignable certificates of special assessment to evidence such assessments may issue same and such certificates shall be valid and legal.

Assessments for Street Improvements Subject to Pending Litigation; Exception

Sec. 8. This Act is not intended to validate, nor does it apply to any assessments or reassessments for street improvements, which are the subject matter of any litigation pending on the effective date of this Act, in any court of competent jurisdiction in this State in which the validity thereof is being challenged, if such litigation is ultimately determined against the validity of same.

Proceedings, Governmental Acts, Orders, Resolutions and Bonds of Counties in Excess of 350,000 or Subject to Litigation; Inapplicability

Sec. 9. This Act shall neither apply to nor validate, ratify or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of three hundred fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, or bonds, the validity of which is directly involved as a party in litigation at the time this Act becomes effective.

[Acts 1971, 62nd Leg., p. 2564, ch. 841, eff. June 9, 1971.]

Section 10 of the 1971 Act provides:

"If any section, subsection, paragraph, sentence, clause, phrase or word in this Act, or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

Art. 2368a-13. Validation of Time Warrants in Counties of Less than 1,000,000

Sec. 1. The governmental acts and proceedings performed by the commissioners court of any county with a population of less than 1,000,000, according to the most recent federal census, in authorizing the issuance of time warrants are validated in all respects as of the date of the act or proceeding if the time warrants were issued after August 1, 1976. Time warrants issued in connection with the proceedings are validated according to their terms and as of the date they were issued. The acts, proceedings, or time warrants issued in connection with them may not be held invalid because they were not performed in accordance with law.

Sec. 2. This Act does not apply to any matter involved in litigation on the date this Act takes effect if the litigation ultimately results against the legality of the matter. This Act does not apply to any matter that has been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1977, 65th Leg., p. 2010, ch. 803, eff. Aug. 29, 1977.]

Art. 2368b. Validating Notes, Bonds and Warrant Issues in Certain Cities

Sec. 1. All findings and funding and refunding notes, bonds, warrants, time warrants and treasury warrants heretofore issued or authorized to be issued and attempted to be issued by any and all cities in the State, whether or not incorporated under General or Special Laws, and any and all cities operating under charters adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, having a population in excess of One Hundred Seventy Five Thousand (175,000) according to the last preceding United States census, and which were heretofore issued, authorized to be issued, or attempted to be issued under authority of H.B.No. 312 of the Forty-second Legislature,¹ are in all respects validated.

Sec. 2. All orders of the governing bodies of such cities authorizing such issues of funding and refunding notes, bonds, warrants, time warrants and treasury warrants, or attempting to authorize the same, or any of the same, are in all respects validated.

Sec. 3. All orders of said governing bodies of said cities directing the levying and assessing of taxes to provide for the payment of interest and principal of such funding and refunding notes, bonds, warrants, time warrants and treasury warrants, as they respectively mature, are in all respects validated.

[Acts 1931, 42nd Leg., 1st C.S., p. 85, ch. 40.]

¹ Article 2368a.

Art. 2368b-1. Validating Notes, Taxes, etc. in Certain Counties

Sec. 1. All notes heretofore authorized to be issued and sold for cash, or attempted to be issued and sold for cash, by any county in the State whose Commissioners Court has by official determination declared that such cash is necessary and essential to the continued current operations of the county for its public purposes are in all respects hereby validated.

Sec. 2. All orders of the Commissioners Court of such counties authorizing such notes or attempting to authorize the same, or any of the same, and the sales and attempted sales thereof for cash for the par or principal amount thereof, plus accrued interest to the date of delivery thereof, if said date shall be other than the date of the notes, are in all respects hereby validated.

Sec. 3. All orders of said Commissioners Courts of said counties levying and directing the levying and assessing of taxes to provide for the payment of the interest on and principal of such notes, as they respectively mature, are in all respects hereby validated.

Sec. 4. The sale of all notes validated by this Act may be consummated by the delivery thereof to and the payment therefor by the purchasers and the same may be refunded into bonds at any time after the effective date of this Act upon proper authorization thereof by duly adopted bond order of the Commissioners Court of any such county in any manner now permitted by law with respect to the refunding of other indebtedness of any such county.

Sec. 5. This Act shall not be applicable to any county having an excess of 350,000 population according to the latest preceding federal census.

Sec. 6. This Act is not intended to validate nor does it apply to any notes which are on the effective date hereof the subject matter of any litigation pending in any court in this State in which the validity thereof is being challenged.

[Acts 1971, 62nd Leg., p. 2863, ch. 941, eff. June 15, 1971.]

Art. 2368c. Validating Proceedings as to Funding Warrants and Bonds in Cities of 11,000 and Not Less Than 10,500

All acts and proceedings of governing bodies of cities containing a population of not more than eleven thousand (11,000) nor less than ten thousand, five hundred (10,500), according to the last preceding Federal Census, in connection with the issuance of funding warrants and funding bonds heretofore authorized or attempted to be authorized, or heretofore issued or attempted to be issued, under the provisions of Chapter 163, Acts Forty-second Legislature, Regular Session,¹ are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any such city was omitted shall in no wise invalidate such warrants or bonds. Provided that this Act shall not apply to any

city whose bonds or warrants are the subject matter of litigation.

[Acts 1935, 44th Leg., p. 482, ch. 196, § 1.]

¹ Article 2368a.

Art. 2368d. Validation of Funding and Refunding Securities Issued by Commissioners' Court or Cities and Towns

All actions heretofore taken by Commissioners' Courts and by the governing bodies of Cities and Towns in the authorization, execution, issuance and delivery of such funding and refunding bonds and such funding and refunding warrants, in attempted compliance with the provisions of Chapter 163, Acts of the Regular Session of the Forty-second Legislature¹ are hereby validated and all such funding and refunding securities issued pursuant to such actions are hereby validated; provided, however, that such validation shall not affect or in any wise apply to the subject matter of any litigation pending at the time this Act becomes effective, until such litigation is determined, finally, favorably to its validity, or until such litigation has been dismissed.

[Acts 1937, 45th Leg., p. 179, ch. 95, § 2.]

¹ Article 2368a.

Art. 2368e. Validating Notices to Bidders on Certain County Projects and Time Warrants in Payment

Sec. 1. In each instance wherein a county has given notice to bidders for the construction, improvement, or repair of any public building in the county and notice of intention to issue time warrants in which notice the maximum amount of time warrants stated does not exceed Sixty Thousand Dollars (\$60,000), in payment for all or a part of the cost of such work, and such notice was published in a newspaper of general circulation in said county fourteen (14) days or more prior to the date therein set for receiving bids, and the second publication thereof is had before or after the effective date of this Act, and before the date set for receiving bids, such notice is hereby validated and declared to be legal and sufficient notice, notwithstanding the fact that such notice was not published for two (2) consecutive weeks, and the Commissioners Court is authorized to proceed with the making of a contract pursuant to such notice and the issuance of time warrants in payment therefor. Contracts made, and time warrants authorized in payment therefor, pursuant to such notice and prior to the effective date of this Act, are hereby validated.

Sec. 2. Provided that this Act shall not validate any warrants issued as herein described, the validity of which is attacked in any court of competent jurisdiction by suit pending therein at the time or within fifteen (15) days of the time this Act becomes effective.

[Acts 1941, 47th Leg., p. 37, ch. 24. Amended by Acts 1941, 47th Leg., p. 125, ch. 97, § 1.]

Art. 2368f. Time Warrants; Issuance in Counties With 300,000 Population

Sec. 1. In all counties having a population in excess of three hundred thousand (300,000) inhabitants according to the last preceding or any future Federal Census, the Commissioners Court shall have no authority or power to issue time warrants until and unless the same have been authorized by a majority vote of the qualified electors who own taxable property in the county and have duly rendered the same for taxation voting at an election therefor, such election to be held under the authority of and in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of Texas of 1925.¹ Provided, that in case of public calamity caused by fire, flood, storm, or to protect the public health, or in case of unforeseen damage to public property, machinery, or equipment, the Commissioners Court may issue such time warrants in the aggregate amount of not exceeding Fifty Thousand Dollars (\$50,000) during any one calendar year as are necessary to provide for the immediate repair, preservation or protection of public property, and the lives and health of the citizens of the county without the necessity of such election.

Sec. 2. This Act shall not be construed to apply to time warrants of such counties issued or authorized to be issued prior to the effective date of this Act.

[Acts 1949, 51st Leg., p. 67, ch. 36.]

¹ Article 701 et seq.

Saved From Repeal

Section 3 of Acts 1949, 51st Leg., p. 1098, ch. 560, provides:

"All General and Special Laws in conflict herewith, except House Bill No. 106 enacted by the 51st Legislature, Regular Session, 1949 [this article], are by this Act expressly repealed; provided, however, that this Act shall not limit or affect the authority granted by Section 5 and Section 6 of Chapter 163, Acts of the 42nd Legislature of Texas, Regular Session, 1931 [art. 2368a], in the making of expenditures and the issuance of warrants as therein provided, except as such Section 5 and Section 6 are limited by House Bill No. 106, enacted by the 51st Legislature, Regular Session, 1949."

Art. 2369. Commissioners May Repeal Order

The commissioners court may, by order entered of record after contracts have been in force for the specified time in such contract, repeal said order.

[Acts 1925, S.B. 84.]

Art. 2370. Buildings, etc. Other Than Courthouse for Courts and Public Business; Leasing Part; Income; Bonds or Other Evidence of Indebtedness

Sec. 1. The Commissioners Court of any county may, when necessary, provide buildings, rooms, or apartments at the county seat, other than the courthouse, for holding the sessions of the County Courts, District Courts, and for carrying on such other public business as may be authorized by the Commissioners Court, and may lease or rent such part of any such buildings, rooms, or apartments as may not be necessary for public use.

Sec. 2. Whenever any county in this State may have acquired a building (other than the courthouse) at the county seat which is used partly for public business and which is partly rented for private purposes, where such building was acquired by such county in settlement of an obligation owed to the county, and the Commissioners Court of such county desires to enlarge, remodel, renovate, add onto, repair, improve, or otherwise alter such building, and funds are not available for such purpose, the Commissioners Court of such county shall have the power to issue negotiable bonds, notes, warrants, or other evidences of indebtedness to secure funds for such purpose and to pledge, assign, encumber, and hypothecate the net income and revenues from the portion of such building which the Commissioners Court finds is not then and will not thereafter be necessary for public purposes. No such obligation so issued shall ever be a debt of such county but shall be solely a charge upon the income and revenue so encumbered and no such obligation shall ever be counted in determining the power of any such county to issue any bonds for any purpose authorized by law.

Sec. 3. No part of the income or revenue of any such building shall ever be used to pay any other debt, expense, or obligation of such county until the indebtedness so secured shall have been finally paid; provided that the expense of operation and maintenance including all salaries, labor, materials, interest, improvements, repairs, and extensions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such income and revenue and only such repairs and extensions as in the judgment of the Commissioners Court are necessary to keep the building in operation and render adequate service, or such as might be necessary to meet some physical accident or condition which would otherwise impair the original security, shall be a lien prior to the lien herein provided for.

There shall be charged and collected as rental for those parts of such building not used for public purposes, a sufficient amount to pay all operating, maintenance, depreciation, replacement, betterment, and interest charges, and expenses, and to create an interest and sinking fund sufficient to pay any securities issued hereunder.

Sec. 4. Each contract bond, warrant, note, or other evidence of indebtedness issued pursuant to this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Where bonds are issued hereunder, they may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by counties. In such case, upon approval, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds. Projects financed in accordance with this law are hereby declared to be self-liquidating in character and supported by charge other than by taxation. Securities issued under the provisions hereof shall be subject to the applicable provisions of the Bond and Warrant Law of 1931 as amended (House Bill No. 312, Acts of 1931, Forty-second Legislature, page 269, Chapter 163, as amended)¹ except as same may be inconsistent herewith and under no circumstances shall any vote of the taxpayers be required upon any securities issued hereunder.

[Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 643, ch. 388.]

¹ Article 2368a.

Art. 2370a. Expired

This article, derived from Acts 1949, 51st Leg., p. 100, ch. 60, by its own terms terminated on September 1, 1951, and ceased to exist and was of no force and effect on March 28, 1951.

Art. 2370b. County Office, Courts and Jail Buildings; Construction, Improvement, etc.

Power to Acquire, Construct, Reconstruct, Remodel, Etc., Buildings

Sec. 1. Whenever the Commissioners Court of any county determines that the county courthouse is not adequate in size or facilities to properly house all county and district offices and all county and district courts and all justice of the peace courts for the precincts in which the courthouse is situated, and to adequately store all county records and equipment (including voting machines) and/or that the county jail is not adequate in size or facilities to properly confine prisoners and other persons who may be legally confined or detained in a county jail, the Commissioners Court may purchase, construct, reconstruct, remodel, improve and equip, or otherwise acquire an office building or buildings, or courts building or buildings, or jail building or buildings (in addition to the existing courthouse and/or jail), or an additional building or buildings in which any one or more of the county or district offices or county, district or justice of the peace courts, or the county jail or any other county facilities or functions may be housed, conducted and maintained; and may purchase and improve the necessary site or sites therefor, and may use such building or buildings for any or all of such purposes, provided that any such building or buildings so acquired shall be

located in the county seat, but provided that any regional jail facility built according to the provisions of Section 4(h), The Interlocal Cooperation Act, as amended (Article 4413(32c), Vernon's Texas Civil Statutes), may be located outside the county seat, and further provided that no justice of the peace court shall be housed, conducted or maintained in any such building if said building is located out of the boundaries of the precinct of such justice of the peace court.

Use of Buildings

Sec. 2. Such building or buildings, when purchased, constructed or otherwise acquired and equipped may also be used for the purpose of carrying on such other public business as may be authorized by the Commissioners Court, and/or the Commissioners Court may also lease or rent any part or parts of any such building or buildings, (which may not be presently needed for any of the above purposes) to the State of Texas and any of its political subdivisions, and the Federal Government.

Bond Issue; Levy of Taxes

Sec. 3. To pay for the purchase, construction, reconstruction, remodeling, improvement and equipment of any such building or buildings and/or jail or jails, including the purchase and improvement of the site or sites therefor, the Commissioners Court is authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, which taxes shall be levied, pursuant to the authority of Article 8, Section 9 of the Constitution of the State of Texas, as amended, for permanent improvement fund purposes; and such bonds may mature serially or otherwise as may be determined by the Commissioners Court of the county, not exceeding forty (40) years from their date, and such bonds may contain such option or options or redemption or no option of redemption as may be determined by the Commissioners Court; and the issuance of such bonds and the levy and collection of such taxes shall otherwise be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas,¹ governing the issuance of bonds by cities, towns and/or counties in this State.

¹ Article 701 et seq.

Bond Elections; Propositions Submitted

Sec. 4. The Commissioners Court may submit at any bond election one proposition for the issuance of such bonds which proposition may include all the purposes authorized herein for which such bonds may be issued; or it may, at its option, submit at any bond election one or more separate propositions for the issuance of such bonds, each of which separate propositions may include any one or more of the purposes authorized herein for which such bonds may be issued.

Notices; Posting

Sec. 5. The acquisition or use of any such building or buildings for any of the purposes herein authorized shall not alter, change or affect any requirement of any law to the effect that certain notices shall be posted at the courthouse door of the county; all notices which have heretofore been required to be posted at the courthouse door of the county shall be posted at the door of the main courthouse and nothing in this Act shall require that additional notices shall be posted at the door or doors of the building or of any of the buildings acquired or used pursuant to the authority herein granted.

Provisions Cumulative

Sec. 6. The provisions of this Act are in addition to all the powers given by, and are cumulative of, all other provisions of the Laws of the State of Texas on the same subject.

[Acts 1957, 55th Leg., p. 1386, ch. 476. Amended by Acts 1977, 65th Leg., p. 1619, ch. 634, § 1, eff. Aug. 29, 1977.]

Art. 2370b-1. Branch Courthouses; Counties of 54,000 to 56,000 or 30,000 to 31,000

Sec. 1. In counties which have a population of not less than 54,000 nor more than 56,000, or less than 30,000 nor more than 31,000, according to the last preceding federal census, the Commissioners Court may provide for, operate, and maintain one or more branch courthouses outside the county seat for any length of time the Commissioners Court considers necessary.

Sec. 2. (a) If the branch courthouse is maintained in a building which is owned by the county, the commissioners court shall operate and maintain the building in the same manner in which it operates and maintains the county courthouse. The commissioners court shall have care and custody of the building and may place any limitations on the use and maintenance of the building which it finds necessary.

(b) If the commissioners court does not wish to construct a building or purchase office space for the branch courthouse, the commissioners may rent or lease a sufficient amount of office space for the branch courthouse.

Sec. 3. After the commissioners court has authorized the creation of a branch courthouse, any office, department, facility, court, or other agency of the county may open branch offices in the branch courthouse with the approval of the commissioners court.

Sec. 4. Expenses incurred by the county in operating and maintaining the branch courthouse shall

be paid from county funds used to maintain and operate other county buildings.

[Acts 1969, 61st Leg., p. 2704, ch. 886, eff. June 21, 1969. Amended by Acts 1971, 62nd Leg., p. 1828, ch. 542, § 50, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 568, ch. 237, § 30, eff. Sept. 1, 1981.]

Art. 2370b-2. Auxiliary Courts in Counties of 1,200,000 or More

The commissioners court in any county with a population of 1,200,000 or more according to the last preceding federal census may authorize specific geographic locations within the county other than the county courthouse as auxiliary courts for purposes of conducting nonjury proceedings and may designate those locations as auxiliary county seats for such purposes.

[Acts 1977, 65th Leg., p. 1203, ch. 465, § 1, eff. Aug. 29, 1977.]

Art. 2370b-3. Office Buildings or Jails Outside County Seat

Sec. 1. The commissioners court of any county may provide one or more office buildings or jail facilities at any place in the county outside the county seat in the same manner as the commissioners court may provide for these facilities at the county seat. The commissioners court may provide office space in a building provided under this Act for any county or precinct office, except courts required by law to sit at the county seat. Each county officer shall maintain an office at the county seat in which the officer shall keep all original records of the office.

Sec. 2. The office building or jail may be provided for by the issuance of bonds, as is provided by Chapters 1 and 2, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ or by the issuance of other evidences of indebtedness, in the same manner as bonds or evidences of indebtedness for courthouses and jails at county seats.

Sec. 3. The authority granted by this Act is in addition to that provided by other laws.

[Acts 1979, 66th Leg., p. 28, ch. 18, eff. Sept. 1, 1979.]

¹ Articles 701 et seq. and 718 et seq.

Art. 2370c. Counties of Over 900,000; County Workhouses and Farms**Bond Issue; Tax Levy; Election; Notice; Execution, Approval and Registration of Bonds**

Sec. 1. The Commissioners Court of any county in this State having a population in excess of nine hundred thousand (900,000) inhabitants according to the last preceding Federal Census is hereby authorized from time to time to issue the negotiable bonds of said county and levy taxes in payment thereof for the purpose of acquiring, constructing and equipping county workhouses and county farms to be used for the confinement of prisoners of the county or for the purpose of utilizing the labor of

such prisoners (either or both), including the acquisition or purchase of sites therefor. Such taxes shall be from the Constitutional Permanent Improvement Fund. Such bonds shall be issued and taxes in payment thereof shall be levied and collected in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ governing the issuance of bonds by cities, towns, and/or counties in this State, except as may be otherwise provided in this Act. Any and all bonds authorized to be issued by this Act may be submitted at the bond election in a single proposition. Notice of a bond election shall be given by publication of a notice containing a substantial copy of the election order on the same day in each of two (2) consecutive weeks in a newspaper of general circulation in the county, the first of which publications shall be at least fourteen (14) days prior to the election. No other notice of election shall be necessary. No bonds authorized by this Act (except refunding bonds) shall be issued unless more than a majority of the duly qualified resident electors of said county who own taxable property within said county and who have duly rendered the same for taxation, voting at the election, have voted in favor of the issuance of such bonds. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and such bonds may or may not contain option of prior redemption provisions as may be determined by the Commissioners Courts. Such bonds shall be executed in the manner as may be provided in the order authorizing their issuance. All such bonds (including refunding bonds), after the same have been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, shall be incontestable.

Refunding Bonds

Sec. 2. The Commissioners Court of any such county shall have the right at all times to issue refunding bonds for the purpose of refunding outstanding bonds (including the refunding of refunding bonds) issued under the provisions of this Act, subject to the General Laws applicable to the issuance of refunding bonds by counties and without the necessity of an election or of any notice or of any right to referendum vote. The provisions of Section 1 hereof relating to maturities of original bonds and their execution shall apply to refunding bonds issued hereunder.

Validation of Election Proceedings

Sec. 3. Any and all bonds heretofore authorized for the purposes mentioned in Section 1 hereof by a majority of the duly qualified resident electors of the county who owned taxable property within such county and who had duly rendered the same for taxation, voting at an election called and held for such purpose, and the election proceedings relating to such bonds, are hereby in all things validated; and the Commissioners Court may issue any such bonds in the manner herein provided. It is express-

ly provided, however, that the validation provisions of this Section 3 shall not apply to litigation pending upon the effective date of this Act.

[Acts 1963, 58th Leg., p. 548, ch. 204.]

¹ Article 701 et seq.

Art. 2370c-1. Counties of Over 900,000; Crime Detection Facilities; Certificates of Indebtedness

Sec. 1. The commissioners court of each county having a population in excess of 900,000, according to the most recent federal census, shall be authorized, for and on behalf of the county, to issue negotiable certificates of indebtedness for the purpose of acquiring, purchasing, constructing, repairing, renovating, improving, and/or equipping crime detection facilities, and acquiring any real or personal property in connection therewith, and to levy and pledge annual county ad valorem taxes under Article VIII, Section 9, of the Texas Constitution, sufficient to pay the principal of and interest on said certificates of indebtedness as the same come due. When any such certificates of indebtedness are issued, it shall be the duty of the commissioners court annually to levy the aforesaid taxes, and cause the same to be assessed and collected, in an amount sufficient to pay such principal and interest. Such certificates of indebtedness may be issued in one or more series or issues, shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the commissioners court. Said certificates of indebtedness, and any interest coupons appertaining thereto, shall be negotiable instruments, and they may be made redeemable prior to maturity, may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by the Commissioners Court in the order authorizing the issuance thereof. Such certificates of indebtedness shall be sold for not less than their par value and accrued interest to date of delivery. Such certificates of indebtedness may be issued by order of the commissioners court without the necessity of an election, but the aggregate principal amount of certificates of indebtedness issued pursuant to this Act shall not exceed \$1,500,000.

Sec. 2. All certificates of indebtedness issued pursuant to this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such certificates of indebtedness have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such certificates of indebtedness shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

Sec. 3. All certificates of indebtedness issued pursuant to this Act shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said certificates of indebtedness also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said certificates of indebtedness, when accompanied by any unmatured interest coupons appurtenant thereto.

Sec. 4. The commissioners court shall be authorized to operate and maintain the county's crime detection facilities and to fix and collect fees and charges for services performed and information furnished to others by the use of said facilities. The commissioners court shall pay the expenses of operation and maintenance of said facilities from such fees and charges and/or from any other available county funds.

[Acts 1969, 61st Leg., p. 176, ch. 73, eff. April 10, 1969.]

Art. 2370c-2. Criminal Justice Facilities in Certain Counties and Cities

Eligible Counties and Cities

Sec. 1. This Act shall apply to any county in this state and to any city in such county which city is not the county seat of such county but has a population of more than 17,500 according to the last preceding federal census.

Authorization

Sec. 2. Counties and cities to which this Act is applicable are hereby authorized jointly or severally to own, construct, equip, enlarge, and maintain a building or buildings in such city to constitute a criminal justice center providing facilities of a public nature with relation to or incidental in the administration of criminal justice, including, without limitation, accommodations for the handling, processing, and detention of prisoners, and offices for state, county, and city administrative and judicial officials, courtrooms, garages, and parking areas.

Contracts

Sec. 3. Such county and city shall have authority to specify by contract the purpose, terms, rights, objectives, duties, and responsibilities of each of the contracting parties, including the amount, or proportionate amount, of money to be contributed by each for land acquisition, building acquisition, construc-

tion, and equipment; the method or methods by which such moneys are to be provided; the account or accounts in which such money is to be deposited; the party which shall award construction or other contracts or that such contracts shall be awarded by action of both parties; and the manner in which disbursements shall be authorized. Such contract may further provide for the creation of an administrative agency or may designate one of the parties to supervise the accomplishment of the purposes of the contract and to operate and maintain the joint facilities, and any administrative agency so created or party so designated shall have authority to employ personnel and engage in other administrative activities as necessary in accomplishing the purposes of the contract and in operating and maintaining the joint facilities.

Methods of Meeting Costs

Sec. 4. The county and city contract may specify that moneys required of them in meeting the cost of providing the criminal justice center shall be derived from current income and funds on hand budgeted by them for such purpose, or through the authorization and issuance of bonds by either or both the county and city under the procedures prescribed for the issuance of general obligation bonds for other public buildings and purposes, or by the issuance by either or both the county and the city of certificates of obligation under the provisions of Article 2368a-1,¹ Vernon's Texas Civil Statutes, or by a combination of those methods. In lieu of or in combination with the employment of taxing power in the payment of such bonds or certificates of obligation, same may be payable from and secured by income derived from the criminal justice center facilities, including that from leases and from the proceeds of parking or other fees. In the financing of the facilities herein authorized eligible counties and cities jointly or severally may accept grants, gratuities, advances, and loans from the United States, the State of Texas, or any of their agencies, any private or public corporation, or any other person.

Office Facilities

Sec. 5. As applicable to counties eligible to employ the provisions of this Act, any county officer, in addition to the office he maintains at the county seat, may maintain office facilities in the herein authorized criminal justice center notwithstanding provisions of Article 1605, Revised Civil Statutes of Texas, 1925, as amended, or any other law limiting the location of county offices to the county seat of their respective counties.

[Acts 1975, 64th Leg., p. 1966, ch. 650, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 756, ch. 285, § 1, eff. Aug. 29, 1977.]

¹ So in enrolled bill; probably should read "2368a.1".

Art. 2370c-3. Justice Centers Located on State Line

Definitions

Sec. 1. In this Act:

(1) "Law" means a statute of a state, a written opinion of a court of record, a municipal ordinance, an order of a county commissioners court, or a rule authorized by and lawfully adopted pursuant to a statute.

(2) "Municipality" means an incorporated city or town.

Authorization for Contract

Sec. 2. (a) A county in this state and a municipality in that county, both located on the state line, may contract with an adjoining county and any municipality in that county located on the other side of the state line for the joint construction, financing, operation, and management of a justice center to be located on the state line. The contracting municipality in this state need not be the county seat of the contracting county in this state. The county and municipality in this state may contract for the center to contain:

(1) courtrooms and office space needed by municipal, justice, county, district, and appellate courts;

(2) jail, lockup, and other detention facilities;

(3) federal, county, precinct, and municipal offices for prosecuting attorneys and other personnel as needed;

(4) adult or juvenile probation offices;

(5) any other offices that either county or municipality is separately authorized or required to operate or provide; or

(6) parking space, dining areas, and other facilities incidental to operation of the center.

(b) A court of civil appeals or a district, county, justice, or municipal court having jurisdiction in the county or municipality in which a part of the center is located may maintain offices and courtrooms and hold proceedings at the center, except that no justice court other than the justice court for the precinct in which the part of the center in this state is located may maintain an office and courtroom in the center.

(c) A court of this state may not hold proceedings in the part of the center located in the other state. Courts of the other state may hold proceedings in the part of the center in this state.

Financing

Sec. 3. The governing body of a Texas municipality or Texas county contracting as provided by Section 1 of this Act may finance its share of the construction, financing, operation, or management of the center by any means that it could finance the type of facilities in the center to be used or provided

by it. The contract may take advantage of the availability of federal funds to finance any part of the center.

Management of Center

Sec. 4. The contracting parties may specify in the contract the manner of determining the persons responsible for:

(1) the operation, alteration, maintenance, cleaning, and repair of the facilities;

(2) the employment of center personnel;

(3) the purchase of materials, supplies, tools, and other equipment to be jointly used by offices provided or used by the contracting parties;

(4) preparing reports to the governing bodies of the contracting parties;

(5) joint record-keeping, communications, or dispatch systems; and

(6) the performance of any other powers or duties relating to operation of the center.

Personnel

Sec. 5. The contracting parties may provide in the contract the manner of determining the personnel policies and employment benefit programs for center personnel.

Jail Management

Sec. 6. The contract must provide that the sheriffs of the two counties are jointly responsible for operation of any jail, lockup, or other detention facility in the center and the custody, care, and treatment of persons in custody in the facility or must provide for the hiring of a jailer with those responsibilities.

Law Applicable to the Center

Sec. 7. (a) Except as otherwise provided by this Act, the law of both states regarding rights, duties, liabilities, privileges, and immunities arising from conduct applies to conduct in any part of the center. If, however, it is impossible for a person to conform his or her conduct in the center to the law of both states, that person may choose which state's law governs that conduct. If a person chooses to conform his or her conduct in the center to the law of the other state, the conflicting law of this state does not apply to that conduct.

(b) The physical plant of the center and equipment and facilities used by personnel of both states employed at the center are constructively present in both states.

(c) Except as provided by Subsection (d) of this section, property in any part of the center that is owned by or in the possession of a person in custody or summoned to appear in the center is constructively present in the state under the law of which the person was taken into custody or summoned to appear.

(d) Possession of property that constitutes an offense committed in the center is conduct to which Subsection (a) of this section applies. A person's exercise of a duty in regard to property in the center is conduct to which Subsection (a) of this section applies.

(e) Property that is ordered by a court to be produced in the center or that is in the possession of a peace officer or a party to a proceeding for use as evidence before a court holding a proceeding in the center is constructively present in the state of the court.

(f) Property in the center that is not covered by Subsection (c), (d), or (e) of this section is constructively present in both states.

(g) The law of a state in which property is constructively present applies to that property to the same extent that that law would apply if the property were actually present in that state. If property is constructively present in only one state, the law of the state in which the property is not constructively present may be applied to that property only to the extent that that law would apply if the property were actually outside that state.

(h) Except as otherwise provided by this Act, the courts of both states have concurrent jurisdiction over the geographic area of both states in the center, but the state in which a prosecution is first instituted for an offense committed in the center retains jurisdiction to apply that state's law to the exclusion of the other state's jurisdiction, unless the prosecution is terminated without jeopardy attaching under the law of the state of the first prosecution. For the purposes of this Act, a prosecution is commenced in this state on the filing of an indictment, information, or complaint, and the attachment of jeopardy in this state is determined by Article 27.05, Code of Criminal Procedure, 1965, as amended.

Arrest, Extradition, and Service of Process

Sec. 8. (a) A person who is in the center in the custody of a peace officer or center personnel under Texas law:

(1) is constructively present in Texas while that person is in custody in the part of the center in the other state;

(2) may be prosecuted for an offense against Texas law without extradition of that person; and

(3) may be personally served in any part of the center for a proceeding in Texas.

(b) A person who is in the center in the custody of a peace officer or center personnel under the law of the other state:

(1) is constructively present in the other state while that person is in custody in the part of the center in Texas;

(2) may not be prosecuted for an offense against Texas law without extradition of that person; and

(3) may not be personally served with process in any part of the center for a proceeding in Texas.

(c) Texas agrees that a person who is in the center in the custody of a peace officer or center personnel under the law of the other state may be prosecuted for an offense against the law of the other state without extradition of that person. Texas agrees that a person who is in the center in the custody of a peace officer or center personnel under the law of the other state may be personally served with process in any part of the center for a proceeding in the other state.

(d) Center personnel or a peace officer of either state may transfer across the state line in the center a person in custody in the center under the law of either state and may exercise control over that person on both sides of the state line in the center.

(e) A person in the center who has not been confined in the center, taken to the center under arrest, or summoned to appear in the center may be arrested in any part of the center for an offense against the law of either state without extradition of that person. Extradition of a person who was arrested in the center under those circumstances is not required in order to prosecute the person for an offense against the law of either state if the person is physically present in any part of the center or the state of the prosecution at the time of the prosecution.

(f) A person who is summoned to appear in the center under Texas law:

(1) is constructively present in Texas while that person is appearing under the summons in the part of the center in the other state;

(2) without extradition, may be arrested in any part of the center for an offense against Texas law and prosecuted for that offense if that person is physically present in any part of the center or Texas at the time of the prosecution; and

(3) may be personally served with process in any part of the center for a proceeding in Texas.

(g) A person who is summoned to appear in the center under the law of the other state:

(1) is constructively present in the other state while that person is appearing under the summons in the part of the center in Texas;

(2) without extradition, may not be arrested under Texas law in any part of the center for an offense against Texas law; and

(3) may not be personally served with process in any part of the center for a proceeding in Texas.

(h) Texas agrees that a person who is summoned to appear in the center under the law of the other state may be arrested in any part of the center for an offense against the law of the other state and prosecuted for that offense without extradition if that person is physically present in any part of the

center or the other state at the time of the prosecution. Texas agrees that a person who is summoned to appear in the center under the law of the other state may be personally served with process in any part of the center for a proceeding in the other state.

(i) If a person in the center is constructively present in one state under this section, the law of the state in which the person is not constructively present may be applied to that person only to the extent that that law would apply if the person were actually outside that state. However, the law applicable to that person's conduct in the center is governed by Section 7 of this Act, and whether extradition is required to arrest or prosecute that person for an offense committed in the center is governed by Section 8 of this Act.

(j) If the other state enacts legislation as provided in Section 9 of this Act, a peace officer of Texas may:

(1) arrest a person under Texas law in the part of the center in the other state for an offense against Texas law if that peace officer would be authorized to make that arrest in the part of the center in Texas; and

(2) arrest a person under the law of the other state in any part of the center for an offense against the law of the other state if a peace officer of the other state would be authorized to make that arrest in the part of the center in the other state.

(k) Texas agrees that a peace officer of the other state may arrest a person under Texas law in any part of the center for an offense against Texas law if a peace officer of Texas would be authorized to make that arrest in the part of the center in Texas.

(l) Texas agrees that a peace officer of the other state may arrest a person under the law of the other state in the part of the center in Texas for an offense against the law of the other state if that peace officer would be authorized to make that arrest in the part of the center in the other state.

(m) Notwithstanding Sections 3 and 6, Article 51-13, Code of Criminal Procedure, 1965, the governor of this state may recognize a demand for the extradition of a person charged with crime in the other state if the demand alleges that any element of the offense occurred in any part of the center.

Other State's Legislation

Sec. 9. A county and a municipality in this state may contract with a county and a municipality in an adjoining state as provided by Sections 2 and 3 of this Act only if the other state enacts legislation relating to the establishment of a justice center pursuant to a contract as provided in those sections that:

(1) provides for joint responsibility of the sheriffs of the two counties over the operation of a jail, lockup, or other detention facility in the center and

persons in custody in the facility, or the hiring of a jailer with those responsibilities;

(2) provides for the application and enforcement of the law of both states in the manner provided by Section 7 of this Act;

(3) provides that a person in custody in the center under Texas law may be prosecuted for an offense against Texas law without extradition of that person, as provided by Section 8 of this Act;

(4) provides that a person in custody in the center under Texas law may not be prosecuted for an offense against the law of the other state without extradition of that person or personally served with process in the center for a proceeding in the other state;

(5) provides that a person summoned to appear in the center under Texas law may not be personally served with process in any part of the center for a proceeding in the other state and may be arrested in any part of the center for an offense against Texas law and prosecuted for that offense without extradition of the person if the person is physically present in any part of the center or Texas at the time of the prosecution, as provided by Section 8 of this Act;

(6) provides that a person summoned to appear in the center under Texas law may not be arrested in any part of the center for an offense against the law of the other state;

(7) provides that center personnel or a peace officer of either state may transfer across the state line in the center a person in custody in the center under the law of either state and may exercise control over that person on both sides of the state line in the center, as provided by Section 8 of this Act;

(8) provides that a person in the center who is not confined in the center, taken to the center under arrest, or summoned to appear in the center may be arrested in any part of the center for an offense against the laws of either state without extradition of that person, and that extradition of a person who was arrested in the center under those circumstances is not required in order for the person to be prosecuted for an offense against the law of either state if the person is physically present in any part of the center or the state of the prosecution at the time of the prosecution, as provided by Section 8 of this Act;

(9) authorizes a peace officer of either state, under Texas law, to arrest a person in any part of the center for an offense against Texas law if a peace officer of Texas would be authorized to make that arrest in the part of the center in Texas, as provided by Section 8 of this Act; and

(10) authorizes a peace officer of either state, under the law of the other state, to arrest a person in any part of the center for an offense against the law of the other state if a peace officer of the other state would be authorized to make that arrest in the

part of the center in the other state, as provided by Section 8 of this Act.

[Acts 1979, 66th Leg., p. 1878, ch. 760, eff. Aug. 27, 1979.]

Art. 2370d. Counties With City of Over 275,000 Population; Public Health Administration Buildings

Application of Act

Sec. 1. This Act shall apply to any county containing a city which, according to the then latest United States Census, has a population in excess of 275,000.

Validation of Actions for Election and Bond Issue

Sec. 2. All actions heretofore taken by the Commissioners Court of any county mentioned in Section 1 hereof in ordering an election for the issuance of bonds for the purpose of erecting public health administration buildings and acquiring sites and equipment therefor, and all elections held pursuant to any such action and all such bonds heretofore voted or attempted to be voted and which have not been issued and sold are hereby in all things validated, and any such county may proceed with the issuance and sale of such bonds. Provided, however, this Act shall not affect any suit pending in any court of this state prior to the effective date hereof.

Issuance of Bonds; Erection of Public Health Administration Buildings; Repairs

Sec. 3. Any county whose bonds are validated by Section 2 of this Act is hereby authorized to proceed with the issuance of such bonds and to erect and maintain such public health administration buildings and to acquire sites and equipment therefor, and to expand and repair such buildings, acting either alone or jointly with any city contained in such county and to issue the county's general obligation bonds for such purpose. Such bonds shall be authorized in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of the State of Texas (1925), as amended,¹ relating to county bonds. Provided, when a city and a county jointly erect such buildings, they shall share in the cost in such manner as may be agreed upon and as authorized by orders or ordinances to be passed by the respective governing bodies. Such buildings may be jointly occupied and utilized by any such county and city and such county and city shall be vested with an undivided interest in any such buildings in accordance with any agreements reached by such county and city as authorized by orders or ordinances passed by the respective governing bodies. Provided, such buildings shall not be used for hospital purposes but may be used for any other purpose which will contribute to the health of the inhabitants of such county and city.

Partial Invalidity

Sec. 4. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

[Acts 1965, 59th Leg., p. 237, ch. 103, eff. April 27, 1965.]

¹ Article 701 et seq.

Art. 2370e. Sale and Lease Back of Land, Buildings, Equipment, etc., in Counties Over 500,000

Sec. 1. The commissioners court of any county in this state having a population in excess of 500,000 inhabitants according to the last preceding federal census is hereby authorized to sell land, buildings, facilities or equipment for the purpose of entering into contracts, to lease or to rent buildings, land, facilities, equipment or services from others for county purposes and to pay the regular monthly utility bills for such land, buildings, facilities, equipment, or services so contracted, leased, or rented, such as electricity, gas, and water; and when in the opinion of a majority of the commissioners court of a county such facilities and equipment are essential to the proper administration of such agencies of the county, said court is hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices out of the county's general fund by warrant as in the payment of other obligations of the county.

Sec. 2. Provided that all construction projects originated or initiated under the term of this Act, shall be let by contract, which contract shall contain the prevailing wage for all mechanics, laborers and persons employed in the construction of such project. The commissioners court of Tarrant County shall determine and set the prevailing wage, which shall be the same prevailing wage set by the commissioners court of Tarrant County on all construction projects involving the expenditure of county funds.

Sec. 3. All actions, proceedings, orders and contracts for such sale, rental, lease, or utility bills for such purposes as stated in Section 1 hereof, made and entered into by any commissioners court of this state, pursuant to which such service has been rendered, are hereby validated, confirmed, and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Sec. 4. Provided further that upon or prior to the expiration of the number of terms of years as set forth in any such contract, and when in the opinion of a majority of the commissioners court of such county the stated price is a reasonable price within the judgment of a majority of said court, such facilities may be purchased and become the

property of said county and be paid for out of the general fund.

[Acts 1969, 61st Leg., 2nd C.S., p. 63, ch. 12, eff. Dec. 9, 1969.]

Art. 2371. Rest Room for Women

The Commissioners Court in each county in this State may maintain a rest room for women in the courthouse, or if for any reason a suitable rest room cannot be had in the courthouse, they may maintain a rest room at some convenient place near the courthouse. The rest room may be comfortably furnished with lounge, chairs, mirror, lavatory, tables, and such other furnishings as may be needed to make the room attractive and comfortable for women who may be in attendance on the Court or who may for other reasons be in town.

The Commissioners Court may assist the business and professional men, the various women's clubs, and other organizations in paying the salary of a matron for the rest room; providing the Commissioners Court shall appoint such matron; providing that the expense of maintaining the rest room shall not exceed One Hundred Dollars (\$100) per month, including the compensation paid by the county to the matron.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 555, ch. 275, § 1; Acts 1937, 45th Leg., 1st C.S., p. 1811, ch. 32, § 1; Acts 1951, 52nd Leg., p. 963, ch. 400, § 1.]

Art. 2372. Interpreters

(a) The commissioners court of each county may fix the amount of compensation for interpreters employed by the various courts within the county. The compensation for interpreters shall be paid out of the general fund of the county on warrants issued by the court or the clerk of the court in favor of the person rendering the service.

(b) The provisions of this Article do not apply to interpreters for deaf or deaf-mute persons employed under Chapter 105, Acts of the 60th Legislature, Regular Session, 1967 (Article 3712a, Vernon's Texas Civil Statutes), or Article 38.31, Code of Criminal Procedure, 1965.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 201, ch. 106, § 1; Acts 1973, 63rd Leg., p. 355, ch. 153, § 1, eff. May 23, 1973.]

Art. 2372a. Repealed by Acts 1931, 42nd Leg., Spec.L., p. 1, ch. 1, § 1

Art. 2372a-1. Compensation of Interpreters

The Commissioners Court of each county in this State having a population in excess of five hundred thousand (500,000) inhabitants according to the last preceding Federal Census is hereby authorized to pay for the services of interpreters employed by the various courts within their respective counties a sum not to exceed Ten (\$10.00) Dollars per day, which is to be paid out of the General Funds of the county upon warrants issued by the respective courts or clerks thereof in favor of the persons

rendering such services; provided, however, that such interpreter shall be paid only for the time he is actually employed.

[Acts 1953, 53rd Leg., p. 452, ch. 138, § 1.]

Art. 2372a-2. County Highway Patrolmen Authorized in Certain Counties

The Commissioners' Courts of Counties containing not less than eleven thousand nine hundred eighty (11,980) inhabitants, and not more than twelve thousand one hundred (12,100) inhabitants, according to the last preceding Federal Census shall from and after the passage of this Act be empowered to appoint not more than five (5) County Highway Patrolmen for such County, which appointment for Highway Patrolmen shall be limited to the Sheriff or any of his duly appointed Deputies, and any Constable or his duly appointed Deputies, whose duty it shall be to patrol all County Public Roads for the purpose of enforcing the Highway laws of this State, regulating the use of public Highways by motor vehicles. Said County Highway Patrolmen shall have authority to weigh all motor vehicles, if said officer has reasons to believe that the gross weight of any loaded motor vehicle is unlawful and said officer shall have the authority to require such motor vehicle to be driven to the nearest scale, provided however, that such scale is not more than two (2) miles distant and said officer shall have authority to cause said motor vehicle to be unloaded to the extent that the gross weight of such motor vehicle shall not exceed the maximum allowed under the laws of the State of Texas.

Said County Highway Patrolmen may as such be dismissed by said Commissioners' Courts on their own initiative, whenever their services are no longer needed or have proven unsatisfactory, and said County Highway Patrolmen shall as such, receive no compensation from the Commissioners' Court.

[Acts 1937, 45th Leg., p. 830, ch. 407, § 1.]

Art. 2372b. Employment of Dairying Specialists

The Commissioners' Court of Counties having not less than 72,900, and not more than 73,000 at the last regular Federal Census in 1920, shall be empowered to employ dairying specialists at a total salary not to exceed \$7,000.00 annually, said money to be paid out of the funds of said county.

[Acts 1929, 41st Leg., 1st C.S., p. 56, ch. 22, § 1.]

Saved From Repeal

Section 5B of Acts 1941, 47th Leg., p. 511, ch. 308, amending art. 165a-4, provides:

"This Act shall not in anywise repeal House Bill No. 13, Acts of the Forty-second Legislature, Regular Session [this article], but the same is hereby expressly preserved in accordance with terms thereof."

A similar provision was contained in section 17B of Acts 1939, 46th Leg., p. 7 (art. 165a-4), which was omitted in the 1941 amendment of the Act of 1939 as a whole.

Art. 2372c. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

Art. 2372d. County Horticultural and Agricultural Exhibits

Sec. 1. All counties in the State acting by and through their respective Commissioners' Courts may provide for annual exhibits of horticultural and agricultural products, livestock and mineral products, and such other products as are of interest to the community. In connection therewith, such counties may also establish and maintain museums, including the erection of the necessary buildings and other improvements, in their own counties or in any other county or city in the United States, where fairs or expositions are being held.

Sec. 2. The Commissioners' Courts of the respective counties or the Commissioners' Courts of several counties may cooperate with each other and participate with local interests in providing for the erection of such buildings and other improvements as may be necessary to accomplish the purpose mentioned in Section 1, of this Act and for the assembling, erecting, and maintaining of such horticultural and agricultural, livestock and mineral exhibits, and the expenses incident thereto.

Sec. 3. All incorporated cities, water improvement districts, and water control and improvement districts may cooperate with the Commissioners' Courts of such counties for the purposes stated in Section 1, and Section 2 of this Act and appropriate monies in providing for such exhibits, establishing and maintaining such museums, and in the erection of such buildings and improvements, and the assembling, erecting and maintaining of such horticultural, agricultural, livestock and mineral exhibits.

Sec. 4. Nothing herein contained shall be construed as repealing or modifying any of the provisions of Chapter 163, General Laws, Regular Session, Forty-second Legislature (known as House Bill 312),¹ nor as taking the provisions of this Act out of limitations of said Chapter 163.

[Acts 1934, 43rd Leg., 4th C.S., p. 52, ch. 20. Amended by Acts 1936, 44th Leg., 3rd C.S., p. 2103, ch. 507, § 1.]

¹ Article 2368a.

Art. 2372d-1. Validation of Warrants Issued to Construct Exhibition Buildings and Bonds Issued to Fund Such Warrants

Sec. 1. All warrants heretofore authorized and issued by the Commissioners Court of any County

for the purpose of constructing a livestock and agricultural exhibition building within said County, where such livestock and agricultural exhibition building has been constructed, are hereby validated notwithstanding any objections other than constitutional that might be raised thereto and are hereby declared to be the valid and legal obligations of such County in accordance with the terms and provisions thereof.

Sec. 2. All bonds heretofore authorized by the Commissioners Court of any County for the purpose of funding any such warrants described in Section 1 hereof are hereby validated notwithstanding any objections other than constitutional that might be raised thereto, and any such County is hereby authorized to complete proceedings for the delivery of such bonds and to deliver such bonds, when approved by the Attorney General and registered by the State Comptroller of Public Accounts, in exchange for and upon the simultaneous payment and cancellation of such warrants as hereinabove described in Section 1, and said funding bonds when so delivered are hereby declared to be and shall be the valid and legal obligations of said County in accordance with the terms and provisions thereof; provided, however, that the provisions of this Act shall not apply to any warrants or bonds or proceedings therefor, the validity of which is being contested in any suit or litigation pending at the time this Act becomes a law.

[Acts 1943, 48th Leg., p. 124, ch. 94.]

Art. 2372d-2. Buildings and Permanent Improvements for Annual Exhibits and for Coliseum and Auditorium

Sec. 1. The Commissioners Court of any county is hereby authorized to purchase, build, or construct buildings and other permanent improvements to be used for annual exhibits of horticultural and agricultural products, and/or livestock and mineral products of the county, and for a coliseum and auditorium. Such building or buildings and other permanent improvements may be located in the county at such place or places as the Commissioners Court may determine. Payment for such building or buildings and other permanent improvements shall be made from the Constitutional Permanent Improvement Fund.

Sec. 2. To pay for such building or buildings and other permanent improvements, the Commissioners Court is hereby authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, the issuance of such bonds and the levy and collection of taxes to be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas 1925,¹ governing the issuance of bonds by cities, towns, and/or counties in this State.

[Acts 1949, 51st Leg., p. 764, ch. 411. Amended by Acts 1959, 56th Leg., 3rd C.S., p. 380, ch. 5, § 1.]

¹ Article 701 et seq.

Art. 2372d-3. Leases and Contracts for Management, Conduct and Maintenance

Sec. 1. The Commissioners Court of any county of this State which has, or may hereafter provide for exhibits or the erection of buildings or improvements authorized by Acts 1936, Forty-fourth Legislature, Third Called Session, page 2103, Chapter 507,¹ or Acts 1949, Fifty-first Legislature, page 764, Chapter 411,² are authorized to enter into contracts with persons, firms, or corporations for complete management of, the conducting, maintenance, use, and operation of such exhibits, buildings and improvements on such terms as may be agreeable to the Court, and shall have the authority to lease such exhibits, buildings and improvements under such terms and agreements as may be satisfactory to the Commissioners Court and the lessee. The action of the Commissioners Court in making such agreements or leases shall be evidenced by order of the Commissioners Court recorded in the Minutes of the Court.

Sec. 2. The Commissioners Court shall have authority to permit the use of such exhibits, buildings or improvements for any useful public purpose which, in the opinion of the Court, will be of benefit to the county and its citizens.

Sec. 3. The Commissioners Court is authorized to determine and provide for the manner in which the net income and revenue derived from the conducting, use and operation of such exhibits, buildings, and improvements, or any projects incident thereto, shall be used and disbursed; provided, that such income and revenue may be used solely for the management, operation, maintenance, development, improvement and promotion of such exhibits, buildings and improvements or projects and purposes for which same are authorized to be used, and for any other proper public purpose.

[Acts 1951, 52nd Leg., p. 78, ch. 49.]

¹ Article 2372d.

² Article 2372d-2.

Art. 2372d-4. Parking Stations Near Coliseums and Auditoriums in Counties of 500,000 or More

Sec. 1. The commissioners court of any county which has a population in excess of 500,000 according to the most recent federal census and which has issued bonds for the purpose of constructing buildings and other permanent improvements to be used for coliseums and auditoriums within the county, upon finding that it is to the best interest of the county and its inhabitants, shall have the power to construct, enlarge, furnish, equip, and operate parking stations in the vicinity of such coliseums and auditoriums. Any said commissioners court is further authorized to lease said parking stations from time to time to such persons or corporations on such terms as the commissioners court shall deem appropriate.

Sec. 2. As used in this law, "parking station" means a lot or area or surface or subsurface structure for the parking of automotive vehicles, together with equipment used in connection with the maintenance and operation thereof, and the site therefor;

"Bond order" means the order authorizing the issuance of revenue bonds;

"Trust indenture" means the instrument of mortgage, deed of trust or other instrument pledging revenues, or in addition thereto, creating a mortgage or deed of trust lien on properties, or both, to secure the revenue bonds issued by the county;

"Trustee" means the trustee under a trust indenture.

Sec. 3. The commissioners court may issue negotiable revenue bonds to provide funds for the construction, enlargement, furnishing, or equipping said parking station. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation by the county of the parking station or may be payable from rentals received from leasing all or part of said parking station, or from both such net revenues and rentals, and any other revenues resulting from the ownership of the parking station.

Sec. 4. The bonds shall be authorized by bond order or trust indenture adopted or approved by a majority vote of a quorum of the commissioners court (without the prerequisite of an election) and shall be signed by the county judge, countersigned by the county clerk, and registered by the county treasurer. The seal of the commissioners court shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed 40 years and may be sold at a price and under terms determined by the commissioners court to be the most advantageous reasonably obtainable, provided that the interest cost to the county, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six percent per annum, and within the discretion of the commissioners court, may be made callable prior to maturity at such times and places as may be prescribed in the order authorizing the bonds.

Sec. 5. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the bond order or trust indenture. Parity bonds may be issued under conditions specified in the bond order or trust indenture.

Sec. 6. Money for the payment of interest on the bonds and an amount estimated by the commissioners court to be required for operating expenses until the parking station becomes sufficiently operative may be set aside out of the proceeds from the sale of the bonds. However, such amounts shall be set aside only in such amount as will cover interest and operating expenses for the estimated period of construction and the first two years of operation and shall be limited to the interest and to the

estimated operating expenses over and above earnings for such years.

Sec. 7. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied to the payment of outstanding bonds.

Sec. 8. Bonds issued under this Act and the record relating to their issuance shall be submitted to the Attorney General of Texas and if he finds that they have been issued in accordance with this law and constitute valid and binding special obligations of the county and are secured as recited therein he shall approve them, and they shall be registered by the Comptroller of Public Accounts of the State of Texas, who shall certify such registration thereon. Thereafter they shall be incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation."

Sec. 9. It shall be the duty of the commissioners court to charge sufficient rentals under any leases entered into pursuant hereto or rates for services rendered by the parking station if operated by the county and to utilize any other sources of its revenues so that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation, and upkeep of the parking station, to pay the principal of and interest on the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the bond order or trust indenture. The bond order or trust indenture may prescribe systems, methods, routines, and procedures under or in accordance with which the parking station shall be operated. No free use of the parking station or any part thereof shall be afforded to any person, firm, or corporation, and so long as any bonds issued under this Act are outstanding neither the county nor any of its agencies and departments shall make free use thereof, but the commissioners court is hereby authorized in behalf of the county to provide in any order authorizing such bonds or in any lease of the parking station for minimum periodic payments, from any resource of the county, into the bond interest and sinking fund or to the lessee as payment for use by the county and its agencies or departments, of any part of the parking station designated for use by the county or such agencies or departments.

[Acts 1967, 60th Leg., p. 856, ch. 364, eff. June 8, 1967.]

Art. 2372d-5. Museums; Joint Venture by County With City or Town

Sec. 1. In any county in this state having a population of not more than 20,000 and an incorporated city of not less than 10,000 in such county, according to the last federal census, such county acting through its commissioners court and the gov-

erning body of such city or town, may jointly erect, equip, maintain and operate a museum. The commissioners court of any such county and the governing board of any such city may, by resolution or proper action, confer upon, delegate to and grant to a board of managers as hereinafter provided, full and complete authority to erect, maintain, own, lease or sublet realty and equip a museum; and such board is authorized to receive in behalf of such county and city, gifts, bequests, to borrow and receive, exchange, sell and lend property for the benefit of such museum. Any gift or loan of property shall be administered as designated by the donor. Such joint county and city museum may be financed out of the general revenues of such city and county in such proportions as each shall see fit to contribute.

Sec. 2. The board of managers shall be composed of 9 members, four (4) of this number shall be appointed by the commissioners court of such county, four (4) shall be appointed by the governing body of such city or town, and one (1) shall be appointed by the commissioners court of such county and the governing body of such city or town acting jointly as one body. The commissioners court of such county and the governing body of such city or town shall each appoint one member for a term of office expiring at the end of one (1) year from date of appointment, one member for a term of office expiring two (2) years from date of appointment, one member for a term of three (3) years expiring from date of appointment and one for a term of four (4) years from date of appointment. Thereafter, at the expiration of each term of office of the members so appointed to such board the commissioners court or the governing body of such city or town, acting as appointive bodies, shall each reappoint members or make replacement appointments to board positions as filled by the respective body originally for a term of four (4) years each. The commissioners court and the governing board of such city or town, acting jointly as an appointive body, shall appoint one member for a term of office for four (4) years from date of appointment. Thereafter, at the expiration of each term of office of the member so appointed to such board the commissioners court and the governing body of such city or town acting jointly as an appointive body, shall make, and continue to make, similar appointments to such board for a term of four (4) years each. Any vacancy occurring by death or resignation from such board before expiration of the departing member's term shall be filled for the unexpired portion of such term by the body or bodies making such appointment.

Sec. 3. Such board of managers shall select a chairman or presiding officer from among their number who shall preside over all board meetings of said board, and shall sign all contracts, agreements and other instruments made by such board, on behalf of such county and city or town, and have authority to elect such other officers from their

body as they shall see fit. A majority of the board shall constitute a quorum with full power and authority to act.

Sec. 4. Such board shall have full and complete authority to enter into any contract connected with or incident to the establishment, equipping, maintaining and operating of such museum, and shall have authority to pay and dispense funds set aside by such county and city for purposes connected with operating and maintaining same as if such action were taken by the governing body of such county and city.

Sec. 5. Once each year such board shall prepare and present to this county and city governing bodies a complete financial statement as to the condition of said museum, and shall submit to such bodies a proposed budget as to the anticipated financial needs for the ensuing year. On the basis of such financial statement and budget the commissioners court and governing body of the city shall appropriate and set aside for the use of such board in the operation of such museum the amount of money which seems proper and necessary.

Sec. 6. The board of managers shall have authority to hire a superintendent or manager of such museum and such superintendent or manager shall have the right with the consent of the board to hire extra help, but at all times the superintendent or manager and extra help shall be subject to the bylaws, rules and regulations as prescribed by the board.

[Acts 1969, 61st Leg., p. 994, ch. 319, eff. May 19, 1969.]

Art. 2372d-6. Lease and Sale of Land for Hotel in Conjunction With County Convention Center in Counties Over 700,000

Lease of County Property

Sec. 1. The commissioners court of any county with a population of more than 700,000 according to the most recent federal census is authorized to lease real property owned by such county and the air rights above such real property owned by such county to private persons, corporations, or associations as provided in this Act.

Use of Leased Property

Sec. 2. The commissioners court is authorized to lease real property owned by the county, as well as the air rights above such property, to private persons, corporations, or associations for the construction, maintenance, and operation of a privately owned hotel and related facilities which are operated in conjunction with an existing convention center owned by the county.

Effect of Existing Bond Indentures

Sec. 3. The commissioners court may lease the real property and air rights thereto, as provided herein, notwithstanding that the real property

leased is presently encumbered by existing revenue bond indentures. In leasing the county-owned land or the air rights thereto, the commissioners court shall abide by all applicable terms and conditions of the existing revenue bond indentures, except such terms as are waived by the holders of the revenue bonds.

Creation of Encumbrance Prohibited

Sec. 4. No lease of county-owned land or air rights thereto hereunder shall in any way subject the county-owned land to a mortgage or encumbrance not heretofore existing and any lease executed hereunder shall specifically provide that such county-owned land shall not be deemed to be encumbered or mortgaged by any lease executed hereunder, or any agreement executed in connection with such lease.

Land May not be Mortgaged

Sec. 5. The county-owned land which may be leased hereunder shall not be in any way pledged or mortgaged (other than by existing revenue bond indentures or refunding or other release of existing revenue bond indentures), by any lease or agreement executed hereunder, and the county executing a lease hereunder shall not in any way lend its credit to any private corporation, association, or person in connection with a lease executed hereunder.

Duration of Lease

Sec. 6. Any lease entered into hereunder by the commissioners court is authorized to be initially for the term of any mortgage covering the construction of the hotel and related facilities and is authorized to provide an option to renew thereafter in the parties constructing, owning, or operating the hotel or related facilities for such term as the parties may mutually agree.

Lease Terms and Conditions

Sec. 7. Any lease hereunder of county-owned property or air rights thereto shall be leased upon a competitive bid and for a consideration of not less than the fair market lease value and may otherwise be upon such terms and conditions as the parties may mutually agree upon consistent with the constitution and laws of this state.

Sale of Property

Sec. 8. (a) Notwithstanding any other provisions of the law to the contrary, the commissioners court is specifically authorized to enter an agreement hereunder to provide for the sale of specified county-owned land to a private association, corporation, or individual once the following conditions have been fulfilled:

(1) all existing revenue bond obligations have been fully discharged to bond holders;

(2) a hotel has been built on the land in conjunction with an existing convention center and the operation of the hotel has been continuous for at least five years from its inception;

(3) the parties mutually agree to a sale of the realty and air rights thereto;

(4) the county receives an adequate sale price which is fair under the then existing market conditions for the sale of the land and any air rights thereto.

(b) The commissioners court may impose such deed restrictions or reverters as may be advisable to preserve the use of the land for a purpose consistent with the construction, expansion, ownership, and operation of a hotel and related facilities in conjunction with a convention center.

(c) The sale of the land may include land appurtenant to the land upon which said hotel or related facilities have been built.

Contracts: Parties, Purposes

Sec. 9. The power of the commissioners court to enter into agreements and contracts hereunder shall extend to one or more private associations, corporations, or individuals for all or any of the following purposes: construction of a hotel and related facilities, ownership of a hotel and related facilities, and operation, maintenance, and expansion of a hotel and related facilities.

Expenditure of Tax Revenue

Sec. 10. In agreements and contracts authorized by this Act, the commissioners court may expend tax funds consistent with the provisions of this Act and other provisions of state law, but the commitment and expenditure of tax funds must be from current revenues of the county.

[Acts 1979, 66th Leg., p. 2007, ch. 786, eff. Aug. 27, 1979.]

Art. 2372d-7. Admission Fees For County Museums in Counties of 1,200,000 or More

Sec. 1. The commissioners court of a county having a population of 1,200,000 or more, according to the most recent federal census, may charge and collect a fee from members of the general public for admission to a county-operated museum, historical site, historical building, or other similar building or site.

Sec. 2. The commissioners court by order may set the admission fee authorized by this Act. Admission fees charged and collected under this Act shall be placed in a county special fund to be used by the commissioners court for the payment of costs associated with the administration, maintenance, security, or staffing necessary to operate the building or site. The special fund may not be expended for purposes other than those associated with the building or site.

[Acts 1981, 67th Leg., p. 456, ch. 191, eff. Aug. 31, 1981.]

Art. 2372d-8. Public Improvements in Certain Counties to Attract Visitors and Tourists; Bonds; Occupancy Tax

Applicability

Sec. 1. This article applies only to counties with a population of more than 2,000,000, according to the most recent federal census and to counties that border the Republic of Mexico with a population of more than 90,000, according to the most recent federal census, excluding counties which contain three or more cities with populations of more than 17,500, according to the most recent federal census.

Improvements to Attract Visitors and Tourists

Sec. 2. A county covered by this article is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities (either or all) that serve the purpose of attracting visitors and tourists to the county, and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances. Any lease shall be on such terms and conditions as the county deems appropriate.

Revenue Bonds

Sec. 3. (a) The county is authorized to issue negotiable revenue bonds to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair (any or all) of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities (either or all) that serve the purpose of attracting visitors and tourists to the county, and the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair (any or all) of structures, parking areas or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances.

(b) The revenue bonds may be issued when duly authorized by an order passed by the commissioners court of the county and shall be secured by a pledge of and be payable from all or any designated part of the revenues of the public improvements or the parking or storage facilities, as may be provided in the order or orders authorizing the issuance of the bonds. To the extent that these revenues may have been pledged to the payment of revenue or revenue refunding bonds that are still outstanding, the

pledge securing the proposed bonds shall be inferior to the previous pledge or pledges. Within the discretion of the commissioners court of the county, and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given in all or any part of the physical properties acquired out of the proceeds from the sale of the bonds.

(c) When any of the revenues of the public improvements and facilities are pledged to the payment of bonds issued under this article, it is the duty of the commissioners court of the county to cause to be fixed, maintained, and enforced charges for services rendered by properties and facilities, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants and provisions contained in the order or orders authorizing the issuance of the bonds.

(d) If the county leases as lessee any one or more of these public improvements, structures, parking areas, or facilities, the county shall have authority to pledge to the lease payments required to be made by the county all or any part of the revenues of the public improvements, structures, parking areas, or facilities.

Hotel Occupancy Tax

Sec. 4. (a) The commissioners court of the county by order may levy a tax on the cost of occupancy of any sleeping room in a hotel in the county for which the cost of occupancy is at the rate of \$2 or more per day. The tax may not exceed the applicable percentage specified in this section of the consideration paid to the hotel by the occupant of the sleeping room.

(b) As to a hotel located in an incorporated city with a population of 1,200,000 or more, according to the most recent federal census, the applicable percentage is three percent until January 1, 1984, and one percent on or after that date. As to any other hotel, the applicable percentage is seven percent.

Penalties and Interest

Sec. 4A. The owner or operator of a hotel shall report and remit the taxes collected under this Act to the county as provided by the resolution or an amendment to the resolution imposing the tax authorized by this Act. If the owner fails to pay the tax when due or file a report when required, the owner shall pay a penalty of five percent of the amount of the tax due. If the owner fails to pay the tax or file the report within 30 days after the day on which the tax was due or the report was required, he shall pay an additional penalty of five percent of the amount of the tax due. Delinquent taxes and accrued penalties draw interest at the rate of 10 percent a year beginning 60 days after the day on which the tax was due.

Validation

Sec. 5. All orders heretofore passed and adopted by the governing body of a county levying a tax on the cost of occupancy of any sleeping room furnished by any hotel, where the cost of occupancy is at the rate of \$2 or more per day and the tax is equal to or less than two percent of the consideration paid by the occupant of the room in the hotel, and any bonds heretofore issued that are secured in whole or in part by a pledge of the tax are hereby in all respects validated and held to be enforceable as of the respective date of passage and adoption of the orders levying the tax or issuing the bonds. All occupancy taxes to be levied or attempted to be levied pursuant to the orders are hereby validated and declared fully enforceable to the same extent as if levied or attempted to be levied pursuant to valid laws duly enacted by the legislature of this state specifically providing authority for the passage and adoption of the orders and the levy of the taxes.

Use of Revenue

Sec. 6. (a) The revenue derived from any occupancy tax authorized or validated by this article may only be used for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities (either or all) that serve the purpose of attracting visitors and tourists to the county, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants; and

(3) those counties bordering the Republic of Mexico, as provided in Section 1 of Article 1 of this Act, advertising for general promotion and tourist advertising of the county and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the county.

(b) Any county that levies and collects an occupancy tax that is authorized or validated by this article may pledge a portion of the revenue derived therefrom to the payment of the bonds that the county may issue pursuant to the provisions of Section 3 of this article, if the bonds are issued solely for one or more of the purposes set forth in this article.

Definitions

Sec. 7. In this article:

(1) "Hotel" means any building or buildings in which the public may, for a consideration, obtain

sleeping accommodations. The term shall include hotels; motels; tourist homes, houses, or courts; lodging houses; rooming houses; or other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined as to include hospitals, sanitariums, or nursing homes.

(2) "Consideration" means the cost of the room in the hotel only if the room is one ordinarily used for sleeping and shall not include the cost of any food served or personal services rendered to the occupants of the room not related to the cleaning and readying of the room for occupancy.

(3) "Occupancy" means the use or possession of the right to the use or possession of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than 30 days.

(4) "Occupant" means anyone who for a consideration uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

Rights of Bondholders

Sec. 8. The owners or holders of these revenue or revenue refunding bonds shall never have the right to demand payment of either the principal or of interest on the bonds out of any funds raised or to be raised by taxation, except as to room taxes, if pledged.

Orders Relating to Bonds

Sec. 9. In the order or orders authorizing the issuance of any revenue or revenue refunding bonds authorized by this article, the county may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds and make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements, and facilities, the revenues of which are pledged, including provision for the operation or for the leasing of all or any part of said improvements or facilities and the use or pledge of money derived from such operation, contracts and leases, as it may deem appropriate. The order or orders may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenues on a parity with or subordinate to the lien and pledge in support of the bonds being issued, subject to the conditions as are set forth in the order or orders: The order or orders may contain other provisions and covenants, as the county may determine, not prohibited by the Constitution of Texas or by this article, and the county may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of any of the bonds.

Reserve Funds; Investments

Sec. 10. From the proceeds of sale of any bonds issued under this article, the county may appropriate or set aside, out of the bond proceeds an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond order or orders, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds. Until such time or times as the bond proceeds are needed to carry out the bond purpose, the bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, or both. Money in the interest and sinking fund or funds, in the reserve fund or funds, and in any other fund or funds established or provided for in the bond order or orders may be invested in such a manner and in such securities as may be provided in the bond order or orders.

Formal Requirements; Maturity; Approval and Registration

Sec. 11. All bonds shall be signed by the county judge and countersigned by the county clerk and shall have the seal of the county impressed on them; provided that the bond order or orders may provide for the bonds and any attached interest coupons to be signed by facsimile signatures and for the seal of the county on the bonds to be a facsimile as provided by Chapter 204, Acts of the 57th Legislature, Regular Session, 1961 (Article 717j-1, Vernon's Texas Civil Statutes). The bonds shall mature serially or otherwise in not to exceed 40 years from their date or dates and may be sold at a price and under such terms determined by the commissioners court of the county to be most advantageous and reasonably obtainable, and within the discretion of the commissioners court, the bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the order or orders authorizing the bonds. Any of the bonds may be made registrable as to principal or as to both principal and interest. All bonds issued under this article and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity hereof, and after the attorney general has approved them, the bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When the bonds have been approved by the attorney general, registered by the comptroller, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud.

Refunding Bonds

Sec. 12. The county shall have the power and authority to issue revenue refunding bonds similarly secured to refund either original bonds or revenue refunding bonds previously issued by the county under this article, and the refunding bonds shall

bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by order or orders and shall be executed and shall mature as is provided in this article for original bonds. They shall be approved by the attorney general as in the case of original bonds and shall be registered by the comptroller on the surrender and cancellation of the bonds to be refunded, but in lieu thereof the order or orders authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on and principal of the underlying bonds to their option or maturity date, and the comptroller shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the attorney general and registered by the comptroller, shall be incontestable except for forgery or fraud.

Negotiability; Authorized Investments; Use as Security

Sec. 13. All bonds issued under this article, whether original bonds or refunding bonds, shall be and are hereby declared to be and to have all the qualifications of negotiable instruments under Chapter 8, Business & Commerce Code, and all the bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. The bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmaturing coupons appurtenant thereto.

Cumulative Effect

Sec. 14. This article is cumulative of all existing laws of this state, but to the extent that existing laws may be in conflict or inconsistent with the provisions of this article, the provisions of this article shall govern and prevail; and this article shall take precedence over any and all conflicting or inconsistent county charter provisions.

Reimbursement for Collecting Tax

Sec. 15. A county imposing the tax authorized by this article may permit the person required to collect the tax to deduct and withhold from the person's payment to the county, as reimbursement

for the cost of collecting the tax, an amount not to exceed one percent of the tax collected.

[Acts 1981, 67th Leg., p. 3041, ch. 796, art. 1, eff. Aug. 31, 1981. Amended by Acts 1983, 68th Leg., p. 408, ch. 82, § 2, eff. May 10, 1983.]

Section 3 of the 1983 amendatory act provides:

"(a) The penalties imposed by this Act apply to taxes that become delinquent on or after the effective date of this Act.

"(b) Interest under this Act begins to accrue on all taxes that on the effective date of this Act are 60 or more days delinquent."

Art. 2372d-9. Joint Establishment, Maintenance and Operation of Auditorium; Counties of 20,000 or Less and Cities of 10,000 or More

Joint Authority Over Auditorium

Sec. 1. The commissioners court of a county having a population of 20,000 or less and the governing body of an incorporated city or town that is located in the county and that has a population of 10,000 or more, according to the most recent federal census, may jointly erect, acquire, equip, maintain, and operate an auditorium.

Delegation to Board of Managers

Sec. 2. (a) The commissioners court of the county and the governing body of the city or town may by resolution or other proper action delegate to a board of managers complete authority to acquire land for an auditorium by purchase or lease and to erect, maintain, and equip an auditorium.

(b) The board is authorized to receive gifts and bequests in behalf of the county and the city or town and to borrow, receive, exchange, sell, and lend property for the benefit of the auditorium. A gift or loan of property must be administered as designated by the donor.

Financing of Auditorium

Sec. 3. The auditorium may be financed out of the general revenues of the county and the city or town in the proportions that the commissioners court of the county and the governing body of the city or town see fit to contribute.

Composition of Board of Managers

Sec. 4. (a) A board of managers must be composed of seven members, three of whom must be appointed by the commissioners court of the county, three of whom must be appointed by the governing body of the city or town, and one of whom must be appointed by the commissioners court and the governing body acting jointly as one body.

(b) The members of the board must be appointed for staggered terms of two years, with the terms of two appointees of the commissioners court and two appointees of the governing body expiring on February 1 of each odd-numbered year and with the terms of the other three members expiring on February 1 of each even-numbered year.

(c) A vacancy on the board shall be filled for the unexpired part of the term in the same manner in which the original appointment was made.

Chairman and Other Officers; Quorum

Sec. 5. (a) The board annually shall elect a chairman from among its members. The chairman shall preside over all board meetings and shall sign all contracts, agreements, and other instruments made by the board on behalf of the county and the city or town. The board may elect other officers from its members as it sees fit.

(b) A majority of the members of the board constitutes a quorum with full authority to act.

Authority of Board

Sec. 6. The board may make any contract connected with or incident to establishing, equipping, maintaining, or operating the auditorium and may dispense funds set aside by the county and the city or town for purposes connected with operating and maintaining the auditorium as if the board's actions were taken by the commissioners court of the county and the governing body of the city or town. However, the board may not bind the county or the city or town to make an expenditure of funds not specifically appropriated by the county or the city or town, for the benefit of the auditorium.

Financial Statement and Budget

Sec. 7. (a) Once each year the board shall prepare and present to the commissioners court of the county and the governing body of the city or town a complete financial statement about the condition of the auditorium and shall submit to the commissioners court and the governing body a proposed budget for the anticipated financial needs for the ensuing year.

(b) On the basis of the financial statement and budget, the commissioners court and the governing body may appropriate and set aside for the use of the board in the operation of the auditorium the amount of money that the commissioners court and the governing body considers proper and necessary.

Personnel

Sec. 8. The board may employ a superintendent or manager of the auditorium. The superintendent or manager may with the consent of the board employ permanent or temporary personnel that are necessary for the maintenance and operation of the auditorium.

Initial Board Appointments

Sec. 9. In making their initial appointments to the board, the commissioners court of the county and the governing body of the city or town each shall designate two of their appointees for terms expiring on the first February 1 of an odd-numbered year occurring after the day of the appointments, each shall designate one of their appointees for a

term expiring on the first February 1 of an even-numbered year occurring after the day of the appointment, and, acting jointly, shall designate the joint appointee for a term expiring on the first February 1 of an even-numbered year occurring after the day of the appointment.

[Acts 1983, 68th Leg., p. 112, ch. 24, §§ 1 to 9, eff. Sept. 1, 1983.]

Art. 2372d-10. Fees for Use of County Recreational Facilities and Services

Fee Authority

Sec. 1. Except as provided by Section 2 of this Act, the commissioners court of a county may set and collect fees:

- (1) for the use of county recreational facilities, including facilities constructed or installed in a county park;
- (2) for the use of recreational services provided by the county; or
- (3) for the rental or sale of recreational supplies by the county in conjunction with the provision of county recreational facilities or services.

Exceptions

Sec. 2. This Act does not authorize the commissioners court to set or collect a fee:

- (1) for admission to a general-purpose county park;
- (2) for the use of a toilet or other restroom facility;
- (3) for the sale of water for human consumption; or
- (4) for the use of a team sports facility, including a baseball, football, basketball, volleyball, or soccer facility, by a sports team composed primarily of minors and sponsored and supported by a nonprofit organization.

Amount of Fees

Sec. 3. The commissioners court may not set the fees in amounts that would produce more total revenue in a year than is necessary to pay the annual expense of providing all county recreational facilities and services.

Special Circumstances

Sec. 4. The commissioners court may set and collect the fees in different amounts or may waive the fees in consideration of the following factors:

- (1) the time of the day at which or the day of the week on which a facility or service is used;
- (2) the size of a group wishing to use a facility or service;
- (3) the special circumstances of certain classes of persons, including elderly persons and indigent persons; or

(4) other factors that the court considers to justify a different fee or the waiver of a fee.

Disposition of Fees

Sec. 5. Fees collected under this Act shall be deposited in the general fund of the county.

[Acts 1983, 68th Leg., p. 888, ch. 208, eff. Aug. 29, 1983.]

Art. 2372e. Buildings for Canneries for Unemployment Relief

Sec. 1. That County Commissioners Courts of this State be, and the same are hereby authorized to purchase materials for the purpose of aiding and cooperating with the agencies of the State and Federal Governments in the construction of buildings for the purpose of housing canneries and canning factories where appropriations have been or may hereafter be made out of the Federal and State Funds set aside for the relief of the unemployed and needy people in the State of Texas, and to pay for such materials out of the County's Permanent Improvement Fund.

Sec. 2. Nothing herein contained shall be construed as repealing or modifying any of the provisions of Chapter 163,¹ General Laws, Regular Session, Forty-second Legislature (known as House Bill 312), nor as taking the provisions of this Act out of limitations of said Chapter 163.

[Acts 1934, 43rd Leg., 4th C.S., p. 58, ch. 24.]

¹ Article 2368a.

Art. 2372e-1. Renting Office Space for Administration of Unemployment Relief in Counties of 48,900 to 49,000 Population

Sec. 1. The County Commissioners' Courts and the City Commission of any incorporated town within said County of this State are hereby authorized to lease or rent office space for the purpose of aiding and cooperating with the agencies of the State and Federal Governments engaged in the administration of relief of the unemployed and needy people of the State of Texas, and to pay the regular monthly utility bills for such offices, such as lights, gas and water; and when in the opinion of a majority of the Commissioners' Court of a county such office space is essential to the proper administration of such agencies of either the State or Federal Governments, said Courts are hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices out of the County's General Fund by warrant as in the payment of other obligations of the County. The provisions of this Act shall apply to counties having a population of not less than forty-eight thousand nine hundred and not more than forty-nine thousand according to the last preceding Federal Census.

Sec. 2. All actions, proceedings, orders and contracts for such rental, lease or utility bills for such purposes as stated in Section 1 hereof, made and entered into by any Commissioners' Courts of this

State, pursuant to which such service has been rendered, are hereby validated, confirmed and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Sec. 3. If any part, section, paragraph, sentence, clause, phrase, or word contained in this Act shall ever be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Act, and the legislature hereby declares that it would have passed such remaining portions despite such invalidity.

[Acts 1937, 45th Leg., 2nd C.S., p. 1869, ch. 5.]

Art. 2372e-2. Renting Office Space for Administration of Unemployment Relief; Cooperation With State and Federal Agencies

Sec. 1. The County Commissioners Courts and the City Commission of any incorporated town or city of this State are hereby authorized to lease, rent, or provide office space for the purpose of aiding and co-operating with the agencies of the State and Federal Governments engaged in the administration of relief to the unemployed or needy people of the State of Texas, and to pay the regular monthly utility bills for such offices, such as lights, gas, and water; and when in the opinion of a majority of a Commissioners Court of a county such office space is essential to the proper administration of such agencies of either the State or Federal Governments, said Court is hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices out of the County's General Fund by warrants as in the payment of such other obligations of the county.

Sec. 2. All actions, proceedings, orders, and contracts for such rentals, lease, or utility bills for such purposes as stated in Section 1 hereof, made and entered into by any Commissioners Court of this State, pursuant to such services as have been rendered are hereby validated, confirmed, and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Sec. 3. If any part, section, paragraph, sentence, clause, phrase, or word contained in this Act shall ever be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

[Acts 1939, 46th Leg., p. 558.]

Art. 2372f. Pickup Trucks, Purchasing and Maintaining in Certain Counties

In any county in this State having a population of not less than sixty thousand, five hundred (60,500) nor more than sixty thousand, five hundred and twenty-five (60,525), and in any county having a population of not less than forty-three thousand,

thirty-six (43,036), and not more than forty-three thousand, seventy-five (43,075), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner to purchase a pickup truck to be used in each respective Precinct on official business and it shall be paid for out of the Road and Bridge Fund of the respective Commissioner's Precinct, and each Commissioner shall make under oath an account of his expenditures for such purpose.

[Acts 1937, 45th Leg., p. 874, ch. 430, § 1.]

Repealer

Acts 1971, 62nd Leg., p. 2019, ch. 622, providing for the setting of compensation, expenses and allowances for certain county and precinct officials and employees by the commissioners courts effective January 1, 1972, provides in § 8 thereof that to the extent any local, special, or general law, including Acts of the 1971 Legislature, prescribes such compensation, expenses and allowances for any official or employee covered by this Act, that law is repealed. See art. 3912k.

Art. 2372f-1. Automobiles, Purchasing For Each Commissioner; Counties of 105,000 to 114,000

In any county in this State having a population of not less than 105,000 and not more than 114,000 according to the last preceding federal census the Commissioners Court is hereby authorized to allow each commissioner to purchase an automobile to be used in each respective precinct on official business, to be paid for out of county funds and each commissioner shall make under oath an account of his expenditures for such purpose.

[Acts 1961, 57th Leg., p. 1033, ch. 456, § 1. Amended by Acts 1971, 62nd Leg., p. 1821, ch. 542, § 22, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 569, ch. 237, § 31, eff. Sept. 1, 1981.]

Art. 2372f-2. Motor Vehicles; Allowance For Each Member; Counties of 190,000 to 205,000

Sec. 1. In any county having a population in excess of one hundred ninety thousand (190,000) but not in excess of two hundred five thousand (205,000) according to the last preceding or any future federal census, the Commissioners Court is hereby authorized to furnish each member of the Commissioners Court an adequate motor vehicle, including all expenses incidental to the upkeep and operation of such motor vehicle, for use on official business.

Sec. 2. The cost of such motor vehicles, together with all expenses incidental to the upkeep and operation thereof may be paid out of county funds and each member of the Commissioners Court shall make under oath an account of his expenditures for such purposes.

Sec. 3. The provisions of this Act shall not repeal by implication or otherwise the provisions of Article 2350o of the Revised Civil Statutes relating to motor vehicle transportation for certain counties of this state.

[Acts 1962, 57th Leg., 3rd C.S., p. 71, ch. 26, §§ 1 to 3. Amended by Acts 1971, 62nd Leg., p. 1837, ch. 542, § 85, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 569, ch. 237, § 32, eff. Sept. 1, 1981.]

Art. 2372f-3. Automobile or Pickup; Furnishing Each Commissioner; Counties of 76,000 to 80,000

Sec. 1. This Act applies to every county in this State which has a population of not less than 76,000 nor more than 80,000, according to the last preceding federal census.

Sec. 2. The Commissioners Court in any county to which this Act applies may furnish each County Commissioner in such county an adequate automobile or pickup, including all expenses incidental to the upkeep and operation of such automobile or pickup, for use in official business.

Sec. 3. The cost of each automobile or pickup together with all expenses incidental to the upkeep and operation thereof may be paid out of county funds and each County Commissioner shall make an account of his expenditures for such purposes under oath.

[Acts 1963, 58th Leg., p. 749, ch. 283. Amended by Acts 1971, 62nd Leg., p. 1831, ch. 542, § 60, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 569, ch. 237, § 33, eff. Sept. 1, 1981.]

Art. 2372f-4. Automobile; Furnishing Each Commissioner; Counties of 23,200 to 23,500

Sec. 1. This Act applies to every county within a judicial district of this State comprised of four counties, one of which counties has a population of not less than twenty-three thousand, two hundred (23,200) and not more than twenty-three thousand, five hundred (23,500).

Sec. 2. The Commissioners Court in any county to which this Act applies may furnish each County Commissioner in such county an adequate automobile, including all expenses incidental to the upkeep and operation of such automobile, for use in official business.

Sec. 3. The cost of each automobile together with all expenses incidental to the upkeep and operation thereof may be paid out of county funds and each County Commissioner shall make an account of his expenditures for such purposes under oath.

[Acts 1963, 58th Leg., p. 954, ch. 379. Amended by Acts 1971, 62nd Leg., p. 1829, ch. 542, § 54, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 569, ch. 237, § 34, eff. Sept. 1, 1981.]

Art. 2372f-5. Two-Way Radios for County Vehicles; Counties of 76,000 to 80,000

Sec. 1. The Commissioners Court of all counties having a population of not less than 76,000 nor more than 80,000 according to the last preceding federal census may purchase two-way radios for county vehicles.

Sec. 2. The commissioners court may pay from county funds the cost of the radios as well as all operational and incidental expenses.

[Acts 1965, 59th Leg., p. 760, ch. 353, eff. June 9, 1963. Amended by Acts 1971, 62nd Leg., p. 1830, ch. 542, § 57, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 569, ch. 237, § 35, eff. Sept. 1, 1981.]

Art. 2372f-6. Automobile; Furnishing Each Commissioner; Counties of 99,400 to 100,000 or 84,000 to 86,000

Sec. 1. This Act applies to any county having a population of not less than 99,400 nor more than 100,000, or not less than 84,000 nor more than 86,000, according to the last preceding federal census.

Sec. 2. The Commissioners Court may furnish each County Commissioner an automobile for use in official business and the cost of the automobile may be paid out of county funds. The Commissioner shall pay the expenses of operating the automobile and keeping it in repair.

[Acts 1965, 59th Leg., p. 789, ch. 375, eff. June 9, 1965. Amended by Acts 1971, 62nd Leg., p. 1828, ch. 542, § 49, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 569, ch. 237, § 36, eff. Sept. 1, 1981.]

Art. 2372f-7. Automobile for Each Commissioner In Counties of 83,000 to 84,000

Sec. 1. This Act applies to any county having a population of not less than 83,000 nor more than 84,000, according to the last preceding Federal Census.

Sec. 2. The Commissioners Court may furnish each county commissioner an automobile for use in official business and the cost of the automobile may be paid out of county funds, and the expenses of operating the automobile and keeping it in repair may be paid out of county funds.

[Acts 1969, 61st Leg., p. 282, ch. 110, eff. May 1, 1969. Amended by Acts 1971, 62nd Leg., p. 1405, ch. 384, § 1, eff. May 26, 1971; Acts 1971, 62nd Leg., p. 1847, ch. 542, § 121, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 570, ch. 237, § 37, eff. Sept. 1, 1981.]

Art. 2372f-8. Traveling Expenses and Automobile Depreciation, Counties of 56,000 to 57,000

In any county having a population of not less than 56,000 nor more than 57,000, according to the last preceding federal census, the Commissioners Court may allow each county commissioner traveling expenses and automobile depreciation for the use of the commissioner's automobile while he is

engaged in official business within the county. Each county commissioner shall pay any expenses in the operation of his automobile and shall keep the automobile repaired without charge to the county.

[Acts 1969, 61st Leg., p. 1551, ch. 469, § 1, eff. Sept. 1, 1969. Amended by Acts 1971, 62nd Leg., p. 1838, ch. 542, § 89, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 570, ch. 237, § 38, eff. Sept. 1, 1981.]

Art. 2372g. Repealed by Acts 1945, 49th Leg., p. 82, ch. 58, § 4

See, now, art. 2372g-1.

Art. 2372g-1. Incapacitated Employees; Payment of Salaries in Counties of 290,000-500,000; Vacations

Sec. 1. From and after the effective date of this Act, in all counties in this State, having a population of not less than two hundred and ninety thousand (290,000), nor more than five hundred thousand (500,000) inhabitants, according to the last Federal Census and any future Federal Census, the Commissioners Courts shall provide for, and it shall be their duty to pay employees of such counties while incapacitated from duty on account of injury suffered or sustained while in the active and actual discharge of his or her duty to said county, upon the following basis and in the following manner, to wit: Where said employee suffers or sustains physical injury while in the actual discharge of his or her duties to the county, which renders said employee totally unfit for the discharge of such duties as may be imposed upon said employee by the Commissioners Court, then said Commissioners Court is hereby authorized and required to pay said employee not exceeding six (6) months pay upon the following basis: (a) The first three (3) months total incapacity, or any fractional part thereof, upon the basis of said employee's full and regular pay; (b) the last three (3) months total incapacity, or any fractional part thereof, if such incapacity should continue for said period, upon the basis of one-half (1/2) the regular pay of said employee.

Sec. 2. The Commissioners Courts of said counties and each of them shall inquire into any and all injuries of said employees before making any awards of money under this law, and it shall be the duty of said Commissioners Courts to examine witnesses, conduct hearings and subpoena witnesses for the purpose of determining the merits of each claim. The said Commissioners Courts are hereby specifically authorized to grant or refuse awards of money unto any employee, and are also given the right to make awards in any amount not exceeding the limits as set by this Act. Any employee feeling himself or herself aggrieved by the action of the Commissioners Court shall have the right of appeal to the Court having jurisdiction of the amount involved, provided said appeal is taken within ten (10) days after rendition of the judgment of the Commissioners Court of such county and said trial shall be de novo.

Sec. 3. The Commissioners Courts may grant vacations to employees in the actual employ of such counties not exceeding fourteen (14) days in any calendar year and, when such vacations are granted, all employees in actual employment of such counties shall be compensated for such vacation time as if actual service were being rendered under their employment. It being the purpose of this Act to grant reasonable vacation time during each calendar year for employees in the counties embraced within this Act.

[Acts 1945, 49th Leg., p. 82, ch. 58.]

Saved From Repeal

The last sentence of § 10 of Acts 1951, 52nd Leg., p. 471, ch. 299 (art. 6812b), relating to the payment of road, bridge and ferry employees of counties of 198,000 to 400,000 population, provides: "Nothing in this Act, however, shall be construed as repealing or being in conflict with the provisions of Article 2327g-1, Vernon's Revised Statutes of 1925."

Art. 2372h. Hours of Work, Vacations, Sick Leave, Hospitalization, etc., in Counties of 500,000 or More; Flood Control Districts; Personnel System

Rules and Regulations; Form of Contract

Sec. 1. In all counties having a population of five hundred thousand (500,000) or more according to the last preceding or any future Federal Census, the Commissioners' Court of the county shall have authority to formulate in the manner hereinafter set out rules and regulations governing the hours of work, vacations, holidays, sick leave, medical care, hospitalization, compensation and accident insurance, and deductions for absences with reference to all persons whom this Act affects, and to establish for such persons classifications of positions and rates of compensation therefor, and to provide for the filing by the incumbents thereof of time, work, and statistical reports. The said rules and regulations when adopted as hereinafter provided shall apply to and govern all deputies, assistants, and employees of the county, or any flood control district lying wholly within the boundary lines of any such county, working under the Commissioners' Court or its appointees, and the deputies and assistants appointed by county and district officers pursuant to the provisions of Chapter 465, Acts of the 44th Legislature, 1935, Section 19, as amended,¹ where the salaries are paid from county or from the funds of any flood control district in said county, provided that nothing herein shall be construed as repealing said Chapter 465, supra., with respect to the authority of the county or district officers therein named to apply for appointment of deputies or assistants or the maximum amount or source of compensation which may be paid, but all such regulations with respect to deputies or assistants to such

officers shall conform to laws now in effect or such as may hereafter be enacted by the Legislature and each county officer and each district officer, where the deputy or assistant or employee is authorized to be paid from county funds or funds of any flood control district within the county, shall continue to make appointments according to existing laws and shall designate the employee for each such position and shall direct and control the work or terminate the employment at the pleasure of such officer, as is now or as may be hereafter provided by law, it being the intention of this Act only to authorize the Commissioners' Court, in addition to the authority now vested in it by law, to formulate rules and regulations governing the hours of work, vacations, holidays, sick leave, medical care, hospitalization, compensation and accident insurance, and deductions for absences; to establish classifications of positions and salaries therefor; and to provide for filing of time, work, and statistical reports by such deputies, assistants, and employees, in the interests of efficiency and economy.

After appointment and approval thereof by the proper authority, all employments shall be placed in effect through written contracts of employment. Said court shall have the right to prescribe the form of contract of employment for its employees and employees of any said flood control district and for all employees of officers who are required to execute deputations under Chapter 465, Acts of the 44th Legislature, 1935, as amended,¹ and all officers whose deputies are appointed subject to the approval of the Commissioners' Court shall be required to use such forms in the appointment of their deputies and assistants.

¹ Article 3912e.

Contracts; Hospital and Insurance Fund

Sec. 2. The Commissioners' Court of any such county shall have the right to provide in said contract of employment that deputies, assistants, and other employees of the county, its departments or officers, or of any flood control district within such county, whose compensation is payable from funds of any such county or flood control district therein, may receive hospitalization and medical care and treatment in any county or city-county operated hospitals located in such county under such rules, regulations, and conditions as said court may prescribe and shall be authorized to enter into contracts with the proper municipal authorities for that purpose. All such rules, regulations, and conditions adopted pursuant to the provisions of this Act and approved as provided herein, including those for hospitalization, medical care, and insurance, shall become a part of each deputation or contract of employment. The Commissioners' Court may provide in unusual cases for the expense of such hospital care in a private hospital and may provide for compensation, accident, hospital, or disability insurance, and for contributions for part payment from deputies, assistants, and employees. To provide for

cases of hospitalization or medical attention in a county or city-county hospital, or private hospital when necessary, and for the payment of premiums for accident, disability, hospital, or compensation insurance, a fund shall be created to be known as "Hospital and Insurance Fund—County Employees," and there shall be credited to such fund agreed deductions made from the salaries or wages of deputies, assistants, and employees, and contributions from the county or flood control district, from which fund payments shall be authorized only for the purpose of expenses of hospital and medical care and the payment of premiums on accident, disability, or compensation insurance under the adopted rules and regulations, which claims shall be payable under existing laws in like manner as other county or flood control district claims. Any employee who shall be discharged or voluntarily leave the service of the county or flood control district for any reason shall have no further right in said hospital and insurance fund or any right to the further benefits of this Act, but said fund shall continue to be used for the benefit of all remaining employees of the county or flood control district. No contract of employment shall become effective as to any deputy, assistant, or employee as defined herein until the employment is made conformably to law and until the person employed shall have agreed in writing to the terms and conditions thereof. No deduction from the salary of any employee shall be made except he shall have consented in writing given at the time of his employment or at the effective date of the rules and regulations adopted pursuant to the provisions of this Act; provided any employee not contributing shall not receive any hospitalization or insurance benefits hereunder, but all other provisions hereof shall apply to him. In the event of the abandonment by the Commissioners' Court of the system herein authorized with respect to insurance and hospitalization, the balance remaining in the fund provided for shall thereupon be transferred to the county and to any flood control district participating, in proportion to the total contributions of each.

Personnel and Equipment Records

Sec. 3. Upon the occasion of each employment of each deputy, assistant, or employee whose salary or wages is paid in whole or in part from county or flood control district funds, the employing officer shall file in such form as may be prescribed by lawful authority and in addition to the other requirements of law, a statistical record which shall disclose, among other things, the date of employment, the rate of pay, nature of employment, business or personal history, the education record of employee, and his race, sex, color, age, place and date of birth, and previous experience, and other information essential to the keeping of proper personnel records. Each officer or department head of the county or any flood control district affected hereby shall file sworn pay rolls at the close of each month or oftener if authorized or required by law,

which pay rolls shall show the names of each employee working under the officer in the department affected, the dates present or absent, time worked, rates of pay, and amounts due each deputy or assistant, and in addition thereto in cases of engineers and employees in the field engaged in road, flood control, or construction work, reports shall accompany said pay roll indicating the dates upon which the work was performed, the nature of the work, the road or project location, and such other information as may be needed for statistical or accounting purposes and said work reports shall be signed and shall accompany or be a part of each pay roll which pay roll in each case shall be signed and sworn to by the officer filing the same.

The county auditor shall install and maintain an adequate system of personnel and equipment records and shall prescribe the forms and systems necessary to carry out the provisions of this law and shall have authority to enforce the rules and regulations adopted. He shall be authorized annually to assemble statistics and make recommendations which may be incorporated in, printed, and distributed with and as a part of the annual report now required by law of said officer.

In the event of failure to file reports as provided in this Act or to furnish essential information as required, he may withhold payment of claims for salaries until such information has been given in the form and manner required. All contracts of employment shall be made in the manner and be governed by the laws now in effect, except as herein specifically provided. All the rules, regulations, and forms provided for in the Act shall be subject to the approval of the county auditor of the county.

Reports

Sec. 4. Each officer and employee of any county or its departments, or any county or district officer, or any employee of any flood control district in any such county affected by this Act who operates equipment purchased from and operated with public funds or personal equipment for which he is reimbursed by the county or flood control district for operation and maintenance charges shall file with each pay roll a report in writing showing the daily use to which each piece of equipment in his charge was put and the time and mileage run, the amount expended for repairs, the gasoline, oil, and grease purchased, and the roads, bridges, or projects concerning which the work was performed; and all said reports shall be in writing and signed and certified by the officer or employee actually using said equipment. In like manner each said officer or employee shall file reports of accidents involving equipment in his charge, giving the cause, damage, location, circumstances and persons and equipment involved. All such reports shall be on prescribed forms and shall be filed not later than the fifth day of the month succeeding the period of operation, and shall disclose all facts essential to a proper analysis of

maintenance and operating costs and for statistical purposes.

Rules and Regulations

Sec. 5. Before adopting any rules or regulations, or revising rules or regulations theretofore adopted in connection with the subject matter of this Act, the Commissioners' Court shall give at least fifteen (15) days' notice of such proposed adoption or revision of rules or regulations by publishing a notice at least once in each week for two (2) successive weeks in some newspaper published in the county in which such rules, regulations, or revisions are to be made effective of its intention so to do, and that a hearing is to be held before said court at a fixed time and day to be specified in the notice. At the time and place fixed for hearing, any employee or taxpayer may appear to protest against the adoption of any such rule or regulation, or revision of existing rules. If sustained, the regulations shall be adjusted accordingly. Upon the adjustment or the overruling of protests, the court shall adopt the regulations and direct their recording upon its minutes, and upon approval thereof, as herein provided, they shall become effective on the date set out therein. The notice published shall contain a brief summary of the rules or regulations, or the amendments or changes therein, which it is proposed to make.

Persons Subject to Regulations

Sec. 6. Juvenile officers and probation officers appointed under the terms of Title 82, Revised Civil Statutes of Texas, 1925, as amended,¹ shall be subject to the provisions of such regulations as hereinbefore provided, including those for retirement, to the extent that the juvenile board of any county affected by this Act may determine. In like manner, court reporters in the various courts in such counties shall be subject to the provisions of such regulations to the extent that a majority of the District Judges of such counties in meeting assembled may determine by a vote of the majority present; an order to be entered in the minutes of each of the courts of such judges and a certified copy thereof to be supplied to the Commissioners Court. In like manner, the County Auditor and his assistants in such counties shall be subject to the provisions of such regulations hereinbefore provided for to the extent that the County Auditor in such counties may determine, with the approval of the District Judges, or a majority of them; unless a majority of the judges of the District Courts in such counties voting in a meeting of which all of the District Judges shall have notice, shall adopt the rules and regulations promulgated by the Commissioners Court and make them uniformly applicable so far as practicable to all the juvenile, probation officers, court reporters, and the County Auditor and his assistants. Nothing contained herein shall be construed as authorizing any change in regard to the time, method and manner of appointment or discharge of juvenile and probation officers, or the

County Auditor or his assistants, or court reporters, or as authorizing any change in the number thereof or the salaries to be paid, it being the intention of the Legislature that all of such matters shall continue to be regulated by the Statutes applying thereto. If any juvenile, or probation officer, or County Auditor or his assistants shall be jointly employed by two (2) or more subdivisions of Government, the rules and regulations applying to them may be adapted or amended accordingly. For the purpose of adapting such regulations to such employees, they may, if necessary to give equal application to the regulations to all employees, be considered as being upon the same basis as if they were employed by one such unit, and the total salary paid by such unit, and the necessary expense of administration and contributions may be prorated to the different employing units.

¹ Article 5119 et seq.

Effect of Act

Sec. 7. The provisions of this Act shall be cumulative of any other laws upon the subject matter, but where in conflict with such other laws, this Act shall prevail.

Partial Invalidity

Sec. 8. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portion of this Act shall not be affected thereby, it being the intent of the Legislature in adopting, and of the Governor in approving this Act, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation.

[Acts 1941, 47th Leg., p. 754, ch. 472. Amended by Acts 1949, 51st Leg., p. 433, ch. 233, § 1.]

Art. 2372h-1. Vacations, Holidays and Sick Leave for Employees of County Officers and Commissioners Courts

In each county of this State, each elected county officer or the Commissioners Court, as the case may be, shall have authority to provide for vacations, holidays fixed by State law, and sick leaves, without deduction or loss of pay, and to provide for deductions for absences, for the employees working under the elected county officer or his appointees or under the Commissioners Court or its appointees or under a County Commissioner or his appointees, regardless of whether the employee is paid on a fixed salary basis or on the basis of an hourly or daily wage. Nothing in this Act shall affect existing laws authorizing or regulating vacations, holidays, sick leave and absences for county employees, it being the intention of this Act only to provide such authority with respect to the employees cover-

ed by this Act in counties where it does not now exist.

[Acts 1959, 56th Leg., p. 544, ch. 243, § 1.]

Art. 2372h-2. Hospitalization Insurance for County Officials and Employees

The Commissioners Court of any county may adopt any insurance plan, as they deem necessary, to provide hospitalization insurance to any county official, deputy, assistant, and/or any other county employee.

[Acts 1959, 56th Leg., p. 585, ch. 268, § 1.]

Art. 2372h-3. Vacations, Holidays and Sick Pay for Employees of Counties of 41,000 to 41,500

The Commissioners Court of any county having a population of more than 41,000 and less than 41,500, according to the last preceding federal census, may provide for vacations, holidays fixed by State law, sick leaves without deduction or loss of pay, and deductions for absences from work of all county employees whether paid a fixed salary or an hourly or daily wage.

[Acts 1965, 59th Leg., p. 1412, ch. 624, eff. June 17, 1965. Amended by Acts 1971, 62nd Leg., p. 1842, ch. 542, § 103, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 570, ch. 237, § 39, eff. Sept. 1, 1981.]

Art. 2372h-4. Payroll Deductions; Authorized Purposes

Sec. 1. (a) The commissioners court of any county of 20,000 or more population may authorize payroll deductions to be made from the wages and salaries of county employees, on each employee's written request, to a credit union, to pay membership dues in a labor union or a bona fide employees association, and to pay fees for parking in county owned facilities.

(b) Each employee requesting a deduction under this Act shall submit to the county auditor a written request indicating the amount to be deducted from the employee's wages or salary and to transfer the withheld funds to the credit union, proper labor union or employees association, or county funds. The request shall remain in effect until the county auditor receives written notice of revocation signed by the employee.

(c) The amount deducted from an employee's wages or salary for the purpose stated in this Act shall not be more than the amount stipulated in the written request.

(d) Participation in the program authorized by this Act is voluntary on the part of any county employee and the county.

Sec. 2. The provisions of this Act shall not alter, amend, modify, or repeal any of the provisions of Chapter 135, Acts of the 50th Legislature, 1947 (Article 5154c, Vernon's Texas Civil Statutes).

Sec. 3. Public funds shall not be used to defray the administrative cost of making the deductions authorized under this Act, except those deductions relating to payment for parking. The credit union, labor union or employees association shall pay the full and complete administrative cost, if any, as determined and approved by the commissioners court of the deductions made for their benefit under this Act.

[Acts 1969, 61st Leg., p. 1380, ch. 419, eff. Sept. 1, 1969. Amended by Acts 1975, 64th Leg., p. 2355, ch. 724, § 1, eff. Sept. 1, 1975.]

Art. 2372h-5. Travel Expenses of County Officers or Employees

The Commissioners Court of any county may authorize the payment of reasonable travel expenses incurred by any officer, agent, or employee of the county, or by any board or committee member appointed by the Commissioners Court, in the event that the travel expenses were incurred by the officer, agent, employee, or board or committee member while performing any county business authorized by the Commissioners Court.

[Acts 1971, 62nd Leg., p. 1085, ch. 234, eff. Aug. 30, 1971.]

Art. 2372h-6. Civil Service System in Counties of 200,000 or More

Definitions

Sec. 1. In this Act, unless the context requires a different definition:

(1) "Commission" means the county civil service commission.

(2) "Chairman" means the chairman of the county civil service commission.

(3) "Employee" means any person who obtains his position by appointment and who is not authorized by statute to perform governmental functions in his own right involving some exercise of discretion, but does not include a holder of an office the term of which is limited by the Constitution of the State of Texas.

(4) "Department" means any county, district, or precinct office or other agency of the county which has jurisdiction and control of the activities of the employees' official duties.

Establishment of Civil Service

Sec. 2. Any county having a population of 200,000 or more inhabitants according to the last preceding federal census may establish a county civil service system under the provisions of this Act to cover all employees of the county.

Methods for Creation of a County Civil Service System

Sec. 3. Before a county civil service system may be created under the provisions of this Act, the system must be approved either by an order adopted by a majority of the members of the Com-

missioners Court or by a majority vote of the qualified electors of the county voting at an election called for that purpose.

Creation by Order

Sec. 4. If the civil service system is created by order of the county commissioners, a copy of the order shall be placed in the minutes of the Commissioners Court and shall be available for public inspection.

Creation by Election

Sec. 5. (a) On its own motion, the Commissioners Court may order an election to be held to approve the creation of a county civil service system. The election must be held within the 60-day period immediately following the date of the order of election.

(b) The order calling the election shall specify the time and place, or places, of holding the election, the form of the ballots, and the presiding judge for each voting place.

(c) The Commissioners Court shall publish a substantial copy of the election order in a newspaper of general circulation in the county once a week for two consecutive weeks before the election. The first notice must be published before the 14-day period immediately preceding the day of the election.

(d) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the Commissioners Court within 24 hours after the election. A copy of the results is to be filed with the county clerk and become of public record.

(e) At the election, the qualified electors shall vote on the proposition of whether or not a county civil service system is to be created. To create the system, a majority of the qualified electors voting in the election must approve the proposition.

(f) The ballots shall be printed to allow for voting for or against the proposition: "Creation of a county civil service system."

(g) If the proposition is approved, the Commissioners Court shall declare the results and order the civil service system created. A copy of this order shall be placed in the minutes of the Commissioners Court.

Creation of the Civil Service Commission

Sec. 6. (a) After a civil service system is approved under the provisions of this Act, the Commissioners Court shall appoint a civil service commission consisting of three members to administer the system. The Commissioners Court shall designate one of the members as chairman of the commission.

(b) Each member of the commission holds office for a term of two years and until his successor is appointed and has qualified. Any vacancy on the

commission shall be filled by appointment of the Commissioners Court for the unexpired term of the member whose position has been vacated.

(c) To qualify for appointment to the commission, a person must:

- (1) be at least 25 years of age; and
- (2) have been a resident of the county for the three-year period immediately preceding the beginning of his term of office.

Compensation; Expenses; Staff; Etc.

Sec. 7. The members of the commission serve without compensation, but the Commissioners Court shall reimburse them for expenses necessarily incurred in performing their duties. The Commissioners Court shall provide the commission with adequate office space and with enough money to employ an adequate staff and to purchase necessary supplies and equipment.

Powers of Commission

Sec. 8. (a) The commission shall make, publish, and enforce rules, consistent with the purposes of this Act, relating to:

- (1) selection and classification of county employees;
- (2) competitive examinations;
- (3) promotions, seniority, and tenure;
- (4) layoffs and dismissals;
- (5) disciplinary actions;
- (6) grievance procedures and other procedural and substantive rights of employees; and
- (7) other matters having to do with selection of employees and their advancement, rights, benefits, and working conditions.

(b) The commission may adopt or use as a guide any civil service laws, rules, or regulations of the United States or of this State or any political subdivision or municipal corporation in this State to the extent that they promote the purposes of this Act and are consistent with the necessities and circumstances of the county.

(c) The commission may not make a rule or enforce any existing rule requiring retirement at any age below 70. If a commission rule sets a mandatory retirement age, an employee who reaches that age may have his employment extended on application to and approval by the commissioners court on a year to year basis.

Appeals

Sec. 9. (a) Any employee who, under a final decision of the commission, is demoted, suspended, or removed from his position, may appeal the decision by filing a petition in a district court of the county within 30 days after the date of the decision.

(b) Appeals under this section shall be tried de novo.

(c) If the district court renders judgment for the petitioner, it may order reinstatement, back pay, and any other appropriate relief.

(d) Suits instituted under this section have precedence over other civil cases, and the judgment of the district court is appealable as in other civil cases.

Exemptions

Sec. 10. (a) Any person who is an employee of a county covered by this Act on the effective date of this Act shall not be required to take any competitive examination or perform any other act to maintain his present employment.

(b) Nothing in this Act applies to:

(1) assistant district attorneys, investigators, or other employees of the district attorney;

(2) the official shorthand reporter of any district or criminal district court.

Dissolution of System

Sec. 11. (a) In any county in which the provisions of this Act have been in effect for one year, on being petitioned by at least 10 percent of the qualified electors of the county, the Commissioners Court shall call an election to determine whether or not the county civil service should be dissolved.

(b) The provisions of Section 5 of this Act shall apply to holding an election under the provisions of this section.

(c) The ballots shall be printed to allow for voting for or against the proposition: "Dissolution of the civil service system."

(d) If the proposition is approved, the Commissioners Court shall declare the results and order the civil service system dissolved. A copy of this order shall be placed in the minutes of the Commissioners Court.

Limitation on Elections

Sec. 12. After an election is held in accordance with Section 5 or Section 11 of this Act, a two-year period of time must elapse prior to the calling of another election under either Section 5 or Section 11.

Severability

Sec. 13. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or applica-

tion, and to this end the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 1151, ch. 262, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1262, ch. 461, § 1, eff. June 14, 1973; Acts 1977, 65th Leg., p. 654, ch. 244, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 864, ch. 326, § 1, eff. Aug. 29, 1977.]

Art. 2372h-7. Liability Insurance for County Officers and Employees

Sec. 1. A county may insure such of its officers and employees, including county and precinct peace officers as may be designated by the county commissioners court, against liability arising from the performance of official duties or duties of employment by purchasing policies of liability insurance from an insurer authorized to do business in this state.

Sec. 2. Insurance purchased by a county under the provisions of this Act shall be on forms approved by the State Board of Insurance.

[Acts 1977, 65th Leg., p. 1657, ch. 653, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 1831, ch. 744, § 4, eff. June 13, 1979; Acts 1983, 68th Leg., p. 4193, ch. 666, § 1, eff. June 19, 1983.]

Art. 2372h-8. Sheriff's Department Civil Service System in Counties of More Than 950,000

Definitions

Sec. 1. In this Act:

(1) "Commission" means a sheriff's department civil service commission.

(2) "Department" means a sheriff's department.

(3) "Employee" includes a deputy sheriff and any other employee of the department.

Establishment of Civil Service

Sec. 2. In any county having a population of more than 950,000, according to the most recent federal census, a sheriff's department civil service system may be created in accordance with this Act.

Petition and Election

Sec. 3. (a) If a petition requesting an election under this section signed by at least 20 percent of the employees of a department is submitted to the county judge, the judge shall order a departmental election on the question of establishing a sheriff's department civil service system.

(b) The county judge shall hold the election not less than 15 nor more than 45 days after the day the petition is submitted. The election shall be by secret ballot, and each employee is entitled to vote. The ballot shall be printed to permit voting for or against the proposition: "Creation of a sheriff's department civil service system."

(c) The county judge shall canvass the votes and declare the result of the election.

Creation of Commission

Sec. 4. (a) If the result of the election indicates that a majority of the employees voting at the election favor creation of a civil service system, the sheriff, commissioners court, and district attorney shall each appoint one member to a civil service commission of three members to administer the system. The sheriff shall designate one member as chairman of the commission.

(b) When the three initial appointees have been appointed, they shall determine by lot which two of them serve for a term of two years and which one of them serves for a term of one year. Successors to the initial appointees serve terms of two years. A vacancy on the commission shall be filled by the entity which originally appointed the member for the unexpired term of the member whose position has been vacated.

(c) To be qualified for appointment to the commission a person must:

(1) be 25 years of age or older; and

(2) have been a resident of the county for three years immediately preceding the beginning of the term of office.

Compensation; Expenses; Staff

Sec. 5. A member of the commission serves without compensation. The commissioners court shall reimburse a member for actual and necessary expenses incurred in performing duties as a member of the commission. The commissioners court shall provide the commission with adequate office space and with funds sufficient to employ an adequate staff and to purchase necessary supplies and equipment.

Powers of Commission

Sec. 6. (a) The commission shall make, publish, and enforce rules relating to:

(1) selection and classification of employees;

(2) competitive examinations;

(3) promotions, seniority, and tenure;

(4) layoffs and dismissals;

(5) disciplinary actions;

(6) grievance procedures and other procedural and substantive rights of employees; and

(7) other matters relating to the selection of employees and their advancement, rights, benefits, and working conditions.

(b) The commission may adopt or use as a guide a civil service law or rule of the United States or of this state or a political subdivision or municipal corporation in this state to the extent that the law or rule promotes the purposes of this Act and is consistent with the necessities and circumstances of the department.

Appeals

Sec. 7. (a) An employee who under a final decision of the commission is demoted, suspended, or removed from a position may appeal the decision by filing a petition in a district court of the county not later than the 30th day after the day the decision is issued.

(b) An appeal under this section shall be tried de novo.

(c) If the district court renders judgment for the petitioner, it may order reinstatement, back pay, or any other appropriate relief.

(d) A suit instituted under this section has precedence over other civil cases, and the judgment of the district court is appealable as in other civil cases.

Exemptions

Sec. 8. (a) A person who is an employee covered by this Act when this Act is adopted in a department may not be required to take any competitive examination or perform another act to maintain employment.

(b) The sheriff may designate as exempt from the civil service system the following positions:

(1) the position of chief deputy;

(2) four positions of major deputy;

(3) one or more positions in the office of departmental legal counsel; and

(4) additional positions.

(c) The total number of exempt positions under this section may not exceed 10.

(d) At the time a new sheriff takes office, an employee holding an exempt position under Subsection (b) of this section may be transferred to the nonexempt position held by the employee immediately before being promoted to an exempt position. A person who was not an officer in the department when he was appointed to an exempt position may be transferred only to an entry level position in accordance with civil service rules and regulations.

Dissolution of System

Sec. 9. (a) In any department in which this Act has been in effect for at least one year, the county judge, on being petitioned by at least 20 percent of the employees of the department, shall order a departmental election on the question of dissolving the sheriff's department civil service system.

(b) The county judge shall hold the election not less than 15 nor more than 45 days after the day the petition is submitted. The election shall be by secret ballot and each employee is entitled to vote. The ballot shall be printed to permit voting for or against the proposition: "Dissolving the sheriff's department civil service system."

(c) The county judge shall canvass the votes and declare the result of the election. If the result indicates that a majority of the employees voting at the election favor dissolution of the civil service system, the county judge shall declare the system dissolved.

System is Exclusive

Sec. 10. If a civil service system created under this Act is in effect, that system applies to the department to the exclusion of a civil service system created under Chapter 262, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 2372h-6, Vernon's Texas Civil Statutes), or any other law.

[Acts 1981, 67th Leg., p. 295, ch. 119, eff. Aug. 31, 1981. Amended by Acts 1983, 68th Leg., p. 885, ch. 205, § 1, eff. May 24, 1983; Acts 1983, 68th Leg., p. 3410, ch. 570, § 1, eff. Aug. 29, 1983.]

Art. 2372h-9. Motor Vehicle Liability Insurance For Certain Law Enforcement Personnel; Counties Over 1,400,000

Definition

Sec. 1. "Motor vehicle" means any motor vehicle for which motor vehicle insurance is written under Subchapter A, Chapter 5, Insurance Code, as amended.

Provision of Insurance

Sec. 2. (a) Each county with a population of more than 1,400,000 according to the most recent federal census shall provide for insuring its sheriff, full-time deputy sheriffs, constables, and full-time deputy constables against liability to third persons arising out of the operation, maintenance, or use of a motor vehicle owned or leased by the county.

(b) The county may elect to reimburse the actual cost of extended automobile liability insurance endorsements obtained by its sheriff, full-time deputy sheriffs, constables, and full-time deputy constables on individually owned automobile liability insurance policies of the sheriff, full-time deputy sheriffs, constables, and full-time deputy constables. The extended endorsements shall be in amounts not less than those required under this Act and shall extend the coverage to include the operation and use of county vehicles by the sheriff, full-time deputy sheriffs, constables, and full-time deputy constables in the scope of their employment. Any county that elects to use the reimbursement method authorized under this subsection may require that the sheriff, full-time deputy sheriffs, constables, and full-time deputy constables who operate and use motor vehicles owned or leased by the county present proof that an extended coverage endorsement has been purchased and that the extended coverage is current.

(c) The county may elect to become a self-insurer for purposes of this Act and, if so, shall qualify as a self-insurer by complying with Section 34, Texas

Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes).

Amount of Coverage

Sec. 3. Liability coverage provided under this Act must be in amounts not less than the amounts required by the Texas Motor Vehicle Safety-Responsibility Act, as amended (Article 6701h, Vernon's Texas Civil Statutes), to provide proof of financial responsibility.

[Acts 1981, 67th Leg., p. 2146, ch. 499, §§ 1 to 3, eff. Jan. 1, 1982.]

Art. 2372i. Burial Ground for Veterans

Each Commissioners Court in this State may purchase sufficient burial ground to be used exclusively for the burial of any honorably discharged person who has served in any branch of the armed forces of the United States during any war in which the United States participated, and who may hereafter die without leaving sufficient means to defray funeral expenses. Provided, however, that the Commissioners Court shall not purchase such burial ground in any instance where there is situated within the county a national military cemetery or other military plot in which honorably discharged veterans of the armed forces of the United States of America may be buried free of charge.

[Acts 1949, 51st Leg., p. 734, ch. 396, § 1.]

Art. 2372j. County Office Building and Other Buildings; Certain Counties of 90,000 to 225,000

Sec. 1. In all counties having a population in excess of ninety thousand (90,000) persons and not more than two hundred and twenty-five thousand (225,000) persons according to the last preceding Federal Census, having an assessed valuation on property for ad valorem tax purposes of more than One Hundred and Twenty-five Million Dollars (\$125,000,000) and having at least four (4) incorporated cities within the county, at least one (1) of which cities having a population of more than fifty thousand (50,000) inhabitants according to the last preceding Federal Census, whenever the Commissioners Court of any such county determines that the county courthouse is not adequate in size or facilities to properly house all county offices and permit the proper exercise of the duties of such office, and/or that the county jail is not adequate in size or facilities to properly confine prisoners, and/or that there is a need for an agricultural building, said Commissioners Court may purchase, construct, or otherwise acquire either in the city of the county seat or elsewhere in the county, a county office building or buildings for any such offices for which the courthouse is not adequate, and/or for which there is a need, including the site or sites therefor. Without limitation of the generalization of the foregoing, any such jail, agricultural building, or other structure or improvement may include an auditorium to be used by the Commissioners

Court or any other county officer or county office for any proper county purpose or public purpose. Payment for such buildings or improvements, including the site or sites therefor, shall be made from the Constitutional Permanent Improvement Fund.

Sec. 2. All proceedings heretofore had by the Commissioners Court of any such county within the past two (2) years providing for and/or establishing any of the buildings herein authorized by Section 1 of this Act, are hereby approved and validated as the proper, lawful and authorized proceedings of any such county and/or its Commissioners Court; provided, however, nothing in this Act shall affect any case or cause of action now pending in any court in this State.

Sec. 3. This Act shall be cumulative of all other laws on the same subject.

Sec. 4. If any Section, subsection, sentence, phrase or word of this Act shall be held unconstitutional or invalid, such invalidity shall not affect the remaining portions of this Act and the Legislature hereby declares it would have enacted such remaining portions despite such invalidity.

[Acts 1949, 51st Leg., p. 781, ch. 421.]

Art. 2372k. Repealed by Acts 1983, 68th Leg., p. 1526, ch. 288, § 2, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 1721, ch. 327, § 3, eff. Sept. 1, 1983

See, now, art. 6702-1, § 2.401.

Art. 2372l. Zoning of Padre Island

Legislative Finding

Sec. 1. The Legislature finds as a matter of fact that that portion of Padre Island lying within Cameron and Willacy Counties is frequented for recreational purposes by citizens from every part of the State and that the orderly development and utilization of this area is a matter of concern to the entire State. The Legislature further finds as a matter of fact that buildings on islands which are frequented as resort areas tend to become congested and to be put to uses which interfere with the proper use of the area as a place of recreation, to the detriment of the health, safety, morals, and the general welfare of the public.

Authority of Commissioners' Courts

Sec. 2. For the purpose of promoting health, safety, peace, morals and the general welfare of the community, including the recreational use of county parks, the Commissioners Courts of Cameron and Willacy Counties are hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes, and to regulate the placing of water,

sewerage, park and other public requirements on such island in areas of such island lying outside the corporate limits of a city, town or village, and within two miles of any publicly owned park or recreational development and all areas which lie within two miles of any beach, wharf or bath house which is used by as many as five hundred persons annually.

Districts

Sec. 3. For any or all of said purposes the Commissioners Court of each said county may divide said area in said islands into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this Act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

Purposes in View

Sec. 4. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets and roads; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements, and to assist in developing said island into parks, playgrounds and places of recreation for the inhabitants of the State of Texas, and other states and nations. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout said islands, and it is hereby provided that this Act shall not enable said Commissioners Courts to require the removal or destruction of property existing at the time said Commissioners Courts shall take advantage of this Act.

Method of Procedure

Sec. 5. The said Commissioners Courts shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, no such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in a paper of general circulation in each said county.

Changes

Sec. 6. Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such change, signed by the owners of twenty (20%) per cent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 200 feet therefrom, or from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the Commissioners Court. The provisions of the previous section relative to public hearing and official notice shall apply equally to all changes or amendments.

Zoning Commission

Sec. 7. In order to avail itself of the powers conferred by this Act, the said Commissioners Courts shall appoint a commission, all of whom shall be residents of each said county, and to be known as the Zoning Commission, to be composed of seven (7) members, to recommend the boundaries of the various original districts, and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and said Commissioners Court shall not hold its public hearings or take action until it has received the final report of such commission. Where a Board of Park Commissioners for each said county already exists, it may be appointed as the Zoning Commission. Written notice of all public hearings on proposed changes in classification shall be sent to all owners of property, or to the person rendering the same for county taxes, affected by such proposed changes of classification, and to all owners of property, or to the person rendering the same for county taxes, located within two hundred (200) feet of any property affected thereby, within not less than ten (10) days before any such hearing is held. Such notice may be served by depositing the same, properly addressed and postage paid, in the post office.

The Zoning Commission shall choose from its own membership its chairman for such tenure (not extending beyond the term of his office as a member of said commission) as it sees fit and at any time may choose from its own membership for any particular meeting or occasion, an acting chairman; and it may employ its own secretary, and at any time an acting secretary, and other technical and clerical help to be paid by each said county, compensation not in excess of the amount determined by prior order of the said Commissioners Court.

No member of the commission shall be entitled to compensation as such, but may be entitled to expenses actually incurred while serving on the commission in accordance with the provisions of any order entered by the County Commissioners Court to that effect.

Board of Adjustment

Sec. 8. The said Commissioners Court may provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of this Act may provide that the said board of adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent and in accordance with general or specific rules therein contained.

The board of adjustment shall consist of five members, each to be appointed for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The board shall adopt rules in accordance with the provisions of any order adopted pursuant to this Act. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the county or of any municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable

time. Upon the hearing any party may appear in person or by agent or by attorney.

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Act or of any order adopted pursuant thereto;

2. To hear and decide special exceptions to the terms of the order upon which such board is required to pass under such order;

3. To authorize upon appeal in specific cases such variance from the terms of the order as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the order will result in unnecessary hardship, and so that the spirit of the order shall be observed and substantial justice done.

In exercising the above mentioned powers such board may, in conformity with the provisions of this Act, reverse or reaffirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such order, or to effect any variation in such order.

Any person, or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the county or of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the board.

Upon the presentation of such petition the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely

set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

Enforcement and Remedies

Sec. 9. The said Commissioners Court may provide by order for the enforcement of this Act and of any order or regulation made thereunder. A violation of this Act or of such order or regulation is hereby declared to be a misdemeanor, and such local legislative body may provide for the punishment thereof by fine or imprisonment or both. It is also empowered to provide civil penalties for such violation.

In case any building or structure is erected, constructed, re-constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Act or of any order or other regulation made under authority conferred hereby, the proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, re-construction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct business, or use in or about such premises.

Conflict With Other Laws

Sec. 10. Wherever the regulations made under authority of this Act require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose higher standards than are required in any other statute or local order or regulation, the provisions of the regulations made under authority of this Act shall govern. Wherever the provisions of any other statute or local order or regulation requires a greater width or size of yards, courts, or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of

this Act, the provisions of such statute or local order or regulation shall govern.

Telephone Buildings

Sec. 10a. The provisions of this Act or of any orders, regulations or restrictions made or entered under the authority of this Act, shall not apply to the location, construction, maintenance or use of central office buildings of corporations, firms, or individuals engaged in the furnishing of telephone service to the public, or to the location, construction, maintenance or use of any equipment in connection with such buildings or as a part of such telephone system, necessary in the furnishing of telephone service to the public.

[Acts 1953, 53rd Leg., p. 636, ch. 246. Amended by Acts 1981, 67th Leg., p. 2632, ch. 707, § 4(9), eff. Aug. 31, 1981.]

Art. 2372L-1. Zoning of Portion of Val Verde County Surrounding Amistad Recreation Area

Legislative Finding

Sec. 1. The Legislature finds as a matter of fact that a portion of Val Verde County surrounding Amistad recreation area is frequented for recreational purposes by citizens from every part of the state and that the orderly development and utilization of this area is a matter of concern to the entire state. The Legislature further finds as a matter of fact that buildings in this area which are frequented for resort or recreation purposes tend to become congested and to be put to uses which interfere with the proper use of the area as a place of recreation, to the detriment of the health, safety, morals, and the general welfare of the public.

Authority of Commissioners Court

Sec. 2. For the purpose of promoting health, safety, peace, morals, and the general welfare of the community, including the recreational use of county land, the Commissioners Court of Val Verde County may regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes, and regulate the placing of water, sewerage, park, and other public requirements for those areas of the county which would be on the lakeward side of the following described boundaries:

BEGINNING at a point on the South side of the Del Rio-Rocksprings Highway near or at the Northeast corner of Survey 38, Block AZ, GC&SF.RY.CO.

THENCE in a Southwesterly direction across Surveys 38, 24, 25, 2, 1, 5 and 65 Block AZ, GC&SF.RY.CO., to the Northeast corner of Survey 15, Block 3, GS & SF. RY. CO.;

THENCE in a Southerly direction with the East lines of Surveys 15, 14, 7, 5 and across Survey 2, Block 3, GC&SF.RY.CO., to a point being the North corner of Survey 579, Kinney County School Land;

THENCE in a Southwesterly direction across Surveys 579, 536 and 575 to the South corner of Survey 575, Kinney County School land;

THENCE in a Southerly direction along the East lines of Surveys 863, 740 and 487 to the Southeast corner of Survey 487, CCSD&RGNG.RY.CO.

THENCE Westerly direction to the Northeast corner of Survey 30, Block 5, GC&SF.RY.CO.:

THENCE Southerly direction with the East lines of Survey 28, Block 5, GC & SF. RY. CO., Survey 30, Block 5, and across Surveys 7 and 4, in Block 1, GC & SF. RY. CO., and across Survey 920 EL & RR Ry. Co., to the South line of Survey 920, E.L.&R.R. RY.CO.;

THENCE in a Westerly direction with the South lines of Surveys 920, 919 E.L. & R.R. RY. CO. and Survey 876 C.E. Stroude, and the South lines of Survey 7, 8, 9, 18 and 16 in Block 5, GC & SF. RY. CO. to a point on the Southeast line of Survey 31, Block 12, I&G.N.RY.CO.;

THENCE in a Southwesterly direction with the Southeast line of said Survey 31, Block 12, to the bank of the Rio Grande River;

THENCE in a Northerly and Northwesterly direction with the bank of the Rio Grande River and the Reservoir of the Amistad Lake to a point on the North Bank of the Rio Grande River near Langtry at a point in the South line of Survey 619 Torres I. & M. Company;

THENCE in a Northerly direction with the East line of the townsite of the town of Langtry as shown by plat of record in Vol. 1 page 70 Map Records of Val Verde County, Texas, to a point about $\frac{3}{4}$ mile to the South line of U.S. Highway 90;

THENCE in a Southwesterly direction with the South line of U.S. Highway 90 to the Northwest corner of the Langtry townsite;

THENCE in a Southerly direction with the West line of the Langtry townsite to the Rio Grande River;

THENCE in a westerly direction with the Rio Grande River to a point being the Southwest corner of Survey 47, Block S-3 E.L.&R.R.RY.CO.;

THENCE in a Northerly direction with the West line of Survey 47, Block S-3, and the West lines of 124, 125, 126, 95, 94, 71, 54 and 53m, Block D-8 E.L.&R.R.CO., to the South line of the Southern Pacific Railroad;

THENCE in a Southeasterly direction with the South line of the Southern Pacific Railroad to the East line of Survey 84, Block S-2 EL & R.R. Ry. Co.;

THENCE in a Northerly direction with the East lines of Surveys 84, 83, 76 and 75 to the Northwest corner of Survey 77, Block S-2;

THENCE in an Easterly direction with the North lines of Surveys 77, 78, 80, 45 and across Surveys 34, 35, 36, 37, 38 and 39, all in Block S-2, E.L. & R.R. Ry. Co., and across the Pecos River with the North lines of Surveys 8 and 34, in Block EG, GC&SF.RY.CO. to the Northeast corner of said Survey 34;

THENCE in the Southerly direction with the East line of Survey 34, and across Surveys 36, 46, 44 Block EG, GC & SF. RY. CO., and across Surveys 4, 3, 2, 1, Block EM, GCSD&RGNG.RY.CO., to the North Line of the Southern Pacific Railroad;

THENCE in an Easterly and Southeasterly direction with the North line of the Southern Pacific Railroad to a point in the West line of Survey 84, Block N, G.H.&S.A.RAILWAYCO.;

THENCE in a Southerly direction with the West lines of Surveys 84 and 83 in Block N, to the Southwest corner of Survey 83;

THENCE in an Easterly direction with the South line of said Survey 83, and continuing Easterly across Blocks N, V-21 and 1, to the Northeast corner of Survey 50½, at a point on the West bank of the Devil's River;

THENCE in an Easterly Northeasterly direction across Devil's River to the place of beginning.

Districts

Sec. 3. For any or all of the purposes set forth in Section 2 of this Act, the commissioners court may divide the area into zoned districts of such number, shape, and area as it may consider best suited to carry out the purposes of this Act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

Purposes in View

Sec. 4. These regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets and roads; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements, and to assist in developing said area into parks, playgrounds and places of recreation for the inhabitants of the State of Texas, and other states and nations. In making these regulations the commissioners court shall give reasonable consideration to the character of the district and its peculiar

suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the area. However, this Act shall not enable the commissioners court to require the removal or destruction of property existing at the time the commissioners court implements the provisions of this Act, nor may the commissioners court limit or otherwise restrict the right of a landowner acting in his own behalf to construct improvements to be used for agricultural purposes, or otherwise use his land for agricultural purposes. However, the commissioners court may limit, restrict, or prohibit any commercial agricultural enterprise such as feed lots.

Zoning Commission

Sec. 5. (a) The commissioners court shall appoint a zoning commission, to be composed of five members, to recommend the boundaries of the various original zoned districts, and appropriate regulations to be enforced therein. The commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the commissioners court shall not hold its public hearings or take action until it has received the final report of the commission. Written notice of all public hearings on proposed changes in classification shall be sent to all owners of property, or to the person rendering the same for county taxes, affected by such proposed changes of classification, and to all owners of property, or to the person rendering the same for county taxes, located within 200 feet of any property affected thereby, within not less than 10 days before any such hearing is held. This notice may be served by depositing a letter, properly addressed and postage paid, containing all necessary information, in the post office.

(b) The zoning commission consists of an ex officio chairman and four additional members. The chairman shall be a public official in Val Verde County, and shall be appointed by the Commissioners Court of Val Verde County to hold a term of office of two years. Initial appointment of the four additional members of the zoning commission shall be made by the commissioners court with members to be assigned terms of one, two, three, and four years. Thereafter, in the event of resignation, end of term, or vacancy occurring in the membership, new members shall be selected by the commissioners court. A vacancy in the office of ex officio chairman shall be filled by appointment of the commissioners court.

(c) The zoning commission may employ a secretary, and an acting secretary, and other technical and clerical help to be paid not in excess of an amount determined by prior order of the commissioners court.

(d) Members of the commission shall receive compensation in the amount of \$10 per month, and may also be entitled to expenses actually incurred while serving on the commission in accordance with the provisions of any order entered by the commission-

ers court to that effect. However, the chairman shall not receive compensation under this subsection if he receives compensation in his capacity as a public official in Val Verde County.

(e) No person may be appointed to, or serve on, the commission after his 70th birthday.

Method of Procedure

Sec. 6. (a) No preliminary report, or proposed order, rule, or regulation of the zoning commission is effective until it has been approved and adopted by the commissioners court.

(b) The commissioners court shall hold a public hearing before adopting any preliminary report or proposed order, rule, or regulation of the zoning commission, and it shall publish public notice of the hearing at least 15 days in advance of the hearing in a newspaper of general circulation in Val Verde County.

(c) A preliminary report, or proposed order, rule, or regulation of the zoning commission may be amended, supplemented, altered, modified, or rejected by a majority vote of the commissioners court. However, in the event of a protest against any such change, signed by the owners of 20 percent or more either of the lots included in the change, or of those immediately adjacent in the rear thereof extending 200 feet therefrom, or from the street frontage of these opposite lots, the change shall not become effective except upon favorable vote of three-fourths of all the members of the commissioners court. The commissioners court shall hold a public hearing after receiving such a protest, and the provisions of public notice set forth in Subsection (b) of this section shall apply to the hearing.

Appeals

Sec. 7. (a) Any person aggrieved, or any officer, department, board, or bureau of Val Verde County, or of any municipality in Val Verde County, may petition the commissioners court for a special exception to any final report, order, rule, or regulation adopted by the commissioners court. The commissioners court shall hold a public hearing on the petition and shall publish public notice of the hearing at least 15 days in advance of the hearing in a newspaper of general circulation in Val Verde County.

(b) The commissioners court may grant any petition for a special exception by majority vote; however, in the event of a protest against the special exception presented at the hearing and signed by the owners of 20 percent or more either of the lots included in the change, or of those immediately adjacent in the rear thereof extending 200 feet therefrom, or from the street frontage of these opposite lots, the change shall not become effective except upon favorable vote of three-fourths of all the members of the commissioners court.

Enforcement and Remedies

Sec. 8. (a) The commissioners court may provide by order for the enforcement of this Act and of any order or regulation made thereunder. Any person who violates any provision of this Act, or any rule or regulation made pursuant to this Act by the commissioners court, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$500 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense. Trial of offenses under this section shall be in the district court.

(b) In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used, in violation of this Act or any order or other regulation made pursuant to the authority conferred on the commissioners court by this Act, the proper authorities of the county may, in addition to other remedies, institute an appropriate action or proceeding to prevent the unlawful action or use, to restrain, correct, or abate the violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct of business, or other use in or about the premises.

Conflict With Other Laws

Sec. 9. (a) Whenever the regulations made by the commissioners court pursuant to the authority granted in this Act require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose higher standards than are required in any other statute or local order or regulation, the provisions of the regulations made pursuant to this Act shall govern.

(b) Wherever the provisions of any other statute or local order or regulation require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made pursuant to this Act, the provisions of the statute or other local order or regulation shall govern.

Inapplicability to Telephone Systems

Sec. 10. The provisions of this Act or of any orders, regulations, or restrictions made or entered under the authority of this Act, shall not apply to the location, construction, maintenance, or use of central office buildings of corporations, firms, or individuals engaged in the furnishing of telephone service to the public, or to the location, construction, maintenance, or use of any equipment in connection with such buildings or as a part of such telephone systems, necessary in the furnishing of telephone service to the public.

[Acts 1971, 62nd Leg., p. 1125, ch. 250, eff. May 17, 1971.]

Art. 2372m. Repealed by Acts 1981, 67th Leg., p. 485, ch. 204, § 3, eff. Jan. 1, 1982

See, now, art. 4477-6a.

Art. 2372n. Public Platform Tonnage Scales

Sec. 1. In each county in this State, upon the presentation of a suitable petition in writing signed by not less than five hundred (500) inhabitants of the county, the Commissioners Court shall have the power and authority to purchase and install one (1) or more public platform tonnage scales suitable and adapted for the weighing of livestock, produce, agricultural products or any other articles, goods or wares as will permit, facilitate and encourage the development of truck farming, cattle raising or other trades or businesses in which the availability of such public scales is necessary or desirable.

Sec. 2. The Commissioners Court in each county shall have authority to prescribe rules and regulations concerning use of such scales and prescribe the fees to be charged for such use, and the Commissioners Court shall have the power and authority to operate such public scales, to provide adequate personnel for the operation of such scales, or to lease, let or rent such scales to responsible private individuals, corporations, business concerns or associations upon the terms and conditions prescribed by the Commissioners Court. Provided, however, that such public scales provided for in this Act shall at all times be available for use by the public.

Sec. 3. Any and all money which may be collected or received by virtue of the use or operation of such scales and through any contract which may be executed under the provisions of this Act shall be designated to the General Fund of the county.

[Acts 1954, 53rd Leg., 1st C.S., p. 95, ch. 44.]

Art. 2372o. County Building Authority Act

Application of Act

Sec. 1. This Act shall be applicable only to counties having a population in excess of 600,000 according to the last preceding Federal Census and which own and use, in conjunction with other structures, a courthouse which is more than thirty (30) years old or has not been completely renovated or remodeled within a thirty (30) year period. County Building Authorities without taxing power may be created as hereinafter provided. This law shall be known as the "County Building Authority Act."

Definitions

Sec. 2. As used in this law: (a) "County" means any county to which this Act is applicable;

(b) "Authority" means a County Building Authority created under this Act;

(c) "Board" or "Board of Directors" means the board of directors of the Authority;

(d) "Project" means the building and property to be constructed or acquired by the Authority;

(e) "Bond Resolution" means the resolution of the Board of Directors authorizing the issuance of revenue bonds;

(f) "Trust Indenture" means the mortgage, deed of trust or other instrument pledging revenues of, or creating a mortgage lien on properties, or both, to secure the revenue bonds issued by the Authority;

(g) "Trustee" means the trustee under the Trust Indenture.

County Building Study Committee; Powers; Payment of Costs

Sec. 3. When the Commissioners Court of any county coming under the provisions of this Act shall find that it is to the best interest of the county and its inhabitants it shall by order create a County Building Study Committee composed of five (5) members, one (1) to be appointed by each County Commissioner and one (1) by the County Judge. The Study Committee shall have the power to study the needs of the county for a new or expanded county building and the possibility of incorporating therewith devices and characteristics designed to afford protection of life and property in modern warfare, make preliminary plans and surveys with reference to requirements, costs and feasibility of the project and to make recommendations to the Commissioners Court. The county may pay the cost of such study, not to exceed Twenty-five Thousand Dollars (\$25,000.).

Election on Construction of County Building and Issuance of Bonds; Ballots

Sec. 4. The Commissioners Court, after reviewing and considering the recommendations of the Study Committee, may call an election of the qualified voters of the county on the question of construction of a County Building and the issuance of bonds. At such election the following question shall be submitted to the voters:

"FOR the constructing, acquiring, improving, equipping, furnishing a County Building and to issue negotiable revenue bonds to provide funds for this purpose."

"AGAINST constructing, acquiring, improving, equipping, furnishing a County Building and to issue negotiable revenue bonds to provide funds for any of its purposes."

If a majority of the qualified voters of the county vote affirmatively on the above question the Authority shall come into existence and the following Sections of this Act shall apply.

Board of Directors; Membership; Terms; Vacancies; Appointments; Qualifications; Compensation

Sec. 5. The Authority shall be governed by a board of five (5) directors; each County Commissioner shall appoint one (1) director and the County Judge shall appoint one (1) director. Each director shall serve for a term of not more than two (2)

years ending on December 31 not more than two (2) years after his term begins. The directors may provide for overlapping terms, in which event, the directors who are to serve until the following December 31, and those who are to serve until December 31 of the following year shall be determined by lot. Upon the death, resignation, or expiration of the term of any director, a new director to succeed said director, shall be appointed by the person then holding the office of County Judge or County Commissioner, as the case may be, who originally appointed such retiring director; and further, no provisions may hereafter be made in the bylaws of the Authority herein created, to provide for any other means of filling vacancies on the Board of Directors, as if and when they may occur. No officer or employee of any such county shall be eligible for appointment as a director. Directors shall not receive compensation for services but shall be entitled to reimbursement of their expenses incurred in performing such service.

Officers; Quorum; Appointment of Managers of Properties; Comptroller; Duties

Sec. 6. (a) The Board of Directors shall elect from among its members a president and a vice-president, and shall elect a secretary and a treasurer who may or may not be directors, and may elect such other officers as may be authorized by Authority's bylaws. The offices of secretary and treasurer may be combined. The president shall have the same right to vote on all matters as other members of the Board. A majority of the members of the Board shall constitute a quorum and when a quorum is present action may be taken by a majority vote of directors present. The Board shall employ a manager or executive director of the properties and such other employees, experts and agents as it may see fit, but it may delegate to the manager the power to employ and discharge employees. The Board may employ legal counsel.

(b) The County Auditor shall appoint a Comptroller for the Authority, subject to the approval of the Board of Directors and the Commissioners Court. The Comptroller shall work under the direction of the County Auditor and shall institute such budgetary, purchasing and fiscal procedures as conform to accepted business and accounting practices. The Comptroller shall make quarterly reports to the Commissioners Court. His employment may be terminated by the County Auditor and a majority vote of the Board of Directors, and a majority vote of the Commissioners Court. The Comptroller's salary shall be fixed by the County Auditor and approved by the Board of Directors and by the Commissioners Court, and his salary shall be paid by the Authority.

Power to Construct, Enlarge and Furnish Courthouse; Bids

Sec. 7. The Authority shall have the power, subject to the approval of the Commissioners Court, to

construct, enlarge, furnish and equip a building to be used principally as a county courthouse. The Board of Directors shall comply with Chapter 163, Acts of the 42nd Legislature (Vernon's Annotated Civil Statutes Article 2368a), as amended, and Sections 2a and 2b thereof with reference to any construction contract or contract for purchase of equipment and material calling for or requiring the expenditure or payment of Two Thousand Dollars (\$2,000.) or more.

Purpose; Cooperation With Civil Defense Administrator; Participation in Federal or State Assistance

Sec. 8. The Authority is created primarily for the purpose of constructing, acquiring, improving, equipping, furnishing, maintaining and operating a County Building adequate to meet the needs and requirements of such county, and may incorporate shelter protection as a part of the underground facilities to be constructed. In this connection the Authority is authorized to cooperate with the Civil Defense Administrator operating under the Acts of Congress and with the Civil Defense Officers operating under state laws and may make all necessary contracts which would entitle the Authority to participate in Federal or State Assistance in constructing and operating such shelter protection facilities. In making the plans for any such building the Authority may take into consideration the anticipated population and economic growth of the county and its consequent increasing demands for space for housing offices, courts and other activities of the county.

General Powers of Authority

Sec. 9. The Authority is hereby granted and shall have and may exercise all powers necessary or convenient for the carrying out of the purposes set forth in Section 6 above, including but without limiting the generality of the grant of powers, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, to complain and defend in all courts;

(b) To adopt, use and alter at will a corporate seal;

(c) To acquire, purchase, hold and use the land necessary for carrying out the purpose of the Authority, including the power, but without limitation as to the generality of the power hereby granted, to lease as lessee from such county any land or any interest therein for a term not to exceed ninety-nine (99) years, at a nominal rental, or at such annual rental as may be determined by contract between the county and the Authority; to lease as lessor to the county any property, real, personal or mixed, or any interest therein for a term of not exceeding ninety-nine (99) years, at a nominal rental or at such annual rental as may be determined by contract between the county and Authority; to lease as lessor to other persons any property, real, personal or mixed, or any interest therein or any space therein, for a term of not exceeding forty (40) years,

at such annual rental as may be determined by contract between the Authority and such person or persons, but with the proviso that upon such notice as may be specified therein the possession of such property will be surrendered by such person or persons to the Authority in the event and to the extent that it shall then be required for use by the county, provided that the obligations of the Authority under its bond resolution and indenture are not to be impaired thereby;

(d) To make bylaws for the management and regulation of its affairs;

(e) To fix, alter, charge and collect rates, rentals, and other charges for the use of the facilities of, or for the services rendered by the Authority or the Project, which must yield an aggregate income adequate to provide for the payment of the expenses of the Authority, maintenance and operation of the Project and to pay the principal of and interest on the obligations of the Authority, including the amounts necessary to establish and maintain such reserve funds as are required under the resolution authorizing the issuance of Authority's obligations and under the indenture securing such obligations;

(f) To make contracts of all kinds and to execute all instruments necessary or convenient for the carrying on of its business;

(g) Without limitation of the foregoing to borrow money and accept grants from, and to enter into contracts, leases or other transactions with any Federal Agencies;

(h) To have and exercise the power of eminent domain to the same extent and to be exercised in the same manner and under the same laws that are applicable to counties under the laws of the State of Texas for the purpose of acquiring property needed for any purpose authorized by this law;

(i) Prior to the beginning of each fiscal year the Comptroller under the direction of the Board of Directors shall prepare the budget for the ensuing fiscal year and submit it to the Commissioners Court. The Commissioners Court is authorized to approve or revise the budget within fifteen (15) days after it is so submitted;

(j) To do all acts and things necessary or convenient to carry out the powers granted to it by this Act or any other Acts.

Authority of Counties; Accomplishment of Objectives of Act

Sec. 10. A county, acting through its Commissioners Court is authorized to do all things necessary or convenient to permit the accomplishment of the objectives of this Act including, but without limitation as to the generality of such authorization, the following:

(a) The acquisition of land and the conveyance of such land and additional land owned by the county, to the Authority, which in the opinion of such court is needed for the Project, such conveyance to be

either in the form of a deed or a lease, and upon such consideration as may be deemed reasonable by such court, after taking into consideration the fact that the Project is for the primary benefit of the county;

(b) To enter into such contracts of lease, as lessee, with the Authority as lessor, as may be necessary or convenient under this Act, to the extent that such contracts are considered by the court to be in the best interest of the county and in such contract of lease the county is authorized to obligate itself to pay to the Authority, at a bank to be designated by the Authority, an annual rental fixed or determined in the manner provided in such lease and to levy a tax sufficient to pay such rental as it becomes due.

Issuance of Negotiable Revenue Bonds

Sec. 11. The Authority may issue negotiable revenue bonds to provide funds for any of its purposes. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation of its properties and any other revenues resulting from the ownership thereof. The bonds may be additionally secured by a mortgage or deed of trust on real and personal property of the Authority.

Bond Issue Election; Notice; Series; Maturity Date; Interest Cost; Recall Prior to Maturity

Sec. 12. No bonds shall be issued unless authorized by an election held throughout the Authority for that purpose. Such election shall be called by resolution of the Board of Directors. Said election shall be called and held and notice thereof published in the manner provided by Chapter 1 of Title 22, Revised Civil Statutes of 1925, as amended.¹ The bonds shall be authorized by resolution adopted by a majority vote of a quorum of the Board of Directors, and shall be signed by the president or vice-president and countersigned by the secretary, or either or both of their facsimile signatures may be printed thereon. The seal of the Authority shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed (40) years and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the Authority, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six percent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

¹ Article 701 et seq.

**Bonds Constituting Junior Lien on Net Revenues;
Issuance; Bond Resolution**

Sec. 13. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the Bond Resolution or Trust Indenture. Parity bonds may be issued under condition specified in the Bond Resolution or Trust Indenture.

**Money for Payment of Initial Interest and
Operating Expenses**

Sec. 14. Money for the payment of not more than two (2) years interest on the bonds and an amount estimated by the Board to be required for operating expenses during the first year of operation may be set aside for those purposes out of the proceeds from the sale of the bonds.

Refunding Bonds; Exchange by Comptroller

Sec. 15. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds except that no election shall be required, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied in accordance with the procedure prescribed in Chapter 503, Acts of the 54th Legislature.¹

¹ Article 717k.

**Examination of Bonds by Attorney General; Lease
Contracts; Approval; Registration**

Sec. 16. After any bonds (including refunding bonds) are authorized by the Authority such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a lease contract theretofore made between the Authority and the county, or other governmental agency, a copy of such contract and the proceedings of the county or other governmental agency, authorizing such lease contract shall also be submitted to the Attorney General. It shall be the duty of the Attorney General to approve the bonds, and the lease contract, if any, if he finds them to be valid. If he shall approve the bonds and such lease contract the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds, and the lease contract, if any, shall be valid and binding and shall be incontestable for any cause. The creation of the Authority, the bonds, the provision made for the payment and security thereof, and the lease contract if one is made, may also be adjudicated as to validity in the manner provided by Senate Bill No. 349, Acts of the Regular Session of the 56th Legislature.¹

¹ Article 717m (repealed; see, now, art. 717m-1).

**Legal and Authorized Investments; Eligibility to
Secure Deposit of Public Funds**

Sec. 17. All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust compa-

nies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and the sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

**Operation of Properties Without Private Profit;
Payment of Expenses; Sinking Fund;
Bond Reserve Fund**

Sec. 18. The properties shall be operated without the intervention of private profit for the use and benefit of the public. But it shall be the duty of the Board of Directors to charge sufficient rentals and charges and to utilize other sources of its revenues so that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation and upkeep of the property, to pay the interest on the bonds as it becomes due, to create a sinking fund to pay the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the Bond Resolution or Trust Indenture.

Depository

Sec. 19. The Authority may select a depository or depositories according to the procedures provided by law for the selection of county depositories or it may award its depository contract to the same depository or depositories selected by the county and on the same terms.

Use of Property for Benefit of Public; Tax Exemption

Sec. 20. The property owned by Authority will be held for governmental and public purposes only and will be devoted exclusively to the use and benefit of the public, and it shall be exempt from taxation of every character.

Investment of Funds

Sec. 21. The law as to the security for, and the investment of funds, applicable to counties shall control, insofar as applicable the investment of funds belonging to the Authority. The Bond Resolution or the Indenture or both may further restrict the making of such investments. In addition to other powers, the Authority shall have the right to invest the proceeds of its bonds, until such money is needed, in the direct obligations of or obligations unconditionally guaranteed by the United States Government, to the extent authorized in the Bond Resolution or Indenture or in both.

Partial Invalidity

Sec. 22. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Limiting Rights and Powers of Commissioners Court

Sec. 23. No power or authority herein delegated, given, or granted to the Authority authorized to be created by this Act, shall in any manner, alter or limit the rights and powers of the County Commissioners Court, to continue to provide for itself, and the public to be served, such buildings and other facilities which, in their judgment are necessary for the convenience of the people in populated areas.

Payment of Indebtedness; Conveyance of Property to County; Dissolution

Sec. 24. After payment of all indebtedness incurred by the Authority, the Authority shall convey all of its properties and assets to the county without cost to the county, and the Authority shall be dissolved upon the making of such conveyance.

[Acts 1959, 56th Leg., 2nd C.S., p. 126, ch. 25.]

Art. 2372p. Employment of Special Counsel in Counties of More Than 500,000 Population

The Commissioners Court of all counties containing more than five hundred thousand (500,000) population according to the last preceding Federal Census shall have the authority to employ special counsel, learned in the law, to represent the county in all suits brought by or against such county, and particularly with authority to render aid and work with the Commissioners Court, the county engineer and other county employees in the preparation of documents necessary in the acquisition of rights-of-way for the county, or in cases where the county is required to obtain rights-of-way for state highways, or to assist in the acquisition of such rights-of-way; to represent the county in all condemnation proceedings for the acquisition of rights-of-way for highways and other proper purposes where the right of eminent domain is given to counties. Provided, however, that in such counties having a County Attorney, the special counsel shall be named by the County Attorney, and in such counties having no County Attorney, special counsel shall be named by the District Attorney or Criminal District Attorney, and such employment shall be made for such time and on such terms as said County Attorney, District Attorney, or Criminal District Attorney may deem proper and expedient, subject to the approval of the Commissioners Court.

[Acts 1961, 57th Leg., p. 493, ch. 235, § 1.]

Art. 2372p-1. Furnishing Counsel and Investigative Services for Indigents Accused of Crime; Counties Over 2,000,000**Authority to Contract**

Sec. 1. For the purpose of providing timely and effective assistance of counsel to those persons accused of crime and who are financially unable to employ counsel on their own, the Commissioners Court of any county in this State having a population of more than 2,000,000, according to the last preceding federal census, may contract with some already established bar association, nonprofit corporation, nonprofit trust association or any other nonprofit entity (which has for its purpose the providing of timely effective assistance of counsel for the indigent accused of crime) to assist the courts in providing the timely and effective assistance of counsel.

Aid to Court Appointed Counsel

Sec. 2. Under the terms of such contract, provision may be made for the contracting entity to provide additional legal counseling and advice to the court appointed counsel as well as the necessary investigative services authorized by Article 26.05, Code of Criminal Procedure, 1965.

Recommendations for Release on Personal Bond

Sec. 3. Likewise, for the purpose of providing the judge before whom a criminal case is pending the information necessary for making a proper determination as to whether or not the accused should be released on personal bond as authorized by Article 17.03, Code of Criminal Procedure, 1965, the commissioners court of any such county may contract with such above named entity to interview the accused, to verify the information given, to make the appropriate recommendation as to release to the judge of the court where the case is pending, and, if the accused is released on his personal bond, to assure the judge of the court that such entity will assist in securing the presence of the accused at his trial.

Duration of Contract; Renewal

Sec. 4. Such contract may not be entered into for in excess of one year, but may be renewed from time to time. Either party to such contract may terminate the same by giving six months notice of intention to do so.

Compensation for Services

Sec. 5. Services provided under said contract shall be compensated for from the general funds of the county, and the commissioners court is empowered to accept grants or other financial assistance from the federal government or other private

source to aid and assist in carrying out the purposes of this Act.

[Acts 1969, 61st Leg., p. 2454, ch. 821, eff. Sept. 1, 1969. Amended by Acts 1971, 62nd Leg., p. 1836, ch. 542, § 81, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 570, ch. 237, § 40, eff. Sept. 1, 1981.]

Art. 2372p-2. Personal Bond Offices

Sec. 1. Any county, or any judicial district with jurisdiction in more than one county, with the approval of the commissioners court of each county in the district, may establish a personal bond office to gather and review information about an accused that may have a bearing on whether he will comply with the conditions of a personal bond and report its findings to the court before which the case is pending.

Sec. 2. (a) The commissioners court of a county that establishes the office, or the district and county judges of a judicial district that establishes the office, may employ a director of the office.

(b) The director may employ the staff authorized by the commissioners court of the county or the commissioners courts of each county in the judicial district if the judicial district includes more than one county.

Sec. 3. If a judicial district establishes the office, each county in the district shall pay its pro rata share of the costs of administering the office according to its population in the last preceding federal census.

Sec. 4. (a) If a court releases an accused on personal bond on a personal bond office's recommendation, the court shall assess a personal bond fee of \$20 or of three percent of the amount of the bail fixed for the accused, whichever is greater. The court may waive the fee or assess a lesser fee if good cause is shown.

(b) Fees collected under this Act may be used solely to defray expenses of the personal bond office, including defraying the expenses of extradition.

(c) Fees collected under this Act shall be deposited in the county treasury, unless the office serves more than one county in which event the fees shall be apportioned to each county in the district according to each county's pro rata share of the costs of the office.

[Acts 1973, 63rd Leg., p. 788, ch. 352, eff. June 12, 1973. Amended by Acts 1977, 65th Leg., p. 1914, ch. 765, § 1, eff. Aug. 29, 1977.]

Art. 2372p-3. Licensing and Regulation of Bail Bondsmen

Declaration of Policy

Sec. 1. The business of executing bail bonds is declared to be a business affecting the public interest. It is declared to be the policy of this state to provide reasonable regulation to the end that the

right of bail be preserved and implemented by just and practical procedures governing the giving or making of bail bond and other security to guarantee appearance of the accused.

Definitions

Sec. 2. In this Act:

(1) "Person" means an individual or corporation.

(2) "Bondsman" means any person who for hire or for any compensation deposits any cash or bonds or other securities, or executes as surety or co-surety any bond for other persons.

(3) "Bonding Business" means the occupation in which a bondsman is engaged.

(4) "Company" includes corporations and other business entities.

(5) "Bond" includes cash deposit and any similar deposit or written undertaking to assure appearance.

(6) "Board" means the County Bail Bond Board.

Licensing Requirement and Eligibility

Sec. 3. The provisions of this Act apply only to the execution of bail bonds in counties having a population of more than 110,000 according to the last federal census or in counties of less than 110,000 where a board has been created. The creation of the board is within the discretion of a majority of the officers of the county who would be members of, or who would designate members of, the board as provided under Subsection (b) of this section.

(a) In a county that has a board, no person may act as a bondsman except:

(1) persons licensed under this Act, and

(2) persons licensed to practice law in this state who meet the requirements set forth in Subsection (e) of Section 3 of this Act.

(b) No individual is eligible for a license under this Act unless the individual:

(1) is a resident of this state and a citizen of the United States;

(2) is at least 18 years of age;

(3) possesses sufficient financial resources to provide indemnity against loss on such obligations as he may undertake as required by Section 6 of this Article.

(c) No person shall be eligible for a license under this Act, who after the effective date of this Act, commits an offense for which he is finally convicted, such offense being a felony or misdemeanor involving moral turpitude.

(d) No corporation is eligible to be licensed unless:

(1) it is chartered or admitted to do business in this state; and

(2) it is qualified to write fidelity, guaranty and surety bonds under the Texas Insurance Code, as amended.

(e) Persons licensed to practice law in this state may execute bail bonds or act as sureties for persons they actually represent in criminal cases without being licensed under this Act, but they are prohibited from engaging in the practices made the basis for revocation of license under this Act and if found by the sheriff to have violated any term of this Act, may not qualify thereafter under the exception provided in this subsection unless and until they come into compliance with those practices made the basis of revocation under this Act. Notwithstanding any other provision of this subsection, no person licensed to practice law shall be relieved of liability on a bail bond he has executed for the sole reason that he has not been employed to represent the principal on the merits of the case if he has been paid a fee for the execution of the bail bond.

Records Required of Licensees

Sec. 4. (a) A bondsman licensed under this Act shall maintain a record of each bond on which the bondsman appears as surety and shall maintain a separate set of records for each county in which the bondsman is licensed. The records shall include the following information for each bond executed and enforced:

(1) the style and number of the cause in which the bond is given and the court in which it is executed;

(2) the name of the defendant released on bond;

(3) the amount of the bail set in the case; and

(4) the amount and type of security held by the bondsman, together with a statement as to whether the security was taken for payment of a bail bond fee or for assurance of the principal's appearance in court and the conditions under which the security will be returned. No security shall be held for both the payment of a bail bond fee and assurance of the principal's appearance in court that is in excess of the particular risk involved.

(b) The records shall be submitted to the board or a person designated by the board for inspection prior to each renewal of the bondsman's license and shall be available for inspection on demand by the board or its authorized representative.

County Bail Bond Board

Sec. 5. (a) There is hereby created in all counties having a population of 110,000 or more, according to the last preceding federal census, a County Bail Bond Board. In counties of less than 110,000, the creation of the board is within the discretion of a majority of the officers of the county who would be members of, or who would designate members of, the board as provided under Subsection (b) of this section.

(b) The County Bail Bond Board shall be composed of the following persons:

(1) the county sheriff or his designee;

(2) a district judge of the county having jurisdiction over criminal matters designated by the presiding judge of the administrative judicial district;

(3) the county judge or a member of the commissioners court designated by the county judge;

(4) a judge of a county court or a county court at law in the county having jurisdiction over criminal matters designated by the commissioners court;

(5) the district attorney or his designee;

(6) a licensed bondsman, licensed in the county, elected by other county licensees; and

(7) a justice of the peace.

(c) The board shall meet within 60 days after its creation. The board shall initially elect one of its members as chairman who shall preside at all meetings to be held thereafter at the call of the chairman.

(d) Four members of the board shall constitute a quorum for the conduct of business. All action by the board shall require the vote of a majority of the members present. The board shall meet at least every 30 days.

(e) Unless clearly not required by this Act, all rules, regulations, and actions of the board passed pursuant to this Act shall be posted at an appropriate place in the courthouse for a period of 10 days prior to their effective date.

(f) In addition to the powers and duties given to the County Bail Bond Board by this Act, the board has the following powers and duties:

(1) To exercise any powers incidental or necessary to the administration of this Act, to supervise and regulate all phases of the bonding business and enforce this Act within the county, and to prescribe and post any rules necessary to implement this Act;

(2) To conduct hearings and investigations and make determinations respecting the issuance, refusal, suspension, or revocation of licenses to bondsmen within the provisions of this Act and to issue licenses to those applicants who qualify under the terms of this Act, to refuse licenses to those applicants who do not qualify, and to suspend or revoke the licenses of licensees who commit violations under this Act or the rules prescribed by the board under this Act;

(3) To require applicants and licensees to appear before the board, and to administer oaths, examine witnesses, and compel the production of pertinent books, accounts, records, documents, and testimony by the licensee or applicant in its hearings;

(4) To cause records and transcripts to be made of all its proceedings;

(5) To maintain records and minutes and otherwise operate its office affairs;

(6) To employ such employees to assist the board in its functions as necessary;

(7) To furnish and post in each court in the county having jurisdiction of criminal cases and each local official responsible for the detention of prisoners in the county with current lists of the bondsmen and their agents licensed and approved in the county and to notify immediately each court and local official when a bondsman's license is suspended or revoked or an agent's authority is rescinded; and

(8) To file reports and furnish information on the operation of the bonding business in the county at the request of the Texas Judicial Council which shall report annually to the governor and the legislature on or before December 1 of each year on the operation of the bonding business in the state.

Application and Issuance of License

Sec. 6. (a) Any person desiring to act as a bondsman in any court of the county shall file with the County Bail Bond Board a sworn application for a license. The application shall be in such form and shall contain such information as the board may prescribe including the following:

(1) The name, age, and address of the applicant, and if the applicant is a surety corporation, and whether chartered or admitted to do business in this state and qualified to write fidelity, guaranty, and surety bonds under the Texas Insurance Code, as amended;

(2) The name under which the business shall be conducted;

(3) The name of the place or places, including street address and city, wherein the business is to be conducted;

(4) A statement listing any nonexempt real estate owned by the applicant that the applicant intends to convey in trust to the board to secure payment of any obligations incurred by the applicant in the bonding business if the license is granted. The following shall be included for each parcel listed:

(A) a legal description equivalent to the description required to convey the property by general warranty deed;

(B) current statements from each taxing unit with power to assess or collect taxes against the property indicating that there are no outstanding tax liens against the property and indicating the net value of the property according to the current appraisal made by a member of the Society of Real Estate Advisors or a Member of Appraisal Institute, accompanied by a statement from the applicant agreeing to keep all taxes paid on the property while it remains in trust;

(C) a statement of the applicant that he will not further encumber the property after conveying it in trust to the County Bail Bond Board, without notifying and obtaining the permission of the board;

(D) an agreement to insure and keep current the insurance on any improvements on the property against any damage or destruction while the property remains in trust, in the full amount of the value claimed for the improvements;

(E) a statement indicating whether the applicant is married and, if so, a sworn statement from the spouse agreeing to transfer to the board, as a part of the trust, any right, title, or interest that the spouse may have in the property; and the spouse must execute the deeds of trust to any community property placed in the security deposit required under this section;

(5) A statement indicating the amount of cash or cash value of any certificate of deposit or cashier's checks which the applicant intends to place on deposit with the county treasurer to secure payment of any obligations incurred by the applicant in the bonding business if the license is granted;

(6) A complete, sworn financial statement;

(7) A declaration by the applicant that he will comply with this Act and the rules prescribed by the board.

(b) The application of an individual for a license under this Act shall be accompanied by letters of recommendation from three reputable persons who have known the applicant for a period of at least three years. If the applicant is a corporation, the letters shall be required for the person to be in charge of its business in the county. Each letter shall recommend the applicant or person who will be in charge of its business as having a reputation of honesty, truthfulness, fair dealing, and competency and shall recommend that the license be granted. If the applicant or the person to be in charge of its business has been licensed under this Act in another county, the application shall be accompanied by a letter from each appropriate board stating whether or not the applicant is in good standing in the county where he is licensed.

(c) The application shall be accompanied by a fee of \$500 for the filing of any original application, a photograph of the applicant, and a set of fingerprints of the applicant taken by a law enforcement officer designated by the board.

(d) Prior to a hearing on the application, the board or its authorized representative shall conduct necessary inquiries to determine whether the applicant possesses the financial responsibility and meets other requirements of this Act.

(e) A hearing shall be held on the application after the board conducts the inquiries required by Subsection (d) of this section. The board may submit any questions to the applicant and the applicant's agents relevant to its ruling on the application, and the applicant is entitled to present oral and documentary evidence to the board. If, after the hearing, the board is satisfied that no grounds exist on which to refuse the application, the board shall enter an order tentatively approving the application

subject to the application being perfected by the filing of the security deposits required of licensees under this Act. If the board is not so satisfied, it shall enter an order refusing the license.

(f) Upon notice from the board that the application has been tentatively approved, the applicant shall then:

(1) deposit with the county treasurer of the county in which the license is to be issued a cashier's check, certificate of deposit, cash, or cash equivalent in the amount indicated by the applicant under Subdivision (5) of Subsection (a) of Section 6 of this Act but in no event less than \$5,000 to be held in a special fund to be called the bail security fund; or

(2) execute in trust to the board deeds to the property listed by the applicant under Subdivision (4) of Subsection (a) of Section 6 of this Act, which property shall be valued in the amount indicated on an appraisal by a member of the Society of Real Estate Advisors or a Member of Appraisal Institute of the county in which it is located, but in no event less than \$10,000 valuation, the condition of the trust being that the property may be sold to satisfy any final judgment forfeitures that may be made in bonds on which the licensee is surety after such notice and upon such conditions as are required by the Code of Criminal Procedure, 1965, as amended, in bond forfeiture cases; the board shall file the deeds of trust in the records of each county in which the property is located, and the applicant shall pay the filing fees.

(3) If the licensee is a corporation, it shall furnish to the sheriff an irrevocable letter of credit as a cash equivalent to satisfy any final judgment of forfeiture that may be made on any bonds on which the corporate licensee is surety.

(g) No bondsman may execute, in any county, bail bonds that in the aggregate exceed 10 times the value of the property held as security on deposit or in trust under Subsection (f) of this section. A county officer or employee designated by the board shall maintain a current total of the bondsman's potential liability on bonds in force, and no further bonds may be written by or accepted from the bondsman when the limit is reached. When a bondsman's total liability on judgments nisi reaches two times the same amount as he has on deposit as security, no further bonds may be written until the bondsman posts additional security as required in this subsection. A bondsman whose license is effective may, at any time, by posting additional security, increase the bondsman's limit.

(h) The cash deposit or the funds realized from the trust shall be used to pay the final judgments of any bail forfeitures that result from the licensee's execution of a bail bond, if the licensee fails to satisfy the judgment within 30 days after a final judgment of forfeiture. When any sums are depleted from the deposit or trust to pay a judgment resulting from a forfeited bond, the licensee shall, as a condition to continuing as a licensee, replenish

the amount so depleted up to the amount of the required minimum deposit to secure other bonds in force. When the licensee ceases to engage in the business of executing bail bonds and ceases to maintain his license, he may withdraw his security deposit or trust upon presentment of a release by the board, if there are no judgments or bond liabilities, either actual or potential, outstanding against the license. Any portion of the deposit or trust not used to pay judgments or to secure unexpired obligations on existing bonds in force shall be returned to the licensee or his heirs or assigns upon presentment of a release by the board.

Corporation as Surety

Sec. 7. (a) Wherever in this Act any person is required or authorized to give or execute any bail bond, such bail bond may be given or executed by such principal and any corporation authorized by law to act as surety. When any such corporation authorized by law to act as a surety undertakes to be a surety on a bail bond, such corporation, before being acceptable as a surety on a bail bond, shall be required to meet the applicable requirements prescribed by Section 6 of this Act before being acceptable as a personal surety on a bail bond; Subsection (g) of Section 6 does not apply to a corporate surety.

(b) The certificate of authority to do business in this state issued to a corporation by the State Board of Insurance pursuant to Article 8.20, Insurance Code, as amended, shall be conclusive evidence as to the sufficiency of the security, the corporation's solvency, or its credits.

(c) Any corporation which acts as a surety shall, before executing any bail bond, first file in the office of the county clerk of the county where such bail bond is given a power of attorney designating and authorizing the named agent of such corporation to execute such bail bonds by such agent. This power of attorney shall be a valid and binding obligation of the corporation. A separate license is required for each agent operating under a corporate power of attorney.

(d) Notwithstanding any statutory requirements to the contrary, any agent so designated and licensed or approved hereunder for the purpose of writing bail bonds shall not be required to be licensed as a local recording agent as defined in Article 21.14, Texas Insurance Code, as amended, for the purpose of this Act.

(e) It shall be the duty of the board to notify promptly the State Board of Insurance of default by a corporation on any financial obligation which it undertakes in the county.

Expiration and Renewal of License

Sec. 8. (a) A license issued under this Act expires 24 months after the date of its issuance and may not be renewed unless an application for renewal is filed with the board at least 30 days before expiration. The application for renewal shall have

the same form and content as an application for an original license under this Act. The application for renewal shall be accompanied by a renewal fee of \$500. If the applicant's current license has not been suspended or revoked, if the renewal application complies with the requirements of this Act, and if the board knows no legal reason why the application should not be renewed, the license may then be renewed for a period of 24 months from the date of expiration and may be renewed subsequently each 24 months in like manner.

(b) All fees collected by the board shall be deposited in the general fund of the county for use in the administration and enforcement of this Act. The board is authorized to receive disbursements from the general fund for reasonable expenses incurred in the enforcement of this Act, but service on the board is considered an additional duty of office, and the members of the board are not entitled to compensation for the service but only for reimbursement of any expenses actually incurred as a result of the service.

(c) Each license, when issued, shall show on its face the date of expiration and license number, and it shall be the responsibility of the licensee to file for renewal under the terms of this Act, and each subsequent renewal license shall have the same number as assigned the original license.

Refusal, Suspension, and Revocation of Licenses

Sec. 9. (a) No license may be issued to any person who has not complied with the requirements of this Act for applying for an original or renewal license.

(b) The board may, on its own motion, and shall, on receipt of a sworn complaint providing reasonable cause to believe that a violation of this Act has occurred or on the request of a court, investigate the actions and records relating to such complaint against any bondsman it has licensed. The board may, after notice and hearing, suspend or revoke a license for:

(1) violation of a provision of this Act or a rule prescribed by the board during the term of the license sought to be suspended or revoked or during any prior licensing period;

(2) fraudulently obtaining a license under the provisions of this Act, making a false statement or misrepresentation in an application for an original or renewal license or in any hearing before the board, or refusing to answer any question submitted by the board in a hearing relevant to the license or the conduct or qualifications of the licensee or applicant;

(3) final conviction under the laws of this or any other state or of the United States of a misdemeanor or involving moral turpitude or of a felony committed after the effective date of this Act;

(4) being adjudged bankrupt or becoming insolvent;

(5) being adjudged mentally incompetent;

(6) failing to pay within 30 days any final judgment rendered on any forfeited bond in any court of competent jurisdiction within the county of the licensee;

(7) paying of commissions or fees or dividing commissions or fees or offering to pay or divide commissions or fees with any person, company, firm, or corporation not licensed under this Act to execute bonds;

(8) soliciting bail bond business in any building where prisoners are processed or confined;

(9) recommending to any client the employment of a particular attorney or firm of attorneys in a criminal case;

(10) falsifying any records required to be maintained under this Act, failing to keep the records, or failing promptly to permit the inspection of the records at any time requested by the board or its representatives or agents;

(11) operating as a bondsman while the license is suspended or after it has expired and before it is renewed; and

(12) on more than one occasion failing to maintain the minimum amount of security required by this Act or misrepresenting to any official or employee of the official the limit supported by the amount of security to obtain the release of any person on bond.

Procedure for Suspension or Revocation of License

Sec. 10. (a) The board may revoke or suspend a license in accordance with the procedure provided in this section for the violation of any provision of this Act.

(b) Notice of a hearing to suspend or revoke shall be given by certified mail addressed to the last known address of the licensee at least 10 days prior to a date set for the hearing.

(c) The notice shall specify the charges of violation of this Act made against the licensee, and no other charges shall be made at the hearing pursuant to the notice.

(d) The hearing shall afford to the licensee opportunity to be heard, to present witnesses in his behalf, and to question witnesses against him.

(e) A record of the hearing shall be made. It shall be made available to the licensee on his request subject to his paying reasonable costs of transcription.

(f) If the licensee fails to maintain the security deposit at the proper ratio required by this Act, under Subsection (g) of Section 6 of this Act, the board shall immediately suspend the license while the violation continues. No prior notice or a hearing is necessary. Once the proper ratio is regained, the suspension shall be immediately lifted. The board shall revoke the license with prior notice or hearing if the licensee fails to pay any final judgment.

ment connected with the licensee's bonding business within 30 days and there is not sufficient property held as security to satisfy the final judgment.

Court Review

Sec. 11. An appeal may be taken from any board's order revoking, suspending, or refusing to issue a license. The appeal must be made within 30 days after written notice of the suspension, revocation, or refusal by filing a petition in a district court in the county in which the license is issued or refused. If no appeal is taken within 30 days after written notice of suspension, revocation, or refusal, such action shall become final. An appeal shall be by trial de novo, as in proceedings appealed from justice to county courts. The decision of the board shall have full force and effect pending the determination of the appeal. All appeals taken from actions of the board shall be against the board and not against the members individually.

Surrender of Principal

Sec. 12. (a) No person who executes a bail bond as a surety for a principal may surrender the principal without the written permission of the judge having jurisdiction of the case after the person who executed the bail bond has executed an affidavit to be filed with the clerk of the court stating:

- (1) the date the bond was made;
- (2) the fee paid for the bond; and
- (3) the reason for the surrender.

(b) If the reason for surrender is deemed without reasonable cause by the principal, any agent of the board, or any attorney representing the state or any accused in the proceeding, that person may bring the matter to the attention of the court.

(c) If the court determines that the person who surrendered the principal did so without reasonable cause, the court in its discretion may require that all or a part of the fees paid as a condition for making the bail bond shall be returned to the principal. In making the determination the court shall determine what fees, whether denominated fees for the making of the bond or not, were in fact paid for the purpose of inducing the surety to make the bond.

(d) Notwithstanding any statute required to the contrary or any provision in the bond, the court may not require or commit the surety to remain during any appeal of a case without previous approval of the surety. When a case is appealed without approval of the surety, the bail shall be discharged. Nothing shall deny the principal any right to an appeal bond as provided in the Code of Criminal Procedure, 1965, as amended.

Remittitur of Forfeited Bonds

Sec. 13. (a) Prior to final judgment on any forfeiture of an appearance bond in a criminal case the attorney for the state may recommend to the court settlement for an amount less than that stated in

the bond, or the court may upon its own motion approve such settlement.

(b) After a forfeiture, if the defendant is incarcerated within two years of a judgment nisi, the bondsman shall be entitled to a remittitur of at least 95 percent if he presents a sworn affidavit stating that the defendant was returned to custody, in part, as a result of money spent or information furnished by the bondsman.

The remittitur shall be credited against an unpaid judgment of forfeiture or if the judgment has been paid, the treasurer shall refund at least 95 percent.

(c) The surety on appearance bonds in criminal cases shall be absolved of liability upon disposition of the case, and disposition as used herein shall mean a dismissal, acquittal, or finding of guilty on the charges made the basis of the bond.

Approval of Bond

Sec. 14. (a) In any county or district case in which the posting of bond is required as a condition of release, the sheriff shall accept or approve a bond posted by a licensed bondsman only in accordance with this Act and the rules prescribed by the board, but a sheriff may not refuse to accept a bail bond from a licensed bondsman who meets the requirements of Subdivision (4) or (5) of Subsection (a) of Section 6 of this Act.

Effect of Default by Corporation

Sec. 14A. (a) Notwithstanding any law to the contrary, a corporation that is in default on five or more bail bonds in a county may not act as a bail bondsman in that county.

(b) The clerk of the court in which the corporation is in default on a bail bond shall deliver a written notice of the default to the sheriff, chief of police, or other appropriate peace officer in the county in which the bond is forfeited.

(c) A corporation is considered in default on a bail bond from the time the trial court enters its final judgment on the scire facias until the judgment is satisfied or set aside.

(d) For purposes of this section, a corporation is not considered in default on a bond if it deposits with the appropriate court cash in the full amount of the judgment, pending appeal. The deposit shall be applied to the payment of any final judgment in the case.

Acts Subject to Penalty

Sec. 15. (a) No person required to be licensed under this Act may execute a bail bond without a license.

(b) No bondsman or agent of a bondsman may, by any means, recommend or suggest to any person whose bail bond has been posted the name of any particular attorney or firm of attorneys for employment in connection with a criminal offense.

(c) No person in the bonding business shall, either directly or indirectly, give, donate, lend, contribute, or promise to give, donate, lend, or contribute any money or property to any attorney, police officer, sheriff, or deputy, constable, jailer, or employee of a law enforcement agency for the referral of bail bond business.

(d) No attorney, police officer, constable, or deputy, jailer, or employee of a law enforcement agency, judge or employee of a court, or public official, or employee of a related agency, or any person not shown in the records of the board to be an agent or employee of the bondsman may accept or receive from a bondsman any money, property, or other thing of value as payment for the referral of bail bond business.

(e) No police officer, sheriff, or deputy, constable, jailer, or employee of a law enforcement agency, judge or employee of a court, or public official, or employee of a related agency may recommend to any person or persons, family of such person or persons, friends, relatives, or employer the name of any particular bondsman. In all places where prisoners are examined, processed, or confined, a list of licensed bondsmen of that county may be displayed.

(f) No bondsman or agent of a bondsman may solicit business in a police station, jail, prison, detention facility, or other place where persons in the custody of law enforcement officials are detained.

(g) No person may advertise as a bondsman who does not hold a valid license under this Act.

(h) No bondsman or agent of a bondsman may receive money or other consideration or thing of value for issuance of a bond or undertaking of a surety obligation without issuing a receipt indicating the name of the person paying the money or transferring the property, the amount received or the estimated value of the property received and briefly identifying it, the suit, action, or matter for which it is received or is to be applied, and the name of the person receiving it. The bondsman or agent shall retain a duplicate copy of the receipt which shall be available for inspection by representatives of the board of any county in which the bondsman is licensed or by the appointed representatives of a court in which the bondsman agrees to make bail or undertake other surety obligations.

(i) No person shall falsify any records required to be kept under this Act.

(j) A person who violates Subsection (a) or (g) of this section shall be guilty of a Class C misdemeanor.

(k) A person who violates Subsection (b), (e), (f), (h), or (i) of this section shall be guilty of a Class B misdemeanor.

(l) A person who violates Subsection (c) or (d) of this section shall be guilty of a Class A misdemeanor.

[Acts 1973, 63rd Leg., p. 1520, ch. 550, eff. Aug. 27, 1973. Amended by Acts 1975, 64th Leg., p. 1194, ch. 451, §§ 1 to 3, eff. June 19, 1975; Acts 1979, 66th Leg., p. 202, ch. 111, §§ 1 to 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 875, ch. 312, § 1, eff. Aug. 31, 1981.]

Sections 7 and 8 of the 1981 amendatory act provide:

"Sec. 7. A person who, on the effective date of Section 1 of this Act, is a licensed bondsman under the law amended by Section 1 of this Act may continue to operate under the prior law for the term of the current license, and the prior law is continued in effect for that purpose. To renew the license, the person must meet the requirements of the law as amended by Section 1 of this Act.

"Sec. 8. The sheriff shall make any necessary transfers of property and functions to the board in accordance with the law as amended by Section 1 of this Act."

Art. 2372q. Acquisition of Natural Gas System for Courthouses and Other County Buildings

Adoption of Act; Eligible County Defined

Sec. 1. The provisions of this Act may be adopted by an order of the Commissioners Court of any eligible county within this state upon a majority vote of the members of such court. An eligible county is defined to mean any county which at the time of the adoption of this Act by the county has a county seat that is an unincorporated community or city with a population in excess of 5,000 inhabitants, according to the then last preceding Federal Census.

Purchase or Construction of System; Facilities for Supply and Distribution

Sec. 2. In order to acquire an adequate and dependable supply of natural gas for the county courthouse, county offices and other county buildings, the Commissioners Court of any eligible county is authorized to acquire by purchase or construction (but not through the exercise of the power of eminent domain) a natural gas system and in the furtherance of such project, such county shall be authorized to construct, repair and maintain such facilities for the supply and distribution of natural gas as may be required for the purpose of supplying natural gas to the courthouse, county offices and other county buildings, all of which is hereinafter sometimes referred to as the Project.

Sale of Gas Not Needed for County Purposes

Sec. 3. The Commissioners Court of any eligible county is hereby authorized and empowered to sell, contract to sell, deliver and distribute any or all natural gas of the Project which is not needed for county purposes to any municipal corporation or political subdivision of this state now existing or hereafter established under the laws of the State of Texas, or to any individual, corporation or company under such terms and conditions as the court may determine to be in the best interest of the county. The cost of supplying the natural gas, including any increase in the cost of the distribution lines or facilities, shall be considered as a part of the Project as such term is used in the preceding and the following Sections.

**Bonds; Rates and Charges; Manner of Sale;
Redemption; Proceeds**

Sec. 4. (a) For the purpose of paying the cost of the Project, including, without limitation, legal, fiscal, engineering expenses, and interest during the construction of the Project, the county may issue its negotiable bonds, payable from and secured by a pledge of the net revenues of the Project.

(b) It shall be the mandatory duty of the Commissioners Court to contract for and impose such rates and charges, for gas supplied by the Project as will be fully sufficient to operate and maintain the Project and produce all amounts required to pay principal and interest on the bonds when due, and establish such reserves as may be provided in the order authorizing the issuance of such bonds.

(c) All gas used by the county for its own facilities shall be paid out of General Funds of the county legally available for such purpose and no free service shall be allowed.

(d) The Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof provided the bonds shall bear interest at not exceeding six percent (6%) per annum and mature in not more than forty (40) years from their date and such order may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the county in relation to the acquisition of properties and the construction, maintenance operation, repair and insurance of the Project, and the custody, safeguarding, and application of all moneys, and may set forth the rights and remedies of the bondholders and may contain such other provisions as the Commissioners Court may deem reasonable and proper for the security of the bondholders, including but without limitation covenants prescribing all happenings or occurrences which constitute events of default and the rights, liabilities, powers and duties arising upon breach by the county of any of its duties or obligations. The bonds may be made redeemable prior to maturity in such manner and at such prices as may be determined by the Commissioners Court in the order authorizing their issuance. All bonds issued hereunder shall and are hereby declared to have all the qualifications and incidents of negotiable instruments under the Negotiable Instruments Law of Texas. The proceeds of the bonds shall be disbursed under such restrictions as may be provided in the bond order, and there shall be and is hereby created and granted a lien upon such moneys until so applied in favor of the holders of the bonds. Pending use of the proceeds of the sale of such bonds for the construction of the Project such proceeds may be invested in direct obligations of the United States Government having maturities not more than ninety-one (91) days from the date of investment. Unless otherwise provided in such order or indenture, if the proceeds of the bonds prove insufficient to pay the cost of the

Project, additional bonds may be issued under the methods herein prescribed to the amount of the deficit.

Debt of County; Pledge of Revenues

Sec. 5. The bonds shall never constitute a debt of the county, but shall be solely a charge upon the pledged revenues, and shall never be reckoned in determining the power of the county to issue bonds or incur other debt for any purpose authorized by law, and each bond shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Form of Bonds; Approval

Sec. 6. The bonds shall be signed by the county judge and attested by the county clerk, but the facsimile signatures of such officials may be printed or lithographed on the bonds in accordance with the provisions of Chapter 293, Acts of the 54th Legislature, 1955.¹ The county treasurer shall register the bonds, but he need not sign them. The seal of the Commissioners Court shall be impressed on the bonds or a facsimile of the seal may be printed or lithographed thereon. The bonds and the record relating to their issuance shall be presented to the Attorney General of Texas, and if they have been issued in accordance with the Constitution and this law he shall approve them. Upon approval by the Attorney General the bonds shall be registered by the Comptroller of Public Accounts, and thereafter the bonds and the provisions made for their security and payment shall be incontestable.

¹ Article 717j (repealed; see, now, art. 717j-1.)

Eminent Domain

Sec. 7. It is expressly provided that an eligible county shall not have any power of eminent domain in the acquisition of any existing facilities constituting the Project as that term is used in Section 2 of this Act, nor shall any such county exercise such power outside of its own territorial limits, but for the purpose of carrying out any other power or authority conferred by this Act, such county shall have the right to acquire land and easements, by condemnation in the manner provided by Title 52, Revised Civil Statutes of Texas, 1925, as amended,¹ relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Commissioners Court. In the event that the county, in the exercise of the power of eminent domain or power of relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line or pipeline or telephone, or telegraph properties and facilities, all such necessary relocations, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the county.

¹ Article 3264 et seq. (generally repealed; see, now, Property Code, § 21.001 et seq.)

Additional Bonds

Sec. 8. Additional bonds payable solely by a pledge of the net revenues of the Project as well as additional bonds payable from the net revenues of the Project may be issued for the purpose of improving, repairing or extending the Project or for any or all such purposes if permitted by the order authorizing the original issue of bonds, and under the conditions therein provided.

Refunding Bonds

Sec. 9. Subject to any restrictions which may appear in the bond authorizing order, the Commissioners Court may provide for the issuance of bonds for the purpose of refunding any of the bonds issued under this Act and at the time outstanding. The issuance of such refunding bonds, the maturities and other terms thereof, the rights of the holders thereof, and the duties of the county in respect to the same, shall be governed by the foregoing provisions of this Act insofar as the same may be applicable, but no such refunding bonds shall be delivered unless delivered in exchange for the bonds authorized to be refunded thereby or unless sold and delivered to provide funds for the payment of matured or redeemable bonds maturing or redeemable within six (6) months. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a savings will result in the total of interest to be paid.

Notice of Intention to Issue Bonds

Sec. 10. No bonds may be authorized under and pursuant to the provisions of this Act until such time as the Commissioners Court of such county has, after adoption of the provisions hereof as provided in Section 1, given notice of intention to issue bonds. Such notice shall specify the maximum amount of bonds proposed to be issued, the maximum interest rate and maximum maturity of the proposed bonds and the time and place the court proposes to proceed with the authorization thereof and such notice shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in such county, the date of the first publication being at least fourteen (14) full days prior to the date set for the authorization of such bonds. Upon the time and place specified in said notice, the court may proceed with the authorization of bonds pursuant to the provisions of this Act, provided, however, if a petition executed by more than ten percent (10%) of the resident qualified property taxpaying voters of the county asking that an election be called on the issuance of such bonds is presented to the court, the court may not proceed with the authorization of bonds until such time as a proposition for the issuance of bonds has been approved by a majority of the resident qualified property taxpaying voters of the county at an election held for such purpose. Notice of any such election shall be given by publishing a substantial copy of

the resolution calling the election in a newspaper of general circulation in such county one (1) each week for two (2) consecutive weeks, the first publication being at least fourteen (14) full days prior to the election. The returns of the election shall be made to the Commissioners Court within five (5) days of the holding of such election. The General Laws relating to elections shall be applicable to such elections except as modified by the provisions of this Act.

Legal and Authorized Investments

Sec. 11. All bonds issued under this law shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value.

Enforcement of Rights Against County

Sec. 12. The holder or holders of any of such bonds herein authorized to be issued shall have the right, in addition to all other rights, by mandamus or other proceedings in any court of competent jurisdiction to enforce his or their rights against the county and its employees and against the agents and employees thereof, including but not limited to the right to require the county to impose and collect sufficient rates and charges to carry out the agreements contained in the bond order and to perform all agreements and covenants therein contained and duties arising therefrom.

Cumulative Effect

Sec. 13. This Act is declared cumulative of all other Acts or laws and the powers, rights and privileges and functions hereby conferred shall not prevent the exercise by any such county of any and all other powers, rights, privileges, or functions conferred upon such county by any other Act or law now existing or hereafter enacted.

Accomplishment of Purposes of Act

Sec. 14. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state, and for the improvement of their commerce and property, the county in carrying out the purposes of this Act will be performing an essential governmental function and shall not be required to pay any tax or assessment on the Project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom including any profits made on the sale thereof,

shall at all times be free from taxation within this state.

[Acts 1961, 57th Leg., p. 638, ch. 298.]

Art. 2372q-1. Regulation of Private Water Companies in Counties Over 1,500,000

Definitions

Sec. 1. In this Act:

(1) "Commissioners court" means the commissioners court of any county with a population of more than 1,500,000, according to the last preceding federal census.

(2) "Private water company" means a privately owned entity organized under the laws of this state for the purpose of furnishing a water supply or sewer services or both to the public, to cities and towns including home-rule cities, or to special districts, counties, or other political subdivisions of the state.

Assumption of Regulatory Authority Over Rates and Services; Rate Schedules

Sec. 2. (a) The rates and services of a private water company in a county with a population of more than 1,500,000, according to the last preceding federal census, shall be regulated by the commissioners court as provided in this Act, if:

(1) the private water company is charging or proposes to charge residential rates in any service area which exceed by 30 percent or more the highest residential rates charged by the water department of the largest city in the county; or

(2) a petition is submitted to the commissioners court signed by at least 30 percent of the persons residing, according to the last preceding federal census, in one or more of the service areas served by a private water company requesting that the commissioners court exercise regulatory authority over the company serving them.

(b) To determine whether or not the commissioners court should assume regulatory authority over a private water company under Subdivision (1), Subsection (a) of this section, each private water company operating inside the boundaries of a county with a population of more than 1,500,000, according to the last preceding federal census, on the effective date of this Act shall submit to the commissioners court copies of all rate schedules in effect on the effective date of this Act. After examining these rate schedules, the commissioners court shall determine and issue an order designating which private water companies within the county will be under its regulatory authority as a result of the provisions of Subdivision (1), Subsection (a) of this section.

(c) After the initial determination under Subsection (b) of this section, each private water company that is not operating under the regulatory authority of the commissioners court shall submit copies of each new or changed rate schedule that it plans to

adopt at least 30 days before the rates are to take effect so that the commissioners court may make a determination whether or not the private water company will come under the regulatory authority of the commissioners court under Subdivision (1), Subsection (a) of this section. The commissioners court shall issue an order within 10 days after the schedules are filed stating whether or not the company will be brought under regulatory authority of the commissioners court.

(d) If the commissioners court finds that a private water company qualifies for regulation by it under Subsection (a) of this section, it shall issue its order assuming regulatory authority over the company, and the regulatory authority of the commissioners court shall take effect 15 days after the order is issued.

Filing of Rate Schedules; Proposed Changes

Sec. 3. (a) Each private water company over which the commissioners court assumes regulatory authority shall file with the commissioners court copies of all of its schedules of rates and charges and proposed schedules of rates and charges within 15 days after the commissioners court assumes regulatory authority unless this information has already been filed under some other section of this Act.

(b) A private water company regulated under this Act which proposes to change any of its rates, charges, or both shall file with the commission copies of the proposed schedules of rates, charges, or both at least 40 days before they are to take effect.

Hearing

Sec. 4. On receiving schedules of existing or proposed rates, charges, or both from a private water company under the regulatory authority of the commissioners court, the commissioners court shall set a time, place, and date for a public hearing to consider approval of the rates, charges, or both and shall issue notice as provided in this Act. The hearing shall be held not earlier than 25 nor later than 30 days after the date the schedules are filed.

Notice of Hearing

Sec. 5. (a) Notice of a hearing shall be posted in at least one public place in each service area affected by or to be affected by the proposed rates, charges, or both and at the courthouse in the place for posting notice of meetings of the commissioners court.

(b) Notice of the hearing shall be published at least one time in a newspaper of general circulation in each service area affected by or to be affected by the rates, charges, or both.

(c) The private water company whose rates, charges, or both are being considered at the hearing shall be given notice by certified mail return receipt requested.

(d) Notice required by this section shall be given at least 10 days before the day of the hearing.

Access to Books, Records and Information of Water Company

Sec. 6. The commissioners court and its employees and agents are entitled to access to all books, records, and other information of a private water company which may be necessary for the commissioners court to determine if it may exercise regulatory authority under Section 2(a)(1) of this Act and to carry out its regulatory authority under this Act.

Inspection of Files and Information Gathered

Sec. 7. At least 10 days before the date set for the hearing, the commissioners court shall make all files and information gathered by it and its employees and agents relating to the matter to be heard available for inspection during regular office hours.

Personal Appearance at Hearing; Recess

Sec. 8. (a) Any person who desires to appear at the hearing and present testimony, evidence, exhibits, or other information may do so in person, by counsel, or both.

(b) The commissioners court may recess the hearing from day to day.

Compelling Testimony; Oaths; Subpoenas

Sec. 9. The commissioners court may compel the testimony of any person necessary to carry out the provisions of this Act, and may administer oaths to persons who appear to testify before the commissioners court. Also, the commissioners court may issue subpoenas to compel the testimony of any persons and the production of any documents or information necessary to carry out the provisions of this Act.

Determination; Written Order

Sec. 10. (a) Within 30 days after the conclusion of the hearing, the commissioners court shall determine whether or not to approve the schedules of rates, charges, or both that were considered at the hearing and if the schedules are to be adopted, shall decide on any modifications in the schedules that the commissioners court considers necessary based on its own investigation and evidence and information gathered at the hearing.

(b) On making a determination, the commissioners court shall issue a written order stating its determination and the reasons for its determination.

Fair Return on Value of Property; Public Relations Expenses

Sec. 11. (a) No rate or charge determined by the commissioners court may yield more than a fair return on the fair value of property used and useful in rendering service to the public and no return on a rate or charge may exceed eight percent a year.

(b) In making a determination on a rate, charge, or both, the commissioners court shall not include in the basis for establishment of the rate, charge, or both any amounts spent by the private water company for advertising or other public relations expenses.

Appeal

Sec. 12. Orders of the commissioners court issued under this Act may be appealed to a district court in the county in which the commissioners court has jurisdiction.

Rules and Regulations

Sec. 13. (a) The commissioners court, after notice and hearing, may adopt by order any rules and regulations that it considers necessary to carry out the provisions of this Act.

(b) The commissioners court by rules and regulations may adopt reasonable standards to be followed by private water companies operating under its regulatory authority in delivering their services to the public.

Annual Report of Water Company

Sec. 14. (a) Each private water company under the regulatory authority of the commissioners court shall file with the commissioners court before January 1 of each year a report which shall include:

(1) the amount of a lien or mortgage on any property of the company;

(2) other indebtedness of the company and the consideration for it;

(3) the actual cost of the visible physical property of the company and the date it was installed and the present value of it with land, machinery, buildings, pipes, mains, and other items of property being listed separately; and

(4) the annual cost of operating the facilities of the company including amounts paid for actual salaries; labor; fixed charges including interest, taxes, and insurance; fuel; extension and repairs; maintenance; damages, claims, or suits for damages; and miscellaneous expenses.

(b) If machinery or equipment of the company is abandoned, worn out, or its use discontinued within the preceding year, this shall be stated in the report together with the original cost and the present value.

(c) The report shall state the gross earnings of the company including revenues from every source and shall state each item separately and the amount received by the company.

Civil Penalty

Sec. 15. A private water company that violates any provision of this Act or any rule, regulation, or order of the commissioners court is subject to a civil penalty of not less than \$50 nor more than \$1,000

for each act of violation and for each day of violation to be recovered as provided in this Act.

Injunctive Relief or Civil Penalty

Sec. 16. (a) Whenever it appears that a private water company has violated or is violating, or is threatening to violate, any provision of this Act, or any rule, regulation, or order of the commissioners court, the commissioners court may have a civil suit instituted in a district court in the county in which the commissioners court has jurisdiction for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) On application for injunctive relief and a finding that a person is violating or threatening to violate any provisions of this Act or any rule, regulation, or order of the commissioners court, the district court shall grant the injunctive relief the facts may warrant.

(c) At the request of the commissioners court, the county attorney shall institute and conduct a suit in the name of the county for injunctive relief or to recover the civil penalty, or both, as authorized in Subsection (a) of this section.

[Acts 1975, 64th Leg., p. 1946, ch. 640, eff. Sept. 1, 1975.]

Art. 2372r. Repealed by Acts 1975, 64th Leg., p. 114, ch. 52, § 3, eff. April 18, 1975

See, now, art. 6145.1.

Art. 2372r-1. Counties of 160,000 to 170,000; Construction, Restoration, Preservation and Maintenance of Historical Landmarks and Buildings

Sec. 1. This Act applies to any county of this State having a population of not less than 160,000 nor more than 170,000, according to the last preceding federal census.

Sec. 2. The Commissioners Court is hereby empowered to appropriate and expend from the General Fund of said counties, monies for the purpose of purchasing, constructing, restoring, preserving, maintaining, and reconstructing historical landmarks, buildings, and furnishings which are of historical significance to such counties. The Commissioners Court may appropriate and expend such monies for the purposes herein given to historical foundations and organizations in said counties that are duly incorporated under the laws of this state as a non-profit corporation.

[Acts 1967, 60th Leg., p. 1017, ch. 446, eff. June 12, 1967. Amended by Acts 1971, 62nd Leg., p. 1820, ch. 542, § 18, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 2374, ch. 735, § 1, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 570, ch. 237, § 41, eff. Sept. 1, 1981.]

Art. 2372s. Parking Stations Near Courthouses in Counties Over 900,000

Power to Construct and Operate Parking Stations; Leases

Sec. 1. The commissioners court of any county with a population in excess of 900,000 according to the most recent federal census upon finding that it is to the best interest of the county and its inhabitants shall have the power to construct, enlarge, furnish, equip and operate a parking station in the vicinity of the courthouse of the county. In addition, the commissioners court may undertake construction to incorporate a jury assembly room, office space, nursery, bathrooms, snack bar, and other related facilities into the parking station. It is further authorized from time to time to lease said parking station to a person or corporation on such terms as the commissioners court shall deem appropriate.

Definitions

Sec. 2. As used in this law, "parking station" means a lot or area or surface or subsurface structure used primarily for the parking of automotive vehicles, together with equipment used in connection with the maintenance and operation thereof, and the site therefor;

"Bond order" means the order authorizing the issuance of revenue bonds;

"Trust indenture" means the mortgage, deed of trust or other instrument pledging revenues, or in addition thereto, creating a mortgage lien on properties, or both, to secure the revenue bonds issued by the county;

"Trustee" means the trustee under the trust indenture.

Bonds; Pledge of Revenues; Payment of Bonds

Sec. 3. The commissioners court may issue negotiable bonds to provide funds for the construction, enlargement, furnishing or equipping of the facilities covered by Section 1 of this Act. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation of the parking station and any other revenues resulting from the ownership of the parking station properties including rentals received from leasing all or part of said parking station. The commissioners court may additionally secure and provide for the payment of such bonds by the levy of an ad valorem tax of not to exceed two and one-half cents on each \$100 of taxable property in the county, in which event the provision stated in Section 8 hereof shall not be contained in the bonds.

Authorization of Bonds; Signature and Seal; Maturity Date

Sec. 4. The bonds shall be authorized by order adopted by a majority vote of a quorum of the commissioners court, (without the prerequisite of an

election) and shall be signed by the county judge, countersigned by the county clerk and registered by the county treasurer. The seal of the commissioners court shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the commissioners court to be the most advantageous reasonably obtainable, provided that the interest cost to the county, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed the maximum rate provided by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), and within the discretion of the commissioners court, may be made callable prior to maturity at such times and prices as may be prescribed in the order authorizing the bonds.

Bonds Constituting Junior Liens; Parity Bonds

Sec. 5. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the bond order or trust indenture. Parity bonds may be issued under conditions specified in the bond order or trust indenture.

Payment of Bond Interest

Sec. 6. Money for the payment of interest on the bonds and an amount estimated by the commissioners court to be required for operating expenses until the parking station becomes sufficiently operative may be set aside out of the proceeds from the sales of the bonds.

Refunding Bonds

Sec. 7. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied to the payment of outstanding bonds.

Approval of Attorney General; Incontestability

Sec. 8. Bonds issued under this Act and the record relating to their issuance shall be submitted to the Attorney General of Texas and if he finds that they have been issued in accordance with this law and constitute valid and binding special obligations of the county and are secured as recited therein he shall approve them, and they shall be registered by the Comptroller of Public Accounts of the State of Texas who shall certify such registration thereon. Thereafter they shall be incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation."

Rentals and Rates for Services

Sec. 9. It shall be the duty of the commissioners court to charge sufficient rentals or rates for serv-

ices rendered by the parking station and to utilize any other sources of its revenues so that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation and upkeep of the parking station, to pay the principal of and interest on the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the bond order or trust indenture. The bond order or trust indenture may prescribe systems, methods, routines and procedures under or in accordance with which the parking station shall be operated.

[Acts 1965, 59th Leg., p. 352, ch. 168. Amended by Acts 1967, 60th Leg., p. 205, ch. 117, §§ 1, 2, eff. May 4, 1967; Acts 1973, 63rd Leg., p. 1295, ch. 485, § 1, eff. June 14, 1973; Acts 1977, 65th Leg., p. 379, ch. 188, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 570, ch. 237, § 42, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 1095, ch. 246, § 1, eff. Aug. 29, 1983.]

Section 2 of the 1973 amendatory act provides:

"The provisions of this Act are severable. If any word, phrase, clause, paragraph, sentence, section, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be valid; and the Legislature hereby declares that the Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, section, part, or provision."

Art. 2372s-1. Regulation of Parking in Certain Courthouse Parking Lots

Sec. 1. This Act shall apply in every county having a population of not less than 13,350 nor more than 13,400, and in every county having a population of not less than 16,500 nor more than 16,700, and in every county having a population of not less than 17,400 nor more than 17,450, and in every county having a population of not less than 31,000 nor more than 31,400, and in every county having a population of not less than 37,700 nor more than 38,000, and in every county having a population of not less than 170,000 nor more than 225,000, according to the last preceding federal census.

Sec. 2. The commissioners court is authorized to purchase such equipment as is necessary and make and enforce regulations for parking in county-owned or county-leased parking lots in, under, adjacent to, or near the county courthouse. The commissioners court may in its discretion contract with the city for enforcement of the regulations and likewise the city in its discretion may contract with the county. The Sheriff's Department of such counties is hereby authorized to enforce any and all regulations passed by the Commissioners Court.

Sec. 3. A person who violates a regulation authorized by this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$1 nor more than \$20.

[Acts 1965, 59th Leg., p. 802, ch. 387, eff. June 9, 1965. Amended by Acts 1969, 61st Leg., p. 2453, ch. 820, §§ 1, 2, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1844, ch. 542, § 108, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 571, ch. 237, § 43, eff. Sept. 1, 1981.]

Art. 2372s-2. Parking Stations Near Court-houses in Counties of 150,000 or More

Definition

Sec. 1. The term "parking station," as used in this Act, shall mean a lot or area or surface or subsurface structure of one or more levels for the parking of automotive vehicles, together with equipment used in connection with the maintenance and operation thereof.

Authority to Appropriate and Expend; Lease

Sec. 2. The commissioners courts of counties with a population of 150,000 or more are hereby empowered to appropriate and expend from the general fund or permanent improvement fund of said counties, moneys for the purpose of constructing, enlarging, furnishing, equipping and operating a parking station adjacent to or near the courthouse of the county. It is further authorized from time to time to lease said parking station to a person or corporation on such terms as the commissioners court shall deem appropriate.

[Acts 1973, 63rd Leg., p. 579, ch. 248, eff. June 11, 1973.]

Art. 2372s-3. Parking on County Property

Adoption of Regulations

Sec. 1. The commissioners court of a county by order may adopt regulations as to the parking of vehicles on property owned or leased by the county.

Regulations

Sec. 2. Regulations adopted under this Act may:

- (1) limit the use of parking spaces to certain vehicles or types of vehicles;
- (2) limit the time a vehicle may remain parked in a specific space or area; and
- (3) prohibit the parking of vehicles in certain areas.

Signs

Sec. 3. If parking is restricted or prohibited in a place, the county shall erect at the place one or more appropriately worded signs reasonably calculated to inform the drivers of vehicles of the restriction or prohibition. No sign is required to indicate that parking is prohibited on a lawn or other area that does not appear to be a place intended for use as a parking area.

Violations; Defenses

Sec. 4. An individual who parks a vehicle in violation of a regulation adopted under this Act commits a Class C misdemeanor. It is a defense to prosecution under this section that:

- (1) the place where the actor parked is one where a sign or signs are required by Section 3 of this Act; and

- (2) a sign or signs meeting the requirements of Section 3 of this Act were not in place at the time the actor parked.

Towing and Storing of Vehicles

Sec. 5. A county may provide for the towing away and storing at the owner's expense of any vehicle parked in violation of regulations adopted under this Act. This section does not authorize the towing away of a vehicle that is parked under circumstances where the person parking it would have a defense to prosecution under Section 4 of this Act.

[Acts 1975, 64th Leg., p. 569, ch. 228, eff. May 20, 1975.]

Art. 2372s-4. Parking Regulations and Purchase of Equipment by Counties of 235,000 or More

Sec. 1. The commissioners court of a county having a population of 235,000 or more inhabitants, according to the last preceding federal census, may purchase necessary equipment and make and enforce parking regulations for parking in a county-owned or county-leased parking lot in, under, adjacent to, or near the county courthouse.

Sec. 2. (a) The commissioners court may contract with the governing body of the city in which the county seat is located for enforcement of the parking regulations promulgated under the provisions of Section 1 of this Act.

(b) The sheriff's department of the county may enforce parking regulations promulgated under the provisions of Section 1 of this Act.

Sec. 3. A person who violates a parking regulation promulgated under the provisions of Section 1 of this Act commits a misdemeanor and on conviction is punishable by a fine of not less than \$1 nor more than \$20.

[Acts 1975, 64th Leg., p. 2198, ch. 702, eff. Sept. 1, 1975.]

Art. 2372t. Emergency Ambulance Service in Counties of 9,800 to 20,000

Sec. 1. The commissioners court of any county with a population in excess of 9,800 inhabitants but less than 20,000, according to the last preceding federal census, may provide within the county for emergency ambulance service, including all necessary equipment, personnel, and maintenance for the service.

Sec. 2. In providing for the service required by Section 1 of this Act, a commissioners court may enter into agreements with any city or town, hospital district, sheriff's office or fire department, private ambulance service, or any other agency or entity which the commissioners court finds to be suitably organized to provide efficient emergency ambulance service within the county.

Sec. 3. Any agreement to provide emergency ambulance service within a city, town, or hospital district entered into under Section 2 of this Act shall

have the approval of the governing body of the city, town, or hospital district within which the service is to be rendered.

Sec. 4. A commissioners court operating under this Act may expend county funds to defray the expense of the establishment, operation, and maintenance of emergency ambulance service within the county, whether such service is provided directly by the county or by agreement with some other governmental agency or private entity.

Sec. 5. A commissioners court providing for emergency ambulance service under this Act shall establish reasonable fees for the service. The charging and collection of fees established may be done either by the commissioners court or by any other agency or entity performing the service. Special provision may be made for the rendering of emergency ambulance service to indigent persons.

[Acts 1971, 62nd Leg., p. 2417, ch. 766, eff. June 8, 1971. Amended by Acts 1979, 66th Leg., p. 576, ch. 266, § 1, eff. May 24, 1979.]

Art. 2372u. Regulation of Outdoor Lighting and Subdivisions Near Major Astronomical Observatories

Definitions

Sec. 1. In this Act:

(1) "Major astronomical observatory" means a facility established for making scientific observation of astronomical phenomena and equipped with a telescope having an aperture at least 75 inches in diameter.

(2) "Outdoor lighting" means any type of lighting equipment, fixed or movable, designed or used for illumination outside of buildings or homes, including lighting for billboards, street lights, searchlights used for advertising purposes, externally or internally illuminated on- or off-site advertising signs, and area-type lighting. It does not include lighting equipment required by law to be installed on motor vehicles, or lighting required for the safe take-off and landing of aircraft.

County Regulatory Authority

Sec. 2. (a) To protect against the use of outdoor lighting in a way that interferes with scientific astronomical research, the commissioners court of a county may adopt orders regulating the installation and use of outdoor lighting within the unincorporated territory located within the same county and within 75 miles of a major astronomical observatory, regardless of whether the observatory is in the county.

(b) Orders adopted under this section may:

(1) require that a permit be obtained from the county for the installation or use of certain types of outdoor lighting, and establish fees for the issuance of permits;

(2) prohibit the use of those types of outdoor lighting found to be incompatible with the effective use of the observatory;

(3) establish requirements for the shielding of outdoor lighting; and

(4) regulate the times during which various types of outdoor lighting may be used.

Regulation of Subdivisions

Sec. 3. (a) This section applies only to real estate subdivisions subject to the plat-approval authority of a commissioners court and located within 75 miles of a major astronomical observatory.

(b) A commissioners court may adopt orders establishing standards applicable to proposed subdivisions designed to minimize the interference with observatory activities from outdoor lighting. The commissioners court may not approve a plat of a proposed subdivision that does not meet those requirements.

Standards May Vary

Sec. 4. Orders adopted under this Act may apply more stringent standards in areas where the impact of outdoor lighting on activities of the observatory is greater.

Adoption of Orders

Sec. 5. No orders may be adopted by a commissioners court under this Act, unless:

(a) a request for such orders be made by the Director of McDonald Observatory; then

(b) such requested orders may be adopted by a commissioners court after a public hearing has been held on the proposed order; of which

(c) at least two weeks public notice has been given of such hearing.

Exemption

Sec. 6. No outdoor lighting in existence or under construction on the effective date of this Act shall be subject to the provisions of this Act.

Enforcement; Penalty

Sec. 7. (a) An individual, corporation, or association that violates an order adopted under this Act commits a Class C misdemeanor.¹

(b) A county or district attorney may sue in the district court to enjoin violation of this Act.

(c) Both civil and criminal enforcement may be used against the same conduct.

[Acts 1975, 64th Leg., p. 102, ch. 44, eff. Sept. 1, 1975.]

¹ Penal Code, § 12.23.

Art. 2372v. Regulation of Massagers and Massage Establishments**Definitions**

Sec. 1. In this Act:

(1) "Massage" means the rubbing, kneading, tapping, compression, vibration, application of friction, or percussion of the human body or parts of it by hand or with an instrument or apparatus.

(2) "Massager" means an individual who administers massages for compensation.

(3) "Massage establishment" means a business establishment where massagers practice massage.

(4) "Unincorporated territory" means the territory outside the corporate limits of an incorporated city or town.

Adoption of Regulations; Penalty for Violations

Sec. 2. (a) The commissioners court of any county by order may adopt regulations applicable to the practice of massage and operation of massage establishments in unincorporated territory in the county.

(b) Regulations adopted under this Act may:

(1) require the licensure by the county of massagers and massage establishments and establish reasonable requirements and fees for obtaining a license;

(2) establish standards applicable to the practice of massage and the operation of massage establishments designed to protect public health;

(3) provide procedures for suspending or canceling the licenses of massagers and massage establishments for violation of a regulation adopted under this Act, for the conviction of an offense defined in Chapter 43, Penal Code, or for the conviction of any other offense reasonably indicating the licensee's unfitness to practice massage or operate a massage establishment;

(4) provide for the inspection of massage establishments;

(5) provide reasonable standards for clothing worn by persons employed by a massage establishment; and

(6) establish any other reasonable procedures or prohibitions consistent with the police power to protect the public health and safety and to prevent violations of state law.

(c) A person who violates a regulation adopted under this Act commits a Class B misdemeanor.

Exemptions From Act

Sec. 3. (a) Ordinances adopted under this Act do not apply to a licensed physical therapist, a licensed athletic trainer, a licensed cosmetologist, or a licensed barber performing functions authorized under the license held, nor do ordinances adopted under this Act apply to a licensed physician or

chiropractor, or any individual working under the direct supervision of a licensed physician or chiropractor, while engaged in practicing the healing arts.

(b) Ordinances adopted under this Act do not apply to the administration of massage for therapeutic purposes in a hospital, nursing home, or other health care facility.

Inspection and Licensing Officer; Enforcement

Sec. 4. The county commissioners court shall designate the sheriff of the county as the inspection and licensing officer under this Act. Any peace officer certified by the State of Texas may enforce the regulations.

Severability

Sec. 5. In case any one or more of the sections, provisions, clauses, or words of the Act or the application of such sections, provisions, clauses, or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of the Act or the application of such sections, provisions, clauses, or words to any other situation or circumstance, and it is intended that the Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1977, 65th Leg., p. 651, ch. 242, eff. May 25, 1977.]

Art. 2372w. Regulation of Location of Sexually Oriented Commercial Activities by Cities and Counties**Findings and Purpose**

Sec. 1. (a) The legislature finds that the unrestricted location of certain sexually oriented commercial enterprises may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity. The purpose of this Act is to provide local governments a means of remedying this problem.

(b) This Act neither enhances nor diminishes the authority of local governments to regulate commercial enterprises covered by this Act with regard to matters other than their location.

Definitions

Sec. 2. In this Act "city" means an incorporated city, town, or village and includes a home-rule city.

Authority to Regulate

Sec. 3. (a) A city by ordinance or a county by order of the commissioners court may adopt regulations restricting the location of massage parlors, nude studios, modeling studios, love parlors, and other similar commercial enterprises whose major business is the offering of a service which is intend-

ed to provide sexual stimulation or sexual gratification to the customer.

(b) Nothing in this Act is intended to authorize the regulation of any bookstore, movie theatre, or business licensed to sell alcoholic beverages, nor does it authorize regulation of any business:

(1) operated by or employing licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists, or licensed barbers engaged in performing functions authorized under the license held; or

(2) operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts.

(c) City regulations apply only inside the city's corporate limits. County regulations apply only to the parts of the county outside the corporate limits of a city.

Scope of Regulations; Permits; Fees; Application of Comprehensive Zoning Procedures

Sec. 4. (a) Regulations adopted under this Act may restrict the location of regulated enterprises to particular areas, restrict the density of regulated enterprises, or prohibit the operation of a restricted enterprise within a certain distance of a school, regular place of religious worship, residential neighborhood, or other specified land use the governing body of the city or county finds to be inconsistent with the operation of a restricted establishment.

(b) The city or county may require the obtaining of a permit for the operation of a restricted establishment. The city or county may charge a fee for the permit, but the fee may not exceed the actual cost of processing the permit application.

(c) A city that has in effect a comprehensive zoning ordinance adopted under Chapter 283, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 1011a, et seq., Vernon's Texas Civil Statutes), must comply with all applicable procedural requirements of that statute in adopting regulations under this Act within the scope of that statute.

Violations; Injunctions; Penalties

Sec. 5. (a) A city or county may sue in the district court to enjoin the violation of a regulation adopted under this Act.

(b) Violation of a county regulation adopted under this Act is a Class B misdemeanor.

(c) In a city that has a comprehensive zoning ordinance as described in Subsection (c), Section 4, of this Act, a violation of an ordinance adopted under this Act is punishable by the same penalty prescribed for a violation of the zoning ordinance. In all other cities, violation of an ordinance adopted under this Act is a Class B misdemeanor.

Effect on Other Laws

Sec. 6. This Act does not legalize anything prohibited under the Penal Code or other state law.

Severability

Sec. 7. If any provision of this Act or its application to any person or circumstances is held invalid for any reason, the invalidity does not affect any other provision or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1979, 66th Leg., p. 498, ch. 229, eff. May 17, 1979.]

Art. 2372x. Closing Gulf Beaches for Special Events

In a county in which there is a public beach or a beach to which a substantial portion of the public has free access, located on a bay or inlet of the Gulf of Mexico, the commissioners court by order may close a portion of the beach for a maximum of three days a year to allow one or more nonprofit organizations to hold events on the beach to which the public is invited and for which a nominal admission fee may be charged.

[Acts 1979, 66th Leg., p. 585, ch. 274, § 1, eff. May 24, 1979.]

Art. 2372y. Regulation of Keeping Wild Animals

Wild Animals

Sec. 1. In this Act, "wild animal" means a non-domestic animal that the commissioners court of a county determines is dangerous and is in need of control in that county.

Regulation of Wild Animals

Sec. 2. (a) The commissioners court of a county may by order prohibit or regulate the keeping of wild animals:

(1) at a residence; or

(2) within 1,000 feet of a residence or a public school.

(b) The regulations do not apply inside the limits of an incorporated city, town, or village.

Sec. 3. Repealed by Acts 1983, 68th Leg., p. 4067, ch. 637, § 2, eff. Aug. 29, 1983.

Offense

Sec. 4. If an order adopted under this Act defines an offense, the offense is a Class C misdemeanor. The offense is prosecuted in the same manner as an offense defined by state law.

Injunction

Sec. 5. The county attorney or other prosecuting attorney representing the county in the district court may file an action to enjoin the violation or

threatened violation of an order adopted under this Act. The court may grant appropriate relief.

[Acts 1981, 67th Leg., p. 631, ch. 252, eff. Aug. 31, 1981. Amended by Acts 1983, 68th Leg., p. 4067, ch. 637, §§ 1, 2, eff. Aug. 29, 1983.]

Section 3 of the 1983 amendatory act provides:

"The amendment by this Act of Chapter 252, Acts of the 67th Legislature, Regular Session, 1981 (Article 2372y, Vernon's Texas Civil Statutes), does not affect an offense committed under a regulation adopted under the prior law. The offense may be prosecuted and a penalty imposed under the prior law as if this Act were not in force. The prior law is continued in effect for that purpose."

Art. 2372z. Sale or Disposition of County Surplus or Salvage Property

Definitions

Sec. 1. In this Act:

(1) "Surplus property" means personal property that is in excess of the needs of its owner, that is not required for the owner's foreseeable needs, and that possesses some usefulness for the purpose for which it was intended or for some other purpose.

(2) "Salvage property" means personal property, other than wastepaper, that because of use, time, or accident is so damaged, used, or consumed that it has no value for the purpose for which it was originally intended.

Disposition of Surplus or Salvage Property

Sec. 2. (a) The commissioners court of a county periodically may sell the county's surplus or salvage property by competitive bid or auction.

(b) The commissioners court shall cause to be published a notice of the sale in at least one newspaper of general circulation in the county. Such notice must be published no fewer than 10 days nor more than 30 days prior to the day of the sale.

(c) The commissioners court shall keep a record of each item of surplus or salvage property sold and its sale price.

(d) Unless otherwise provided by law, the proceeds from the sale of surplus or salvage property shall be deposited in the county treasury and credited to the general fund or to the fund from which the property was purchased. The proceeds from the sale of surplus or salvage property used for maintenance and construction of county roads and bridges shall be deposited in the county treasury to the credit of the county road and bridge fund.

(e) The commissioners court or its designated representative conducting the sale may reject any offer to purchase surplus or salvage property if it finds the rejection to be in the best interests of the county.

Destruction of Surplus or Salvage Property

Sec. 3. (a) If the commissioners court cannot sell any surplus or salvage property, it may order the property to be destroyed as worthless salvage.

(b) The commissioners court shall keep a record of each item of surplus or salvage property destroyed.

Obtaining Good Title to Surplus or Salvage Property

Sec. 4. A purchaser of a county's surplus or salvage property at a sale obtains good title to the property if the purchaser has complied in good faith with the conditions of the sale and the applicable rules of the commissioners court.

Rules

Sec. 5. The commissioners court may adopt rules necessary to administer this Act.

Property Used as Trade-in

Sec. 6. The commissioners court may offer surplus or salvage property as a trade-in on new property of the same general type if the commissioners court considers that action to be in the best interests of the county.

[Acts 1981, 67th Leg., p. 2484, ch. 647, eff. Sept. 1, 1981.]

Art. 2372aa. Alternative Dispute Resolution System

Power to Establish System

Sec. 1. The commissioners court of a county by order may establish an alternative system for the peaceable and expeditious resolution of citizen disputes that do not require formal court action.

Financing the System

Sec. 2. (a) To establish and maintain the alternative dispute resolution system, court costs to be set by the commissioners court in an amount not to exceed \$5 may be taxed, collected, and paid as other court costs in each civil case, except suits for delinquent taxes, filed in a county or district court in the county. However, the county is not liable for the payment of these costs in any case.

(b) The clerks of the respective courts in the county shall collect and pay the costs to the county treasurer or, if the county does not have a county treasurer, to the county officer who succeeds to the treasurer's functions, who shall deposit them in a separate fund to be known as the alternative dispute resolution system fund. The fund shall be administered by the commissioners court for establishing and maintaining the alternative dispute resolution system in any convenient and accessible place or places in the county. The fund may not be used for any other purpose.

General Powers

Sec. 3. The commissioners court is granted all necessary power to make the alternative dispute resolution system effective, including the power to contract with any private nonprofit corporation, public corporation, or combination thereof for the purpose of administering the system and to make

all reasonable rules in regard to the system in order to effectuate this Act. The commissioners court may vest the management of such alternative dispute resolution system in a committee selected by the Bar Association of such county, but the acts of such committee shall be subjected to the approval of the commissioners court.

[Acts 1983, 68th Leg., p. 118, ch. 26, eff. April 19, 1983.]

Art. 2372bb. Donations to Crime Stoppers Organizations

Sec. 1. In this Act, "crime stoppers organization" means a private, nonprofit organization that is operated on a local or a statewide level, that accepts and expends donations for rewards to persons who report to the organization information concerning criminal activity, and that forwards the information to the appropriate law enforcement agency.

Sec. 2. The commissioners court of a county by contract may donate not more than \$25,000 in a calendar year to a crime stoppers organization for expenditure by the organization for its rewards.

[Acts 1983, 68th Leg., p. 272, ch. 49, eff. May 3, 1983.]

Art. 2372cc. Signs on Public Road Rights-of-Way in Counties Over 1,700,000

Definition

Sec. 1. In this Act, "sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing that is designed, intended, or used to advertise or inform.

Prohibition

Sec. 2. In a county with a population of more than 1,700,000, according to the most recent federal census, a person may not place a sign on a public road right-of-way unless the placement is authorized by state law.

Penalty

Sec. 3. A person commits an offense if the person places a sign in violation of Section 2 of this Act. An offense under this section is a Class C misdemeanor.

Confiscation and Sale

Sec. 4. (a) The county sheriff or constable may confiscate a sign that is placed in violation of Section 2 of this Act.

(b) If the owner of a confiscated sign is known, not later than the 10th day after confiscating the sign, the sheriff or constable shall by certified mail, return receipt requested, notify the owner of the confiscation. If the owner of the sign is not known, not later than the 10th day after confiscating the sign, the sheriff or constable shall publish notice of the confiscation in a newspaper of general circulation in the county. A notice under this subsection must include a description of the sign and the location from which the sign was confiscated and a

statement that the owner may reclaim the sign before the 21st day after the date notice was sent or published on payment of all fines that may be imposed under this Act. The notice must state the date, time, and location of the public auction at which the sign will be sold if it is not reclaimed. Notice by publication may contain multiple listings of confiscated signs.

(c) If, on the 21st day after the date notice under Subsection (b) of this section is mailed or published, the sign has not been reclaimed, the sheriff or constable may sell the sign at public auction. At an auction under this section, the sheriff or constable shall sell the sign to the highest bidder.

(d) The sheriff or constable shall remit the proceeds of an auction held under Subsection (c) of this section to the county treasurer for deposit to the credit of any fund in the county treasury as designated by the commissioners court.

Exemptions

Sec. 5. (a) The commissioners court of a county to which this Act applies may by order determine types of signs that are unlikely to be reclaimed if confiscated and exempt those types of signs from the notice requirements in Section 4 of this Act.

(b) In determining the types of signs that are unlikely to be reclaimed, the commissioners court may consider the value of the materials in the signs and the nature of the things advertised by the signs.

(c) If the commissioners court exempts certain types of signs under this section, the sheriff or constable shall store a confiscated sign that is exempted for 21 days after the date the sign is confiscated and shall make the sign available for reclamation by the owner. If, after the 21st day after the date the sign was confiscated, the sign has not been reclaimed, the sheriff or constable may discard the sign.

[Acts 1983, 68th Leg., p. 4755, ch. 834, eff. June 19, 1983.]

Art. 2372dd. Automotive Wrecking and Salvage Yards in Counties of 2,000,000 or More

Definitions

Sec. 1. In this Act:

(1) "Person" means an individual, corporation, or association.

(2) "Automotive wrecking and salvage yard" means any lot or tract of land on which three or more discarded, abandoned, junked, wrecked, or worn-out automotive vehicles, including autos, trucks, tractor-trailers, and buses, are kept or stored for the purpose of disassembling, dismantling, cutting up, stripping, or otherwise wrecking to extract parts, components, or accessories for sale or for use in an automotive repair or rebuilding

business. The term does not include an automotive paint or body shop.

(3) "Solid," as used in reference to a fence, wall, door, or gate, means constructed and maintained so that the outer surface is continuous and without interstices, gaps, spaces, or holes. For the purposes of this Act, a properly constructed and maintained chain link fence with strips or slats is a solid fence.

Application

Sec. 2. (a) This Act applies only to counties with a population of two million or more, according to the most recent federal census.

(b) This Act does not apply to an automotive wrecking and salvage yard located within the limits of an incorporated city or town.

Removal of Flammable Liquids From Vehicles

Sec. 3. All gasoline from the fuel tank shall be completely drained and removed from any junked, wrecked, or abandoned automotive vehicle before the vehicle is placed in any automotive wrecking and salvage yard.

Fencing, Wall Requirements

Sec. 4. An automotive wrecking and salvage yard shall be completely surrounded and enclosed by a solid fence or wall as follows:

(1) any side of the yard that extends generally parallel to and within 100 feet of any public street right-of-way shall be bounded by a solid fence or wall at least eight feet in height; and

(2) any other side of the yard shall be bounded by a solid fence or wall at least six feet in height.

Construction, Maintenance of Fence or Wall

Sec. 5. A fence or wall required by this Act shall be constructed and maintained as follows:

(1) all fences shall be constructed of wood, masonry, corrugated sheet metal, chain link, or any combination, but any one side of an automotive wrecking and salvage yard may be bounded by a fence or wall constructed of only one of those materials;

(2) chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence;

(3) all fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times; and

(4) all fences or walls shall be constructed in compliance with all applicable provisions of the

building code of any city in which the fence may be constructed.

Use of Wall, Door of Building as Part of Fence or Wall

Sec. 6. Any part of a fence or wall required by this Act may consist in whole or in part of a solid wall and door, or walls and doors of any completely enclosed building on the premises, if that wall or door meets all construction requirements set forth in this Act.

Gates at Openings in Enclosure

Sec. 7. Openings in the prescribed enclosure that are necessary to permit reasonable access to an automotive wrecking and salvage yard shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall set forth in this Act. The gates shall be closed and securely locked at all times except during normal daytime business hours.

Use of Premises Outside Enclosure

Sec. 8. It is unlawful for the owner, operator, or his agents or employees, to display, store, or work on a junked or wrecked automotive vehicle, or the parts, accessories, or junk from a junked or wrecked automotive vehicle outside or above the fence or wall required by this Act.

Arrangement of Vehicles, Parts, and Materials

Sec. 9. All automotive vehicles, parts, and other materials located in or on the premises of an automotive wrecking and salvage yard shall be arranged to allow reasonable access to, and inspection of, the premises by authorized fire, health, police, and building officials.

Appropriate Drainage

Sec. 10. Any portions of a lot or tract of land used in the operation of an automotive wrecking and salvage yard must have appropriate drainage.

Location of Yard

Sec. 11. An automotive wrecking and salvage yard may not be established within 300 feet of an existing church, school, or residence, measured from the wall of the structure that is closest to the automotive wrecking and salvage yard to the fence or wall of the yard required under Section 4 of this Act unless both the residence and the automotive wrecking and salvage yard are owned by the same person.

Penalty

Sec. 12. (a) A person who operates an automotive wrecking and salvage yard in violation of this Act commits an offense. An offense under this section is a Class C misdemeanor, and each day the violation continues is a separate offense.

(b) In addition, any city license to operate the yard held by the violator may be revoked or its issuance or renewal refused if the appropriate municipal authority finds that a violation has occurred.

Effective Date

Sec. 13. This Act takes effect September 1, 1983, and applies only to an automotive wrecking and salvage yard established on or after that date.
[Acts 1983, 68th Leg., p. 4948, ch. 886, eff. Sept. 1, 1983.]

TITLE 45

COURTS—JUSTICE

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CHAPTER ONE. JUSTICES AND JUSTICE COURTS

Art.	
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2385a.	Repealed.
2386.	Other Powers.
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2388, 2389.	Repealed.

Art. 2373. Election, Bond and Term of Office

Sec. 1. The qualified voters of each justice precinct in this State, at each election, shall elect one justice of the peace, styled in this title 'justice,' who shall hold his office for four years. Each justice shall give bond payable to the county judge in a sum not to exceed five thousand dollars, conditioned that he will faithfully and impartially discharge the duties required of him by law, and will promptly pay over to the party entitled to receive it, all moneys that may come into his hands during his term of office.

Sec. 2. A person who has served as justice of the peace of a precinct for 10 or more consecutive years preceding a change in boundaries of the precinct is not ineligible for reelection in the precinct because of residence outside the precinct as long as the justice's residence is within the boundaries of the precinct as they existed before they were changed.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 703, ch. 291, § 1, eff. Aug. 28, 1967. Acts 1981, 67th Leg., p. 1830, ch. 418, § 1, eff. Aug. 31, 1981.]

Art. 2374. In Unorganized Counties

The commissioners courts of counties to which unorganized counties are attached for judicial purposes may appoint a justice and a constable for each unorganized county attached to said county for judicial purposes, in accordance with the law authorizing such appointments in organized counties. Whenever, in any unorganized county, a necessity may exist for the appointment of more than one justice and constable, and one hundred qualified voters of said county shall petition the commissioners court of the organized county to which such unorganized county is attached for judicial purposes, asking the appointment of such officers, such commissioners court shall lay off and designate as many justice precincts in such unorganized county as may be necessary, not exceeding four, and such court may appoint one justice and one constable for each justice precinct in such unorganized county; and such justice precincts shall be legally constituted election precincts.

[Acts 1925, S.B. 84.]

Art. 2375. Two Justices Elected

Where there is a city of eight thousand inhabitants or more in a justice precinct, two justices of the peace shall be elected.

[Acts 1925, S.B. 84.]

Art. 2376. Commissioned

Each justice of the peace shall be commissioned as justice of the peace of his precinct and ex officio notary public of his county.

[Acts 1925, S.B. 84.]

Art. 2377. Nearest Justice to Hold Court

Whenever there is a vacancy or the justice in any precinct shall be absent, or unable or unwilling to perform the duties of his office, the nearest justice in the county may temporarily perform the duties of the office.

[Acts 1925, S.B. 84.]

Art. 2378. Disqualification

No justice of the peace shall sit in a cause where he may be interested, or where he may be related to either party within the third degree by consanguinity or affinity.

[Acts 1925, S.B. 84.]

Art. 2379. Justice's Office

When the justice precinct where the courthouse of any county is located contains more than seventy-five thousand inhabitants, the commissioners court of said county shall provide and furnish a suitable place in such courthouse for such justice to hold court.

[Acts 1925, S.B. 84.]

Art. 2380. Term of Court

These rules shall govern as to the terms of court:

1. Each justice shall hold a term of his court for civil business once in each month, and may transact such business out of term time as may be authorized by law.

2. Each justice shall hold the regular term of his court at his office at such time as the commissioners court may prescribe.

3. The justice may hold court from day to day until all business shall be disposed of, or may adjourn the court or the trial of any case to a particular day.

4. If the regular term from any cause shall not be opened on the day fixed therefor by law, the court shall be considered adjourned until its next regular term.

[Acts 1925, S.B. 84.]

Arts. 2381, 2382. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**Art. 2383. Custody of Books, etc.**

Each justice shall arrange and safely keep all dockets, books and papers transmitted to him by his predecessors, and all papers filed in any case in his court subject at all reasonable times to the inspection of any interested party. Any person having possession of dockets, books or papers belonging to the office of any justice shall deliver the same to such justice on demand.

[Acts 1925, S.B. 84.]

Art. 2384. Enforcing Delivery

If any person having such dockets, books or papers, refuses to deliver the same on such demand, he may, upon motion, be attached and imprisoned by order of the county judge in term time or vacation, until he shall make such delivery; but such motion shall be supported by affidavit, and three days' notice thereof shall be given to the party against whom such motion is made.

[Acts 1925, S.B. 84.]

Art. 2385. Jurisdiction

Justice courts shall, in addition to their other powers and duties, have and exercise original jurisdiction in civil matters of all cases where the amount in controversy is \$1,000, or less, exclusive of interest, of which exclusive original jurisdiction is

not given to the district or county courts, and of cases of forcible entry and detainer, and to foreclose mortgages and enforce liens on personal property, where the amount in controversy is within their jurisdiction.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 846, ch. 377, § 1, eff. June 6, 1979; Acts 1983, 68th Leg., p. 616, ch. 133, § 2, eff. Sept. 1, 1983.]

Art. 2385a. Repealed by Acts 1983, 68th Leg., p. 617, ch. 133, § 3, eff. Sept. 1, 1983

See, now, art. 2385.

Art. 2386. Other Powers

Justices of the peace shall also have power:

1. To issue writs of attachment, garnishment and sequestration within their jurisdiction, the same as judges and clerks of the district and county courts.

2. To exercise jurisdiction over all other matters not hereinbefore enumerated that are or may be cognizable before a justice of the peace under any law of this State.

3. To proceed with all unfinished business of his office in like manner as if such business had been originally commenced before him.

[Acts 1925, S.B. 84. Amended by Acts 1971, 62nd Leg., p. 2535, ch. 831, § 4, eff. Aug. 30, 1971.]

Art. 2387. No Jurisdiction

Justice courts have no jurisdiction of suits in behalf of the State to recover penalties, forfeitures and escheats, of suits for divorce, of suits to recover damages for slander or defamation of character, suits for the trial of title to land, or of suits for the enforcement of liens on land.

[Acts 1925, S.B. 84.]

Arts. 2388, 2389. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**CHAPTER TWO. INSTITUTION OF SUIT****Art.**

- 2390. Suits, Where Brought.
- 2391. Residence of a Single Man.
- 2392. Where There Are Two Justices.
- 2393. If Justice is Disqualified.
- 2393a. Exchange of Benches.
- 2394 to 2398. Repealed.
- 2399. Special and Temporary Justices.
- 2400 to 2402. Repealed.

Art. 2390. Suits, Where Brought

Every suit in the justice court shall be commenced in the county and precinct in which the defendant or one or more of the several defendants resides, except in the following cases and such other cases as are or may be provided by law:

1. Cases of forcible entry and detainer must be brought in the precinct where the premises, or a part thereof, are situated.

2. Suits against executors, administrators and guardians as such must be brought in the county in which such administration or guardianship is pending, and in the precinct in which the county seat is situated.

3. Suits against counties must be brought in such county and in the precinct in which the county seat is situated.

In the following cases the suit may, at the plaintiff's option, be brought either in the county and precinct of the defendant's residence or in that provided in each exception:

4. (a) Suits upon a contract in writing promising performance at any particular place, may be brought in the county and precinct in which such contract was to be performed, provided that in all suits to recover for labor actually performed, suit may be brought and maintained where such labor is performed, whether the contract for same be oral or in writing.

(b) Suits by creditors upon contracts for goods, services, or loans, intended primarily for personal, family, household, or agricultural use may only be brought in the county and precinct in which the contract was signed or in the county and precinct of the defendant's residence, notwithstanding any provision in the contract to the contrary.

5. Suits for the recovery of rents may be brought in the county and precinct in which the rented premises, or a part thereof are situated.

6. Suits for damages for torts may be brought in the county and precinct in which the injury was inflicted.

7. Suits against transient persons may be brought in any county and precinct where such defendant is to be found.

8. Suits against non-residents of the State or persons whose residence is unknown, may be brought in the county and precinct where the plaintiff resides.

9. Suits for the recovery of personal property may be brought in any county and precinct in which the property may be.

10. Suits against private corporations, associations and joint stock companies may be brought in any county and precinct in which the cause of action or a part thereof arose, or in which such corporation, association or company has an agency or representative, or in which its principal office is situated.

11. Suits against railroad and canal companies, or the owners of any line of transportation vehicles of any character, for any injury to person or property upon the road, canal, or line of vehicles of the defendant, or upon any liability as a carrier, may be brought in any precinct through which the road,

canal or line of vehicles may pass, or in any precinct where the route of such railroad, canal, or vehicle may begin or terminate.

12. Suits against fire, marine or inland insurance companies may be brought in any county and precinct in which any part of the insured property was situated; and suits against life and accident insurance companies or associations may be brought in the county and precinct in which the persons insured, or any of them resided at the time of such injury or death.

13. Suits against the owners of a steamboat or other vessel may be brought in any county or precinct where such steamboat or vessel may be found, or where the cause of action arose or the liability was contracted or accrued. In every suit commenced in a county or precinct in which the defendants or one of them may reside, it shall be affirmatively shown in the citation or pleading, if any, that such suit comes within one of the exceptions named in this article.

[Acts 1925, S.B. 84. Amended by Acts 1977, 65th Leg., p. 1963, ch. 783, § 1, eff. June 16, 1977.]

Art. 2391. Residence of a Single Man

The residence of a single man is where he boards.

[Acts 1925, S.B. 84.]

Art. 2392. Where There Are Two Justices

Where, in any one precinct, incorporated city or town there may be more than one justice of the peace, the suit may be brought before either of them.

[Acts 1925, S.B. 84.]

Art. 2393. If Justice is Disqualified

If there be no justice qualified to try the suit in the proper precinct, the suit may be commenced before the nearest justice of the county who is not disqualified to try the same.

[Acts 1925, S.B. 84.]

Art. 2393a. Exchange of Benches

A justice may hold court for any other justice whose precinct is in the same county; and the justices of a county may exchange benches whenever they deem it expedient.

[Acts 1967, 60th Leg., p. 954, ch. 421, § 1, eff. Aug. 28, 1967.]

Arts. 2394 to 2398. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2399. Special and Temporary Justices

(a) If a justice be disqualified from sitting in any civil case, or is sick or absent from the precinct, the parties to such suit may agree upon some person to try the case; and should they fail to agree at the first term of the court after service is perfected, the

county judge in whose county said case is pending, shall, upon the application of the justice in whose court said cause is pending, or upon the application of either party to said suit, appoint some person who is qualified to try said cause. The fact of the disqualification of the justice and the selection by agreement or appointment of some other person to try said cause shall be noted on the docket of said justice in said cause.

(b) If a justice is temporarily unable to perform his official duties because of illness, injury, or other disability, the county judge may appoint a qualified person to serve as temporary justice during the duration of the disability. The Commissioners Court shall compensate the temporary justice by the day, week, or month, in an amount equal to the compensation of the regular justice.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 291, ch. 135, § 1, eff. May 8, 1967.]

Arts. 2400 to 2402. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER THREE. APPEARANCE AND TRIAL

Art.

- 2403 to 2412. Repealed.
- 2413. Summons for Jury.
- 2414. Summoning Jury.
- 2415. Jurors Called.
- 2416. Excuses.
- 2417. Defaulting Jurors.
- 2418. Talesmen.
- 2419 to 2428. Repealed.

Arts. 2403 to 2412. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2413. Summons for Jury

Whenever at any term of a justice court there may be any jury cases pending for trial, the justice shall order the sheriff or constable to summon such number of legally qualified jurors as he may deem necessary, to attend as a jury before such justice at a day and place directed. The justice, on delivering such order to the officer, shall administer to him the following oath "You do solemnly swear that you will, to the best of your skill and ability, and without bias or favor toward any party, summon such jurors as may be ordered by the court; that you will select none but impartial, sensible and sober men, having the qualifications of jurors under the law; that you will not, directly or indirectly, converse or communicate with any juror, touching any case pending for trial; and that you will not, by any means, attempt to influence, advise or control any juror in his opinion in any case which may be tried by him. So help you God."

[Acts 1925, S.B. 84.]

Art. 2414. Summoning Jury

The officer shall immediately summon the required number of jurors to appear before the justice at the day and place named. Such summons shall be by an oral notice by the officer to the juror that he is required to appear as a juror before such justice on the day and at the place named.

[Acts 1925, S.B. 84.]

Art. 2415. Jurors Called

At the time fixed for taking up the jury cases, the justice shall proceed to call the names of the jurors so summoned.

[Acts 1925, S.B. 84.]

Art. 2416. Excuses

The court may hear any reasonable excuse of a juror, supported by oath, and may excuse him for the trial of any particular case, or for one or more days of the term.

[Acts 1925, S.B. 84.]

Art. 2417. Defaulting Jurors

If any person so summoned as a juror shall fail or refuse to attend, the justice shall enter a fine nisi against him not exceeding five dollars, to the use of the county, to be made final, with costs, unless such person shall, after being cited to do so, show a good and sufficient excuse for such failure.

[Acts 1925, S.B. 84.]

Art. 2418. Talesmen

If the number of jurors present and not excused be less than six, or less than the justice shall deem necessary, he shall order the sheriff or constable to summon a sufficient number of other qualified jurors.

[Acts 1925, S.B. 84.]

Arts. 2419 to 2427. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2428. Repealed by Acts 1975, 64th Leg., p. 1353, ch. 510, § 2, eff. Sept. 1, 1975

See, now, art. 2122.

CHAPTER FOUR. JUDGMENT AND NEW TRIAL

Arts. 2429 to 2444. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER FIVE. EXECUTION

Art.

- 2445 to 2450. Repealed.
- 2451. Dormant Judgments.
- 2452, 2453. Repealed.

Arts. 2445 to 2449. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2450. Repealed by Acts 1931, 42nd Leg., p. 392, ch. 238, § 1

Art. 2451. Dormant Judgments

If no execution is issued within ten (10) years after a judgment is rendered, the judgment shall become dormant, and no execution shall thereafter issue unless an execution shall have theretofore issued on such judgment within ten (10) years after a judgment is rendered. Where the first execution has issued within the ten (10) years after the rendition of a judgment, the judgment shall not become dormant unless ten (10) years shall have elapsed between the issuance of executions thereon, and execution may issue at any time within ten (10) years after the issuance of the preceding execution.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 394, ch. 240, § 1.]

Arts. 2452, 2453. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SIX. APPEAL AND CERTIORARI

Art.

2454. Appeal.

2455. To District Court, When.

2455-1. Appeal, etc., to District Court, When.

2456 to 2459. Repealed.

2460. Certiorari.

Art. 2454. Appeal

A party to a final judgment in any justice court may appeal therefrom to the county court where such judgment, or the amount in controversy, shall exceed twenty dollars exclusive of costs, and in such other cases as may be expressly provided by law.

[Acts 1925, S.B. 84.]

Art. 2455. To District Court, When

In all counties in which the civil jurisdiction of the county courts has been transferred to the district courts, appeals and writs of certiorari may be prosecuted to remove a case tried before a justice of the peace to the district court, in the same manner and under the same circumstances under which appeals and writs of certiorari are allowed by general law to remove causes to the county court.

[Acts 1925, S.B. 84.]

Art. 2455-1. Appeal, etc., to District Court, When

In all counties in which the civil and criminal jurisdiction, or either, of county courts has been transferred to the district courts, appeals and writs of certiorari may be prosecuted to remove a case tried before a justice of the peace to the district court in the same manner and under the same

circumstances under which appeals and writs of certiorari are allowed by general law to remove causes to the county court.

[C.C.P.1925, art. 52-157.]

Saved from repeal, see Code of Criminal Procedure, art. 54.02.

Arts. 2456 to 2459. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2460. Certiorari

A cause tried before a justice, wherein the amount in controversy or the judgment exceeds twenty dollars, exclusive of costs, may be removed from such justice court to the county court by certiorari under the rules prescribed in the title and chapter relating thereto. Whenever a writ of certiorari to remove any cause from the justice court to the county court shall be served on any justice of the peace, he shall immediately make out a certified copy of the entries made on his docket, and of the bill of costs, as provided in case of appeals, and send same, together with the original papers in the cause, to the clerk of the county court in the manner and within the time prescribed in the preceding article.

[Acts 1925, S.B. 84.]

CHAPTER SEVEN. SMALL CLAIMS COURT

Art. 2460a. Creation; Jurisdiction; Procedure

Creation; Judge

Sec. 1. There is hereby created and established in each of the several counties of this State a court of inferior jurisdiction to be known as the "Small Claims Court". The justices of the peace in their several counties and precincts shall sit as judges of said courts and exercise the jurisdiction hereby conferred in all cases arising under the provisions of this Chapter.

Jurisdiction

Sec. 2. The Small Claims Court shall have and exercise concurrent jurisdiction with the Justice of the Peace Court in all actions for the recovery of money by any person, association of persons, corporation or by any attorney for such parties, or other legal entity only where the amount involved, exclusive of costs, does not exceed the sum of One Thousand Dollars (\$1,000). Provided, however, that no action may be brought in the Small Claims Court by any assignee of such action or upon any assigned claim or by any person, firm, partnership, association or corporation engaged, either primarily or secondarily, in the business of lending money at interest, nor by any collection agency or collection agent. Provided, further, however, that nothing in this Act shall prevent the bringing of any action by a legal heir or heirs on any account or claim otherwise within the jurisdiction of these Courts.

Venue

Sec. 3. All actions brought under the provisions of this Act shall be brought in the county and precinct in which the defendant resides except that when a defendant has contracted to perform an obligation in a particular county the action upon such obligation may be brought in such county. Except nothing in this Section shall conflict with Article 2392 of the Revised Civil Statutes.

Commencement of Action

Sec. 4. Actions shall be commenced under the provisions of this Act whenever the claimant, or the personal representative of a deceased claimant, appears before the judge of the Small Claims Court and files a statement of his claim under oath. Such statement shall be in substantially the following form:

In the Small Claims Court of _____, County, Texas
A. B., Plaintiff
vs.
C. D., Defendant

State of Texas }
County of _____ }

A. B., whose post office address is _____
Street and
Number, _____ City, County, Texas, being duly
sworn, on his oath deposes and says that C. D.,
whose post office address is _____
Street and Number
_____ City, County, Texas, is justly indebted to
him in the sum of _____ Dollars and _____
Cents (\$ _____), for _____

(here the nature of the claim should be stated in concise form and without technicality, including all pertinent dates), and that there are no counter-claims existing in favor of the defendant and against the plaintiff, except _____

Plaintiff
Subscribed and sworn to before me this
_____ day of _____, 19____

Judge

Filing Fee; Process

Sec. 5. Upon the filing of the said affidavit and the payment of a filing fee, the Judge shall issue process in the same manner as any other case in Justice Court, service being by citation served by an officer of the State duly authorized to serve other

citations. Service of citation may be made in any manner authorized for service of citation in a district or county court or justice court.

Fees

Sec. 5a. Fees in small claims court are the same as those provided by law for cases in justice court.

Failure of Parties to Appear; Postponement

Sec. 6. Upon the date set for the hearing of such action, if the defendant fails to appear at the time and place specified in the notice and order to appear, he having been duly served therewith as herein provided, the judge shall enter judgment for the amount proved to be due the plaintiff. If the plaintiff does not appear, the judge may enter an order dismissing the action. No postponement or continuance shall be granted except for good cause shown.

Hearing

Sec. 7. If both parties appear, the judge shall proceed to hear the case. No formal pleading other than the affidavit hereinabove described, shall be required. The judge shall hear the testimony of the parties and such other witnesses as they may produce, together with such other evidence as may be offered. The hearing shall be informal, with the sole objective of dispensing speedy justice between the parties.

Plea of Privilege

Sec. 8. Provided nothing in this Act shall prevent a plea of privilege which shall be filed in writing as set out in the Texas Rules of Civil Procedure and appeal may be taken from the final ruling of the justice to the County Court where a trial de novo shall be had on such plea.

Evidence and Witnesses

Sec. 9. In every case before the Small Claims Court, it shall be the duty of the judge to develop all of the facts in the particular case. In the exercise of this duty, the judge may propound any question of any witness or party to the suit or upon his own motion may summon any party to appear as a witness in the suit as, in the discretion of the judge, appears necessary to effect a correct judgment and speedily dispose of such case.

Judgment and Execution

Sec. 10. Upon the conclusion of the hearing the judge shall render such judgment as the justice of the case shall require. If the judgment is against the defendant, he shall pay the same forthwith, and in default of such payment execution may issue as in the justice courts.

Judgments Not Claimed by Plaintiff

Sec. 10a. (a) If a judgment against a defendant has not been paid and the whereabouts of the plaintiff who was awarded the judgment are un-

known, the defendant shall use due diligence to locate the plaintiff, which includes sending a letter by registered or certified mail, return receipt requested, to the plaintiff at his last known address and the address appearing in the plaintiff's statement of his claim and any other records of the court.

(b) If, after the use of due diligence, the plaintiff is not located, the defendant may deposit payment of the judgment into the court in trust for the plaintiff and obtain a release of the judgment, which release shall be executed without delay by the judge of said court on behalf of the plaintiff.

(c) All trust funds paid into the court, as provided in this section, shall be paid over by the judge at least once a month to the county clerk to be deposited in and withdrawn from the clerk's trust fund account in the county depository for trust funds in the possession of the county clerk, in the same manner as trust funds deposited in county and district courts to abide the result of a legal proceeding are deposited and withdrawn.

(d) If the plaintiff does not claim the payment of his judgment within two (2) years from the date of its deposit in the county clerk's trust fund account, the money shall escheat to the state.

Jury Trial

Sec. 11. If either party desires a trial by jury he shall, at least one (1) calendar day prior to the date upon which the hearing is to be held, file with the Small Claims Court a request for a trial by jury, depositing with the judge, at the time such request is filed, a jury fee. Thereupon, a jury shall be had as in other civil cases in the justice courts.

Right of Appeal

Sec. 12. Where the amount in controversy, exclusive of costs, exceeds the sum of Twenty Dollars (\$20), upon the rendition of final judgment by the judge of the Small Claims Court, a dissatisfied party may appeal to the County Court or County Court at Law of the proper county in the same manner as is now provided by statute for appeals from the justice court to the County Court.

Hearing on Appeal; Costs; Finality of Judgment

Sec. 13. It shall be the duty of the County Court or County Court at Law to dispose of all such appeals with all convenient speed. The trial on appeal shall be de novo, but no further pleadings shall be required and the procedure shall be the same as that herein prescribed for the Small Claims Court. In the event of such an appeal to the County Court, all costs not heretofore paid by the parties shall accrue until judgment is rendered by the County Court. It is specifically provided that the judgment of the County Court or County Court at Law shall be final.

Blank Forms, Docket Books and Supplies

Sec. 14. The Commissioners Court of each of the several counties shall furnish to the justices of the peace a reasonable supply of blank forms, docket books, and other supplies necessary for the use of such justices and judges when sitting as a Small Claims Court.

[Acts 1953, 53rd Leg., p. 778, ch. 309. Amended by Acts 1955, 54th Leg., p. 571, ch. 187, §§ 1, 2; Acts 1963, 58th Leg., p. 938, ch. 368, §§ 1 to 3; Acts 1975, 64th Leg., p. 1826, ch. 563, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 4508, ch. 733, § 1, eff. Aug. 29, 1983.]

Section 2 of the 1983 amendatory act provides:

"This Act applies to all actions filed in the small claims courts on or after the effective date of this Act."

TITLE 46

CREDIT ORGANIZATIONS

1. CREDIT UNIONS

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- 2461. Repealed.
- 2461-1.01. Short Title.
- 2461-1.02. Definition.
- 2461-1.03. Effect of Headings.
- 2461-1.04. Application of Act.
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- 2461-2.02. Articles of Incorporation.
- 2461-2.03. Incorporation Procedure.
- 2461-2.04. Effect of Issuance of Certificate of Incorporation.
- 2461-2.05. Commencing Business.
- 2461-2.06. Form of Articles of Incorporation and Bylaws; Amendments.
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- 2461 to 2484d. Repealed.

2. AGRICULTURAL AND LIVESTOCK POOLS

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3. MUTUAL LOAN CORPORATIONS

- 2500 to 2507a. Repealed.

4. CO-OPERATIVE CREDIT ASSOCIATIONS

- 2508 to 2513. Repealed.

5. FARMERS' CO-OPERATIVE SOCIETY

- 2514 to 2524. Repealed.

1. CREDIT UNIONS

The Credit Union Act, formerly set out in this Title as arts. 2461-1 to 2461-49, was enacted by Acts 1969, 61st Leg., p. 540, ch. 186, §§ 1 to 49. Former arts. 2461 to 2484d, regulating Rural Credit Unions, were repealed by § 50 of the 1969 Act.

Acts 1975, 64th Leg., p. 2240, ch. 707, § 1, revised and amended the 1969 Act, as herein set out, to consist of arts. 2461-1.01 to 2461-11.17.

For disposition of subject matter of repealed arts. 2461 to 2484d and former arts. 2461-1 to 2461-49, see Tables, post.

DISPOSITION TABLES

TABLE 1

Showing where subject matter of repealed Articles 2461 to 2484d of Title 46 was covered by Articles 2461-1 to 2461-49, as enacted by Acts 1969, 61st Leg., p. 540, ch. 186.

Former Articles	1969 Articles
2461	2461-1
2462	2461-15
	2461-24
2463	2461-2
2464	2461-2
	2461-4
2465	2461-30
	to
	2461-32
2466	2461-2
2467	2461-2
2468	2461-9
2469	2461-10
	to
	2461-12
2470	2461-12
2471	2461-14
2472	2461-35
2473	2461-18
	2461-20
2474	2461-23
2475	2461-5
2476	2461-15
2477	2461-15
2478	2461-7
2479	2461-7
2480	2461-16
2481	—
2482	2461-26
2483	2461-34
	2461-36
2484	2461-29
2484a	—
2484b	2461-38
	to
	2461-47
2484c	2461-33
2484d	2461-21

TABLE 2

Showing where subject matter of former Articles 2461-1 to 2461-49 is now covered by Articles 2461-1.01 to 2461-11.17, as revised and amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1.

1969 Articles	1975 Articles
2461-1	2461-1.02
2461-2(a)	2461-2.01
2461-2(a)(1)	2461-2.02
2461-2(a)(2), (3)	2461-2.03
2461-2(b)	2461-2.05
2461-3	2461-2.06
2461-4	2461-2.07
2461-5	2461-4.01
	2461-4.02
2461-6	2461-3.01
2461-7	—
2461-8	2461-2.02(4)
2461-9	2461-3.02
2461-10(a)	2461-5.01
2461-10(b)	2461-5.03(c)
2461-11(a)	2461-5.03
	2461-5.04
2461-11(b)	—
2461-11(c)	2461-5.02
2461-11(d)	2461-5.02
2461-11(e)	2461-5.04(d)
2461-12	2461-5.03
	2461-5.06(b)
2461-13	2461-5.08
2461-14	2461-5.05
2461-15(a)	2461-7.01
2461-15(b)	—
2461-15(c)	2461-7.01
2461-15(d)	2461-7.02
2461-15(e)	2461-7.01
2461-15(f)	—
2461-15(g)	2461-7.01
2461-15(h)	2461-7.05
2461-15(i)	—
2461-15(j)	2461-7.06
2461-16	2461-5.07
2461-17	2461-5.06(a)
2461-18	2461-6.02
2461-19	2461-6.04
2461-20	2461-6.03
2461-21	2461-6.05
2461-22	2461-6.06
2461-23	2461-6.07
2461-24	2461-8.01
2461-25	2461-9.01
2461-26	2461-9.02
2461-27	2461-9.03

1969 Articles	1975 Articles
2461-28	2461-10.03
2461-29	2461-2.09
2461-30	—
2461-31	—
2461-32	2461-11.12
2461-33	—
2461-34	2461-10.04
2461-35	2461-5.09
2461-35A	2461-10.01
2461-36	2461-10.02
2461-37	2461-2.08
2461-38	2461-11.01
2461-39	2461-11.02
2461-40	2461-11.02
2461-41	2461-11.03
2461-42	2461-11.04
2461-43	—
2461-44	2461-11.05
2461-45	—
2461-46	2461-11.06
2461-47(a)	2461-11.08
	2461-11.15
2461-47(b)	2461-11.09
	2461-11.11
	2461-11.15
2461-47(c)	2461-11.13
2461-47(d)	2461-11.07
	2461-11.10
2461-47(e)	2461-11.07
2461-47(f)	2461-11.10
2461-48	2461-11.16
2461-49	—

CHAPTER 1. SHORT TITLE, DEFINITION AND PURPOSES

Art. 2461-1.01. Short Title

This Act may be cited as the Texas Credit Union Act.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975.]

Art. 2461-1.02. Definition

In this Act:

(1) "Credit union," unless the context relates to a federal credit union, means a voluntary, cooperative, nonprofit financial institution, authorized to do business in this state under this Act for the purposes of encouraging thrift among its members, creating a source of credit at fair and reasonable rates of interest, providing an opportunity for its members to use and control their own money in order to improve their economic and social condition, and conducting any other business, engaging in any other activity, and providing any other service that may be of benefit to its members, subject to this Act and the rules adopted under this Act.

(2) "Commission" means the Credit Union Commission.

(3) "Commissioner" means the Credit Union Commissioner.

(4) "Department" means the Credit Union Department.

(5) "Deputy commissioner" means the Deputy Credit Union Commissioner.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2274, ch. 421, § 1, eff. Sept. 1, 1983.]

Art. 2461-1.03. Effect of Headings

The division of this Act into chapters and sections and the use of section and chapter headings are solely for convenience and have no legal effect in construing this Act.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975.]

Art. 2461-1.04. Application of Act

All credit unions organized and existing under the laws of this state are governed by and are subject to this Act and are authorized to do business under it.

[Acts 1981, 67th Leg., p. 406, ch. 169, § 1, eff. Sept. 1, 1981.]

Section 5 of the 1981 Act provides:

"If any provision of this Act or its application to any person or circumstance is held to be invalid for any reason, that holding does not affect the validity of the other provisions or application of this Act that can be given effect without the invalid provision or application.

Art. 2461-1.05. Purposes

The purposes of the legislature in enacting this Act are to safeguard the public interest, to promote public confidence in credit unions doing business in this state, to provide for the protection of the interests, shares, and deposits of credit unions, to delegate to the department rulemaking and discretionary authority that may be necessary to assure that credit unions operating under this Act may be sufficiently flexible and readily responsive to changes in economic conditions and practices, to maintain sound credit union growth and financial integrity, fiscal responsibility, and independent judgment in the management of the business affairs of credit unions, to permit credit unions to effectively provide a full array of financial and financially-related services, to provide effective supervision and regulation of credit unions, and to clarify and modernize the law governing the credit unions doing business in this state. It is also the intent of the legislature that this Act be liberally construed to accomplish and effectuate these purposes. Therefore, this Act is declared to be the public policy of this state and necessary to the public welfare.

[Acts 1983, 68th Leg., p. 2275, ch. 421, § 2, eff. Sept. 1, 1983.]

CHAPTER 2. ORGANIZATION PROCEDURE

Art. 2461-2.01. Incorporators

Any seven or more adult individuals, a majority of whom are residents of this state, each of whom has subscribed for at least 10 shares and all of whom share the definable community of interest stated in the proposed articles of incorporation, may apply to incorporate a credit union under this Act by signing, subscribing before an officer competent to administer oaths, and delivering in duplicate to the commissioner articles of incorporation for the credit union. The submission of an application constitutes a representation by the incorporators that they desire to avail themselves, and those persons comprising the field of membership of the proposed credit union whom they represent, of the benefits of this Act, and that they bind themselves to comply with all laws, rules, and regulations applicable to credit unions doing business in this state.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2275, ch. 421, § 3, eff. Sept. 1, 1983.]

Art. 2461-2.02. Articles of Incorporation

The articles of incorporation shall set forth:

- (1) the name of the proposed credit union;
- (2) the town or city and county where the proposed credit union will have its principal place of business;
- (3) the term of existence of the credit union, which shall be perpetual;
- (4) the fiscal year of the credit union, which must be the calendar year;
- (5) the initial share accounts of the credit union;
- (6) the name and address of each incorporator and the number of shares subscribed by each;
- (7) the number of directors constituting the initial board of directors and the names and addresses of the persons who will serve as directors until the first annual meeting or until their successors are duly elected and qualified; and
- (8) a description of the definable community of interest shared by the members of the credit union.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2276, ch. 421, § 4, eff. Sept. 1, 1983.]

Art. 2461-2.03. Incorporation Procedure

(a) The incorporators shall file with the commissioner:

- (1) the original articles of incorporation in duplicate;
- (2) standard bylaws for the general operation of the credit union in duplicate;
- (3) a completed application in a form prescribed by the commission; and

(4) the fees required and set by the commission.

(b) The commissioner may conduct any investigation and obtain any information or report from any person, including a law enforcement agency, that the commissioner considers necessary.

(c) The commission shall adopt rules establishing procedures concerning notice of applications to incorporate and conditions under which a hearing may be available.

(d) The commissioner shall approve the application for incorporation if the incorporators have complied with this Act and the rules adopted under this Act and the commissioner finds from the information furnished with the application, the results of any investigation, the evidence submitted at any hearing, and the information in the official records in the department that:

(1) the character and general fitness of the incorporators and the members of the initial board of directors warrant belief that the business and affairs of the credit union will be properly administered in accordance with this Act and the rules adopted under this Act;

(2) the character and size of the field of membership proposed to be served by the credit union conforms with this Act and the rules adopted under this Act and are favorable to the economic viability of the credit union; and

(3) the incorporators and the members of the initial board of directors are acting in good faith and are making the application in accordance with the purposes of this Act.

(e) Not later than 90 days after the later of the date on which an application is filed or the date on which a hearing on the application is held, the commissioner shall state his findings in a written order that approves or denies the application to incorporate.

(f) The commission shall adopt rules providing for appeal by an incorporator or aggrieved person. The commissioner's order may be appealed to the commission not later than 60 days after the date of the order. The commission shall, by written order, affirm or reverse the decision of the commissioner after reviewing the information or evidence it considers necessary or relevant.

(g) An order of the commissioner or commission shall be promptly mailed to the incorporators by registered or certified mail. If the application is approved by the commissioner, in the absence of an appeal, or by the commission after conclusion of an appeal, the commissioner shall issue a certificate of incorporation, deliver copies of the approved articles of incorporation and bylaws to the incorporators, and retain copies of these documents in the department's permanent files.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2277, ch. 421, § 5, eff. Sept. 1, 1983.]

Art. 2461-2.04. Effect of Issuance of Certificate of Incorporation

The corporate existence of a credit union begins at the time the commissioner issues a certificate of incorporation. The certificate of incorporation is conclusive evidence of the incorporators' compliance with the requirements of this Act and of the credit union's incorporation under this Act. The acceptance of a certificate of incorporation is conclusive evidence of the authorization of the credit union to do business under this Act, and of the representation by the incorporators on behalf of the credit union that it has availed itself of the benefits of this Act and has bound itself to comply with this Act and the rules adopted under this Act.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2279, ch. 421, § 6, eff. Sept. 1, 1983.]

Art. 2461-2.05. Commencing Business

(a) A credit union may not transact any business or incur any indebtedness, except such as is incidental to its organization or to obtaining subscriptions to or payment for its shares or deposits, until:

(1) it has received paid-in shares or deposits of at least \$1,000;

(2) it has a membership of at least 100 persons; and

(3) it has so notified the department.

(b) The commission may adopt reasonable rules requiring greater minimum membership and paid-in shares or deposits and prescribing additional requirements that a credit union must meet before transacting business or incurring indebtedness. The commissioner may waive any requirement that is set forth in this section or in the rules adopted under this section if the commissioner finds that the credit union does not have supervisory problems that adversely affect its ability to operate properly and that it is adequately capitalized.

(c) A credit union shall commence business before six months after the date of the order approving its application to incorporate. If it has not timely commenced business, the commissioner, on request and good cause shown, may grant a reasonable extension of the time for commencing business to give the credit union an opportunity to overcome the cause for the delay. If the commissioner refuses the request for an extension, the incorporators may appeal the commissioner's decision to the commission in accordance with rules adopted by the commission. If a credit union fails to commence business within the time allotted, the commissioner may cancel the certificate of incorporation in accordance with rules adopted by the commission.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2280, ch. 421, § 7, eff. Sept. 1, 1983.]

Art. 2461-2.06. Form of Articles of Incorporation and Bylaws; Amendments

(a) In order to simplify the process of organizing new credit unions, the commission shall prepare standard articles of incorporation and bylaws, which shall be used by credit union incorporators. These articles of incorporation and bylaws shall be made available without charge to persons desiring to organize a credit union.

(b) The board of directors may amend the articles of incorporation or bylaws and shall submit amendments to the commissioner. The commissioner shall approve or disapprove an amendment in writing not later than 60 days after the date of submission. The commissioner may not approve an amendment if the commissioner finds that it violates this Act or the rules adopted under this Act. The commissioner shall state the reasons for a disapproval with reasonable specificity. Amendments become effective on approval by the commissioner.

(c) The board of directors shall report an amendment to the membership of the credit union not later than the next membership meeting after approval by the commissioner. If the commissioner disapproves the amendment, the credit union may appeal the decision to the commission not later than 60 days after the date of the disapproval.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2281, ch. 421, § 8, eff. Sept. 1, 1983.]

Art. 2461-2.07. Restrictions on Use of Name

(a) No person other than a credit union authorized to do business in this state under this Act or the Federal Credit Union Act, or an organization, corporation, or association the membership or ownership of which is primarily confined to credit unions or credit union organizations, may use a name or title containing the words "credit union" or any derivation thereof, represent itself as a credit union, conduct business as a credit union, or do business under a name or title that indicates or reasonably implies that the person carries on or transacts the kind of business carried on or transacted by a credit union or that is calculated to lead any person to believe that the business is that of a credit union.

(b) A person who violates Subsection (a) of this section commits a Class A misdemeanor. The commissioner may petition a court of competent jurisdiction to enjoin a violation of this section.

(c) The name of each credit union must include the words "credit union" and an appropriate descriptive word or words approved by the commissioner.

(d) The commissioner may not issue a certificate of incorporation to a credit union or approve the change of the name of an existing credit union if doing so would result in the credit union having the same name as any other credit union authorized to do business in this state or a name so nearly resem-

bling it as to be calculated to deceive, except in the case of a credit union formed by merger or consolidation.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2282, ch. 421, § 9, eff. Sept. 1, 1983.]

Art. 2461-2.08. Place of Business

A credit union shall maintain on file with the department a statement specifying the street and post office address of its principal place of business. If a credit union gives the commissioner prior written notification, a credit union may establish and maintain, at locations other than its principal place of business, additional offices and service facilities that are reasonably necessary to furnish services to its members.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2283, ch. 421, § 10, eff. Sept. 1, 1983.]

Art. 2461-2.09. Reports

On or before February 1 of each year, each credit union authorized to do business under this Act shall report to the department on a form supplied by the department for this purpose. On filing the report, a credit union shall pay to the commissioner the required filing fee. The commission shall set a reasonable fee for processing a report. The commissioner may require a credit union to file additional reports. If a credit union does not file a report or pay the filing fee before the 16th day after the day it is due, the commissioner shall charge a late fee in an amount set by the commission for each day that the report or fee is in arrears, except the commissioner may waive payment of all or part of the late fee for good cause shown. Failure of a credit union to file a report before the 31st day after the date it is due constitutes grounds for imposing the sanctions provided by Chapters 5 and 10 of this Act.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2283, ch. 421, § 11, eff. Sept. 1, 1983.]

Art. 2461-2.10. Exemption From Certain Taxes

Each credit union authorized to do business in this state is exempt from all franchise and other license taxes. However, a credit union is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if the credit union is exempted by that chapter. The intangible property of a credit union organized under this Act is not taxable.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 1778, ch. 389, § 29, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 2284, ch. 421, § 12, eff. Sept. 1, 1983.]

Section 1 of the 1981 amendatory act enacted Title 2 of the Tax Code.

Art. 2461-2.11. Out-of-State Credit Unions

A credit union organized under the laws of another state may do business in this state if it is organ-

ized in a state that allows credit unions organized under this Act to do business in that state. The out-of-state credit union is subject to the rules adopted under this Act and any additional requirements established by the commission. The commissioner may suspend or revoke an out-of-state credit union's authority to do business in this state if the commissioner finds that the credit union has violated the rules adopted under this Act or fails to meet the requirements established by the commission.

[Acts 1983, 68th Leg., p. 2284, ch. 421, § 13, eff. Sept. 1, 1983.]

CHAPTER 3. MEMBERSHIP

Art. 2461-3.01. Membership Defined

(a) Membership in a credit union is limited to the incorporators and other persons, including incorporated and unincorporated organizations, who:

(1) share a definable community of interest, in accordance with the articles of incorporation of the credit union, including a community of interest based on occupation, association, or residence;

(2) have paid an entrance fee or membership fee, or both, as required by the bylaws;

(3) have complied with the minimum share, including membership share, requirements and other qualifying account requirements established by the board of directors; and

(4) have complied with any other requirements contained in the articles of incorporation and bylaws.

(b) For the purposes of Subsection (a) of this section, the State of Texas acting through the state comptroller as administrator of the State of Texas deferred compensation program or a political subdivision acting through the appropriate officer of the political subdivision as administrator of the political subdivision's deferred compensation program shall be considered a person for membership qualifications in order to fund a deferred compensation program. Notwithstanding the provisions of Subsection (a) of this section, the payment of an entrance fee may not be a membership requirement for the State of Texas or a political subdivision funding a deferred compensation program.

(c) A member who leaves the field of membership may be permitted to retain membership in the credit union under reasonable standards established by the board of directors.

(d) A member may be expelled for good cause or for failure to maintain the requirements necessary for membership in the credit union, under the conditions and in accordance with the procedures provided in the bylaws.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1543, ch. 665, § 2, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 2284, ch. 421, § 14, eff. Sept. 1, 1983.]

Art. 2461-3.02. Meetings of Members

Members of a credit union shall hold annual and special meetings at the time, place, and in the manner provided in the bylaws. In determining a question requiring action by the members, each member may cast only one vote, regardless of his shareholdings, which vote may be cast by mail if authorized by the board of directors. No member may vote by proxy, except a member that is an organization may be represented and vote by one of its members or shareholders who is authorized, in writing, by the organization's governing body to represent the organization. Mail balloting shall be conducted in accordance with rules adopted by the commission.

[Amended by Acts 1975, 64th Leg., p. 2219, ch. 707, § 1, eff. Sept. 1, 1975.; Acts 1983, 68th Leg., p. 2286, ch. 421, § 15, eff. Sept. 1, 1983.]

CHAPTER 4. POWERS OF CREDIT UNION**Art. 2461-4.01. General Powers**

(a) A credit union may exercise all powers necessary or appropriate to accomplish the purposes for which it is organized and all powers granted corporations authorized to do business in this state. These powers include, but are not limited to, the power to:

- (1) make contracts;
- (2) sue and be sued in the name of the credit union;
- (3) adopt and use a common seal and alter its seal at pleasure;
- (4) purchase, hold, lease, or dispose of property necessary or incidental to its operations or purposes, subject to rules issued by the commission;
- (5) receive payments on shares and deposits and to provide for the transfer and withdrawal of funds from accounts by the means and through the payment systems that the board of directors determines best serve the convenience and needs of members and depositors;
- (6) develop and offer to its members and depositors, in accordance with rules adopted by the commission, investment programs and in connection with those programs issue and sell securities;
- (7) act as agent for its members and depositors, in accordance with rules adopted by the commission, in the purchase, sale, or other disposition of securities, interests in mutual funds, and interests or participations in any other type of investment;
- (8) act as agent or depository of the United States, any agent or instrumentality of the United States, this or any other state, or any city, town, village, county, school district, municipal corporation, political subdivision, or taxing authority of this or any other state, accept for deposit the funds of such an entity, or both;
- (9) lend its funds in accordance with applicable law;

(10) purchase or otherwise provide insurance for the benefit or convenience of its members;

(11) borrow money from any source, but if, after incurring a debt, the total debt of the credit union will exceed an amount equal to 25 percent of its shares, deposits, and surplus, the debt may not be incurred without the prior approval of the commissioner, and the commissioner shall grant or deny a request for approval under this subdivision within 10 days after it is made;

(12) act under the order or appointment of any court of record, without giving bond, as guardian, receiver, trustee, executor, administrator, and as depository for any money paid into court and for any money constituting the estates of deceased persons, minors, or incompetents;

(13) accept and execute any trust and accept funds or money for deposit by fiduciaries, trustees, or receivers;

(14) accept funds for deposit by savings and loan associations, savings associations, savings departments of banks, commercial banks, savings banks, trust companies, insurance companies, or any intermediary or other person managing or holding funds on behalf of the credit union or any of its members or depositors;

(15) act as custodian or trustee of individual retirement accounts, pension funds of self-employed individuals or of the sponsor of a credit union, or as custodian or trustee under any other pension or profit-sharing plan;

(16) hold membership in other credit unions organized under this Act or other laws and hold membership in other organizations as may be approved by the board of directors;

(17) declare and pay dividends on shares, contract for and pay interest on deposits, and pay interest refunds to borrowers;

(18) change its principal place of business to another place in the state, or change the location in the state of any subsidiary places of business, on giving written notice to the commissioner;

(19) collect, receive, and disburse money in connection with the sale of travelers checks, money orders, cashier's checks or drafts, treasurer's drafts, similar instruments, and securities of all types, and for other purposes that may provide benefit or convenience for its members, and for these services, levy and collect charges;

(20) levy and collect fees and charges determined by the board of directors for other services and administrative costs including, but not limited to, a charge for a check or draft that is returned because it is drawn against a closed account or an account containing insufficient or uncollected funds, because of a stop payment order, or because of another similar reason; these charges are in addition to interest authorized by law and are not a part of

interest collected or agreed to be paid on a loan, but are expenses of administration;

(21) establish, operate, or participate in systems that allow the transfer of credit union funds or the shares or deposits of members by electronic or other means, including but not limited to clearing-house associations, data processing and other electronic networks, the Federal Reserve System, or any other government payment or liquidity programs;

(22) make donations or contributions to any non-profit, civic, charitable, or community organization as authorized by the board of directors;

(23) operate as a central credit union, with the approval of the commissioner;

(24) cause any or all records kept by the credit union to be copied by any means and dispose of the original record; and

(25) act as fiscal agent or transfer agent, receive and disburse money, transfer registered and countersigned certificates of stock, bonds, or other evidences of indebtedness, and guarantee signatures.

(b) Any copy of a record shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification, or certified copy shall, for all purposes, be deemed a facsimile, exemplification, or certified copy of the original record.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 271, ch. 111, § 2, eff. May 8, 1981; Acts 1983, 68th Leg., p. 2286, ch. 421, § 16, eff. Sept. 1, 1983.]

Sections 27 and 28 of the 1981 amendatory act provide:

"Sec. 27. This Act shall be applicable to all claims of forfeiture made after the effective date of this Act but, with respect to claims of forfeiture in litigation pending at such effective date, the amount forfeited shall be determined under the provisions of the law as it existed prior to the effective date of this Act.

"Sec. 28. If any provision of this Act is held to be unconstitutional, no liability or forfeiture shall attach under Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-1.01 et seq., Vernon's Texas Civil Statutes), or any other law of this state to any person conforming his conduct to the applicable provisions of this Act. If any provision of this Act under which a rate or amount is determined or made available is determined by a court of competent jurisdiction to be unconstitutional, the maximum rate of interest or time price differential on contracts, including those for open-end accounts that would be subject to such a provision if it were constitutional is 24 percent a year except that in the case of contracts subject to Section (b)(2), Article 1.04, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-1.04, Vernon's Texas Civil Statutes), as amended by this Act, the maximum rate of interest or time price differential is 28 percent a year."

Art. 2461-4.02. Incidental Powers

A credit union may exercise all rights, privileges, and incidental powers necessary or appropriate to

exercise its specific powers and to accomplish the purposes for which the credit union is organized.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2291, ch. 421, § 17, eff. Sept. 1, 1983.]

Art. 2461-4.03. Conformity to Federally Chartered Credit Unions

Notwithstanding any other law, the commission by rule may authorize a credit union authorized to do business under this Act to engage in any activity in which it could engage, exercise any power it could exercise, or make any loan or investment it could make, if it were operating as a federal credit union.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2291, ch. 421, § 18, eff. Sept. 1, 1983.]

CHAPTER 5. DIRECTION OF AFFAIRS

Art. 2461-5.01. Management

The business and affairs of a credit union shall be directed by a board of directors of not less than five members. Each director shall take and subscribe to an oath or affirmation that the director will diligently and honestly perform his duties in administering the affairs of the credit union, that while the director may delegate to others the performance of those duties, he is not relieved from his responsibilities for the performance of the duties, and that the director will not knowingly violate or willingly permit to be violated any law or rule applicable to the credit union.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2292, ch. 421, § 19, eff. Sept. 1, 1983.]

Art. 2461-5.02. Certificate of Election

The chairman of the board and the secretary shall execute a certificate of election that sets forth the names and addresses of the officers, directors, and committee members elected or appointed, and shall file a copy of the certificate of election with the department within 30 days after the election or appointment. The commission by rule may authorize the commissioner to obtain other confidential reports relating to those persons when they are newly elected or appointed.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2292, ch. 421, § 20, eff. Sept. 1, 1983.]

Art. 2461-5.03. Board of Directors

(a) Directors of the credit union are elected at an annual membership meeting, by and from the membership, and in the manner provided in the bylaws.

(b) The duties of the board of directors must be prescribed by the bylaws.

(c) The terms of the members of the board of directors must be prescribed in the bylaws, except

that a term may not exceed three years. Directors may serve more than one term.

(d) The board of directors may appoint not more than three individuals to serve at the pleasure of the board as honorary or advisory directors to advise and consult with the board and otherwise aid the board in carrying out its duties and responsibilities. An honorary or advisory director need not be eligible for membership in the credit union. An honorary or advisory director is not considered a member of the board of directors and is not entitled to vote on any matter before the board. He may participate, however, in all deliberations of the board.

(e) The board of directors may appoint from its membership an executive committee of not less than three persons to exercise, between meetings of the board of directors, authority specifically delegated by the board under conditions specified by the board.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2293, ch. 421, § 21, eff. Sept. 1, 1983.]

Art. 2461-5.04. Officers

(a) The board of directors shall elect from its membership the following officers of the credit union: a chairman, a vice-chairman, a treasurer, and a secretary, each of whom shall serve for one year or until his successor is elected and qualified, and each of whom has the duties prescribed in the bylaws.

(b) The board of directors may employ, elect, or appoint a chief executive officer, who is in charge of operations and whose title is president, who may or may not be a member of the board of directors, but who may not be chairman, vice-chairman, or secretary of the credit union. The president serves at the pleasure of the board of directors.

(c) Subject to any guidelines set by the board of directors, the president shall appoint, employ, or hire, and may discharge, other officers and employees that the president considers necessary for the operation of the credit union. The president shall prescribe the titles of those officers and employees.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2294, ch. 421, § 22, eff. Sept. 1, 1983.]

Art. 2461-5.05. Credit Committee

The board of directors may delegate all or part of its power to approve or disapprove loans to a credit committee, one or more other committees, or one or more individuals.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2295, ch. 421, § 23, eff. Sept. 1, 1983.]

Art. 2461-5.06. Compensation and Bond; Conflicts of Interest

(a) No director, honorary director, advisory director, or committee member may receive compen-

sation for serving as a director, honorary director, advisory director, or committee member, except that those persons may be:

(1) provided with reasonable health, life, accident, liability, and similar insurance protection;

(2) reimbursed for necessary expenses incident to the performance of their duties; and

(3) paid the fees and reimbursed for the other expenditures authorized by rules adopted by the commission.

(b) The board of directors shall purchase from a surety company authorized to do business in this state a blanket surety or security bond covering all directors, honorary directors, advisory directors, officers, employees, members of official committees, attorneys at law, and other agents of the credit union to protect the credit union against loss caused by the failure of a person to faithfully perform his duties.

(c) While serving as a director, honorary director, advisory director, committee member, officer, or employee of a credit union, a person may not:

(1) participate, directly or indirectly or in any manner, in the deliberation on or determination of a question affecting the person's pecuniary interest or the pecuniary interest of a partnership, association, or corporation, other than the credit union, in which the person is directly or indirectly interested, except that an interest only as a member of the credit union shared in common with all other members is not a pecuniary interest within the meaning of this subdivision; or

(2) become employed by, engage in, or own an interest in a business or professional activity that the person could reasonably expect to:

(A) require or induce the person to disclose confidential information acquired by reason of the person's office or employment in the credit union; or

(B) impair the person's independence or judgment in the performance of the person's duties or responsibilities to the credit union.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2296, ch. 421, § 24, eff. Sept. 1, 1983.]

Art. 2461-5.07. Financial Reporting; Audits

(a) A credit union shall use the financial reporting forms and observe the accounting principles prescribed by the commission.

(b) The board of directors shall make or cause to be made a comprehensive annual audit of the books and affairs of the credit union, in accordance with established principles and rules adopted by the commission, promptly submit a report of each annual audit to the department, and submit a summary of that report to the members of the credit union at the next annual meeting. The board of directors shall make or cause to be made any supplementary audits or examinations that it deems necessary or

that the commissioner requires. The commission by rule may require verifications of the accounts of members with the records of the credit union.

(c) If the commissioner, by examination or other credible evidence, finds that the board of directors is failing or refusing to comply with this section or a rule adopted under it, the commissioner may appoint an independent person or persons from outside the credit union and its membership to perform an audit, the costs and expenses of which are borne by the credit union.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2297, ch. 421, § 25, eff. Sept. 1, 1983.]

Art. 2461-5.08. Misconduct and Penalties for Misconduct

(a) A director, honorary director, advisory director, committee member, officer, or employee of a credit union who knowingly demands or receives, directly or indirectly, any bonus, commission, or other consideration on account of the making of a specific loan or investment or the purchase of any asset by a credit union commits a Class A misdemeanor.

(b) Any director, honorary director, advisory director, committee member, officer, or employee of a credit union who knowingly permits a loan to be made to a nonmember or participates in a loan to a nonmember commits a Class B misdemeanor. Additionally, the offender is primarily liable to the credit union for the amount illegally loaned. The illegality of the loan is no defense in any action of the credit union to recover on the loan. Extension of credit to a nonmember as a comaker with a member, or extension of credit to a nonmember for the sale of real or personal property owned by the credit union or for the sale of assets acquired in liquidation or repossession shall not be construed as a loan to a nonmember.

(c) A person commits a felony of the third degree if the person, with the intent to deceive, knowingly:

(1) makes a false entry on the books or records or a report or statement of a credit union; or

(2) in connection with an examination or investigation of the credit union by the commissioner, deputy commissioner, or an authorized examiner of the department, exhibits a false or fictitious paper, instrument, or security or gives under oath a false answer to any question, directly related to the examination or investigation, propounded to him by the commissioner, deputy commissioner, or an authorized examiner of the department.

(d) A person who, for the purpose of concealing a fact or information from the commissioner, deputy commissioner, or an authorized examiner of the department, knowingly removes, destroys, or con-

ceals any book or record of the credit union commits a felony of the third degree.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2298, ch. 421, § 26, eff. Sept. 1, 1983.]

Art. 2461-5.09. Officers, Directors, and Employees; Cease and Desist; Removal; Appeal

(a) The commissioner may determine in the performance of his duties under this Act that an officer, director, honorary director, advisory director, or employee of a credit union, or the credit union itself, acting by and through an officer, director, honorary director, advisory director, or employee, has:

(1) Violated this Act, a rule adopted under this Act, or any other law, rule, or regulation applicable to credit unions;

(2) Violated, neglected, or refused to comply with a duly issued final order of the commissioner or commission;

(3) willfully neglected to perform official or legal duties, or willfully committed a breach of trust or fiduciary duty;

(4) committed any fraudulent or questionable practice in the conduct of the credit union's business which endangers the credit union's reputation or threatens its solvency;

(5) refused to submit to examination under oath, or to permit examination of the credit union's books, papers, records, accounts, and affairs by the commissioner or a duly authorized representative of the commissioner;

(6) failed or refused to authorize and direct any other person to permit the inspection and examination of the credit union's books, papers, records, or accounts in the other person's care, possession, custody, or control by the commissioner or a duly authorized representative of the commissioner, after the commissioner has requested the granting of that authority and direction to the other person;

(7) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner;

(8) concealed, destroyed, removed, falsified, or perjured a book, record, paper, report, statement, or account related to the business and affairs of the credit union;

(9) transacted business while the credit union was in an unsafe or unsound condition;

(10) violated any conditions of the credit union's articles of incorporation or of any written agreement entered with the commissioner or the commissioner;

(11) committed a criminal act that constitutes a substantial detriment to the reputation and conduct of the business of the credit union.

(b) If, on examination or at any other time, the commissioner makes any of the findings set out in

Subsection (a) of this section, he shall issue a demand letter giving notice in writing to the credit union and the offending person or persons stating the particular violations or practices found. The commissioner promptly shall call a meeting of the members of the board of directors of the credit union, who shall attend the meeting, and lay before them the findings contained in the demand letter and demand a discontinuance of the violations and practices found.

(c) If the commissioner makes any of the findings set out in Subsection (a) of this section and determines that an order to cease and desist is necessary and in the best interest of the credit union involved and its depositors, creditors, and members, then at the directors' meeting or within 30 days thereafter the commissioner may serve on the credit union, its board of directors, and any offending person or persons a written order to cease and desist from the violations and practices enumerated in the order and to take such affirmative action that the commissioner considers necessary to correct the conditions resulting from the violations or practices found. Service of the order on the credit union and any offending person must be either by certified or registered mail, addressed to the credit union at the last address of its principal office as shown by the records of the department, or by delivery to any officer or director of the credit union. Service by mail is complete on deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service. The cease and desist order is effective and binding immediately on service if the commissioner finds that the solvency of the credit union is endangered, that there is a continuing violation of this Act or the rules adopted under this Act, or that there is a threat of immediate and irreparable harm to the general public or the credit union, its depositors, creditors, or members; otherwise, the order shall state the effective date, not less than 10 days after service of the order. Unless the credit union through its board of directors files a written notice of appeal, including a duly certified resolution of the board, with the commissioner within 10 days after the service of the order, the order is final. A copy of the order shall be entered in the minutes of the meeting of the members of the board of directors, who shall certify to the commissioner in writing that each has read the order.

(d) If the commissioner subsequently finds by examination or other credible evidence that the offending person or persons have continued violations or practices previously charged and found by the commissioner after notice and demand made under Subsection (b) of this section, and further finds that removal from office or employment is necessary and in the best interest of the credit union and its depositors, creditors, and members, then the commissioner may issue an order removing the offending person or persons.

(e) Notwithstanding any other provision of this Act, if the commissioner, by examination or other credible evidence, makes any of the findings in Subsection (a) of this section and determines that the removal of the offending person or persons from office or employment is immediately necessary because the person or persons have committed or are about to commit a fraudulent or criminal act involving the conduct of the business of the credit union, an act that may cause the credit union to become insolvent or to be placed in imminent danger of insolvency, or an act that otherwise threatens immediate and irreparable harm to the general public or the credit union or its members, depositors, or creditors, the commissioner may issue an order of removal.

(f) An order of removal must state the grounds for removal with reasonable certainty. It shall be promptly served in the same manner as a cease and desist order on the person or persons removed and on the credit union. On issuance of the order, the offending person or persons have no rights, duties, or authority of office or employment in the credit union. Unless the person or persons removed or the credit union, through its board of directors as evidenced by a duly certified resolution, files a written notice of appeal with the commissioner not more than 10 days after the day the order of removal is served, the order is final as of the date it is issued, and the person or persons removed may not hold office in, be employed by, or participate in the affairs of the credit union. A copy of the order of removal shall be entered in the minutes of the board of directors, and an officer shall acknowledge receipt of the order and certify to the commissioner that the person or persons named in the order of removal have been removed from office.

(g) If the credit union or a person removed duly files a notice of appeal of a cease and desist order or an order for removal, the commissioner shall set a time and place for hearing the appeal by the commission in accordance with rules adopted by the commission to govern the fair hearing and adjudication of the questions appealed. The filing of an appeal does not suspend the effect of the order of removal, or cease and desist order, and the order remains in force pending final disposition of the appeal. At the conclusion of the hearing on the appeal, the commission may either vacate, affirm, or modify the order of the commissioner and order that appropriate action be taken.

(h) A cease and desist order or an order of removal becomes final on completion of an appeal or otherwise as provided by this section. If a credit union or a person designated in the order fails or refuses to comply with a final order, then the commissioner may, after giving notice, assess a civil penalty against the credit union, the designated person, or both, in an amount not to exceed \$100 each for each day of the violation of the order. The credit union may not reimburse or indemnify a person for all or part of the civil penalty. The

commissioner may institute a suit for injunction and for collection of the civil penalty in a district court of Travis County, in addition to any other remedy provided by law.

(i) An order to cease and desist, an order for removal from office, and each copy of a notice, correspondence, or other record relating to an order concerning violations or unsound practices are confidential and may not be revealed to the public except in a lawsuit authorized by this Act or by other lawful order or authority. However, the commissioner may disclose this information to a share and deposit guaranty corporation or credit union, or a department, agency, or instrumentality of this state or the United States if he determines the disclosure to be necessary or proper for the enforcement of the laws of this state or the United States.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2299, ch. 421, § 27, eff. Sept. 1, 1983.]

Art. 2461-5.10. Defamation

A person who knowingly makes, utters, circulates, or transmits to another person a statement that is false and derogatory to the financial condition of a credit union authorized to do business in this state, with intent to injure that credit union, or who counsels, aids, procures, or induces another person to make, utter, circulate, or transmit such a statement, with such an intent, commits a felony of the third degree.

[Acts 1983, 68th Leg., p. 2305, ch. 421, § 28, eff. Sept. 1, 1983.]

CHAPTER 6. CAPITAL ACCOUNTS

Art. 2461-6.01. Capital

(a) The capital of a credit union consists of the aggregate amount of the share and deposit accounts of its members plus all reserves and undivided earnings of the credit union.

(b) A share account consists of payments on shares of a member, including membership shares, which may be of different types or classes and may be with or without par value as determined by the board of directors.

(c) A deposit account consists of payments made under an agreement between the credit union and the depositor, including but not limited to a draft account, checking account, savings account, certificate of deposit, and any other similar account or arrangement.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2305, ch. 421, § 29, eff. Sept. 1, 1983.]

Arts. 2461-6.02 to 2461-6.04. Repealed by Acts 1983, 68th Leg., p. 2337, ch. 463, § 57, eff. Sept. 1, 1983

Art. 2461-6.05. Multiple-Party Accounts

(a) A member may designate any person or persons, including organizations, associations, corpora-

tions, or partnerships, to own share or deposit accounts with the member jointly, with or without the right of survivorship, or in a multiple-party account as that term is defined by the Texas Probate Code. One or more or all of the parties to an account may make payments on share accounts and deposit accounts and make withdrawals subject to the terms of the account agreements accepted by the credit union. No party, unless also a member, may vote, obtain loans, or hold office in the credit union. Payment of part or all of an account to any one or more of the parties discharges, to the extent of the payment, the liability of the credit union to all.

(b) The net contribution of a party to an account, as of any given time, is the sum of all payments on shares or deposits made by or for the party, less all withdrawals made by or for the party which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. The net contribution includes, in addition, any life insurance proceeds added to the account by reason of the death of the party whose net contribution is in question. Unless the account agreement provides otherwise, and in the absence of satisfactory proof of the net contributions, those who are parties from time to time shall be presumed to own the joint account in equal undivided interests.

(c) The death of any party to an account has no effect on the beneficial ownership of the account, other than to transfer the decedent's right in the account to the estate of the decedent, unless the account or trust agreement provides otherwise. An account that does not expressly provide for right of survivorship is presumed to be a nonsurvivorship account. If the credit union complies with the terms of the account agreement, the credit union may pay out any funds representing shares or deposits on the order of any party, either before or after the death of any other party, after which the credit union does not have further liability for the amounts so paid.

(d) Without qualifying any other statutory right to a setoff or lien, and subject to any contractual provisions accepted by the credit union, when a party to an account is indebted to a credit union, the credit union has a right to setoff against the entire amount of the account.

(e) Nothing in this Act shall be construed as in conflict with the laws of the United States or of the State of Texas as those laws govern the taxation of multiple-party accounts.

(f) This section is cumulative of Chapter XI, Texas Probate Code.¹

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2306, ch. 421, § 30, eff. Sept. 1, 1983.]

¹ Probate Code, § 436 et seq.

Art. 2461-6.06. Minor Accounts

A credit union may issue share and deposit accounts in the name of a minor, receive payments on these accounts by or for the minor, pay withdrawals, accept pledges to the credit union by or for the minor, and act in any other matter with respect to the accounts on the order of the minor. A minor may vote in the meetings of the members if permitted by the bylaws, except no minor may vote through his parent or guardian. No minor is eligible for any office or committee membership within the credit union unless the bylaws specify otherwise. A payment or delivery of rights by a credit union to a minor, any party to the account, or to the parent or guardian of a deceased minor, is a valid and sufficient release and discharge of the credit union to the extent of the payment or delivery. The payment and any receipt, pledge, or other action required by the credit union is binding on the minor as if the minor were of legal age and capacity.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2308, ch. 421, § 31, eff. Sept. 1, 1983.]

Art. 2461-6.07. Trust Accounts

A credit union may issue shares or hold deposits in the name of a member in trust for a beneficiary, including a minor, but no beneficiary, unless the beneficiary is also a member, may vote, obtain loans, hold office, or be required to pay an entrance fee. Payment of part or all of the shares or deposits to a member shall, to the extent of the payment, discharge the liability of the credit union to the member and the beneficiary, and the credit union shall be under no further obligation. If a member to or for whom shares or deposits are issued or held in trust dies, and the credit union has no other written evidence of the existence or terms of any trust, the credit union may pay the shares or deposits and any dividends or interest to the beneficiary or to the legal representative of the beneficiary. Such a payment discharges the liability of the credit union to the extent of the payment. If the credit union has written evidence of the terms of the trust, the credit union shall administer and distribute the shares or deposits so issued or held under the provisions of the trust agreement, a copy of which must remain on file with the credit union until termination of the trust. If the credit union does not have written evidence of the termination or other disposition of the trust, the credit union may distribute the shares or deposits so issued or held under the provisions of the trust agreement. Such a distribution discharges the liability of the credit union to the extent of the distribution.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2309, ch. 421, § 32, eff. Sept. 1, 1983.]

Art. 2461-6.08. Third Party Claims

No credit union authorized to do business under this Act, nor any federal credit union domiciled in

this state is required to recognize the claim of any third party to any share or deposit account, or to withhold payment of any share or deposit account to any party to the account or to the order of any party to the account, unless and until the credit union is served with citation or other appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by the third party for the purpose of recovering or establishing an interest in the deposit or share account.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2310, ch. 421, § 33, eff. Sept. 1, 1983.]

Art. 2461-6.09. Liens and Setoff; Withdrawals

(a) In addition to any other right to a setoff or lien provided by law, a credit union authorized to do business under this Act has:

(1) a lien, which it may enforce with or without judicial process, on the shares and deposits and accumulation of dividends and interest of a member to the extent of any direct or indirect indebtedness of the member to the credit union; and

(2) the right to set off member indebtedness against the member's shares, deposits, and accumulation of dividends and interest to the extent of any direct or indirect indebtedness of the member to the credit union.

(b) A credit union may allow withdrawals without affecting any right it has to a setoff or lien. A credit union may require up to 60 days' notice for withdrawals from share or deposit accounts. Such a notice may be imposed by the commissioner if he issues a cease and desist order under Chapter 5 of this Act. The commission by rule may require that any advance notice requirement for withdrawals apply to all members of the credit union. A membership share may not be withdrawn except on termination of membership in the credit union.

[Acts 1983, 68th Leg., p. 2310, ch. 421, § 34, eff. Sept. 1, 1983.]

CHAPTER 7. LOANS**Art. 2461-7.01. Purpose, Terms, and Interest Rate**

If made in accordance with rules adopted by the commission, a credit union may make loans to members for such purposes as it may approve and on such security and terms as it may require, at rates of interest not exceeding one and one-half percent per month on the unpaid balance, or higher rates otherwise authorized by law, including the rates authorized by Article 1.04, Title 79, Revised Statutes (Article 5069-1.04, Vernon's Texas Civil Statutes). Chapter 15 and Subtitle 2, Title 79, Revised Statutes (Article 5069-2.01 et seq., Vernon's Texas Civil Statutes), do not apply to a credit union loan or extension of credit unless the agreement evidencing that transaction specifically provides otherwise.

Every loan must be evidenced by a written instrument.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 273, ch. 111, § 3, eff. May 8, 1981; Acts 1983, 68th Leg., p. 2311, ch. 421, § 35, eff. Sept. 1, 1983.]

Sections 27 and 28 of the 1981 amendatory act provide:

"Sec. 27. This Act shall be applicable to all claims of forfeiture made after the effective date of this Act but, with respect to claims of forfeiture in litigation pending at such effective date, the amount forfeited shall be determined under the provisions of the law as it existed prior to the effective date of this Act.

"Sec. 28. If any provision of this Act is held to be unconstitutional, no liability or forfeiture shall attach under Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-1.01 et seq., Vernon's Texas Civil Statutes), or any other law of this state to any person conforming his conduct to the applicable provisions of this Act. If any provision of this Act under which a rate or amount is determined or made available is determined by a court of competent jurisdiction to be unconstitutional, the maximum rate of interest or time price differential on contracts, including those for open-end accounts that would be subject to such a provision if it were constitutional is 24 percent a year except that in the case of contracts subject to Section (b)(2), Article 1.04, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-1.04, Vernon's Texas Civil Statutes), as amended by this Act, the maximum rate of interest or time price differential is 28 percent a year."

Art. 2461-7.02. Loan Limit

No credit union may make a loan or aggregate of loans to any one member, including loans to the member's business interests, in an amount greater than 10 percent of the credit union's total assets.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2311, ch. 421, § 36, eff. Sept. 1, 1983.]

Art. 2461-7.03. Open-End Credit

A credit union may enter into a written agreement with a member, allowing that member to borrow money from time to time, under which interest may from time to time be computed on an outstanding unpaid balance. The credit union may also approve in advance a line of credit and grant advances to a member within the limit of the extension of credit. Additional loan applications are not required under an open-end credit plan or line of credit if the aggregate obligation does not exceed a limit of the extension of credit established by the credit union.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2312, ch. 421, § 37, eff. Sept. 1, 1983.]

Art. 2461-7.04. Participation Loans and Other Loan Programs

(a) A credit union may market and sell participations in loans to members originated by the credit union to other credit unions, corporations, or financial organizations.

(b) A credit union may participate in guaranteed loan programs of the federal and state governments

and other government loan programs approved by the commission.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2312, ch. 421, § 38, eff. Sept. 1, 1983.]

Art. 2461-7.05. Loans to Officials

(a) A credit union may make loans and extend lines of credit to its directors, employees, loan officers, credit manager, members of its credit committee, and members of the immediate families of those persons, if:

(1) the loan complies with the requirements of this Act and rules adopted under this Act with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers; and

(2) before making or agreeing to make the loan, the board of directors has approved the loan, if the loan or aggregate of outstanding loans to any one person, his business interests, and members of his immediate family is greater than \$10,000 or a higher amount established by a commission rule, plus pledged shares and deposits.

(b) A credit union may permit a director, employee, loan officer, credit manager, and member of its credit committee to act as comaker, guarantor, or endorser of a loan to another member, unless the loan standing alone or added to any outstanding loan or loans to the comaker, guarantor, or endorser exceeds \$10,000 or a higher amount established by a commission rule, plus pledged shares and deposits, in which case prior approval of the board of directors is required.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 232, ch. 421, § 39, eff. Sept. 1, 1983.]

Art. 2461-7.06. Prepayment Privilege

Any loan may be prepaid in whole or in part, without penalty, during regular working hours on any day on which the credit union is open for business, except that the credit union may require a partial prepayment on a loan secured by a lien, mortgage, or other type of security interest in real property to be made on the date monthly installments are due and in the amount of that part of one or more monthly installments that would be applicable to principal.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2313, ch. 421, § 40, eff. Sept. 1, 1983.]

Art. 2461-7.07. Collection of Illegal Loans

Illegality of a loan is not a defense in an action by the credit union to recover on the loan and does not prevent enforcement or collection of the loan against or from the borrower, a person in the posi-

tion of a guarantor or surety, or a person who is otherwise liable in regard to the loan.

[Acts 1983, 68th Leg., p. 2314, ch. 241, § 41, eff. Sept. 1, 1983.]

Art. 2461-7.08. Expenses, Fees, and Penalties

(a) A credit union may require a member to pay all reasonable expenses and fees incurred in connection with making, closing, disbursing, extending, readjusting, or renewing a loan, whether or not those expenses or fees are paid to third parties. Those payments may be collected by the credit union from the member and retained by the credit union or paid to a person rendering services in connection with the payment, or the payments may be paid directly by the member to third parties to whom they are payable. The fees or expenses are in addition to interest authorized by law and are not a part of interest collected or agreed to be paid on a loan.

(b) A credit union may charge a member a penalty when a payment on a loan is 10 days or more in arrears. The penalty may not exceed five percent of the payment due. Only one penalty may be charged by the credit union on each past due payment. The penalty, when charged in the amount authorized, is not interest under any law that defines interest or limits the rate of interest that may be charged and may be charged and collected in addition to the interest authorized by law.

[Acts 1983, 68th Leg., p. 2314, ch. 421, § 41, eff. Sept. 1, 1983.]

CHAPTER 8. INVESTMENTS

Art. 2461-8.01. Investment of Funds

A credit union may invest funds not used in loans to members:

(1) in capital shares, obligations, participation certificates, or common or preferred stock of any agency, association, company, network, stock company, mutual association, mutual company, membership association, membership company, partnership, joint venture, or trust company, if the membership or ownership of the agency, association, or company is confined or restricted to credit unions and their members or organizations of credit unions, and if the agency, association, or company is designed primarily to serve or otherwise assist credit union operations; in loans to any credit union association or corporation, national or state, of which the credit union is a member; investments in any one agency, association, company or other entity of the type described in this subdivision may not exceed five percent of the credit union's total assets or the amount of its reserve fund, whichever is less; however, the commission may adopt rules authorizing investments in the securities of any agency, association, company, or other entity of a type described in this subdivision whose membership or ownership is not confined to credit unions and their members or

organizations of credit unions, whether or not the entity is designed primarily to serve or otherwise assist credit union operations;

(2) in obligations, bonds, notes, or other evidences of indebtedness of any state, city, town, village, county, school district, municipal corporation, taxing authority, or political subdivision;

(3) in certificates of deposit or other accounts issued by a state or national bank, savings and loan association, savings association, or mutual savings bank;

(4) in securities, obligations, participations, or other instruments of or issued by the federal government or any of its agencies, or in any trust or trusts established for investing directly or collectively in the same;

(5) in loans to, shares of, or deposits in other credit unions, central credit unions, corporate credit unions, central liquidity facilities established under state or federal law, trusts, or organizations established for lending directly or collectively to credit unions;

(6) in securities, obligations, participations, or other instruments fully or partially guaranteed as to principal, interest, or both by the federal government or any of its agencies, or in any trust or trusts established for investing directly or collectively in those investments;

(7) in participation loans with other credit unions, corporations, credit organizations, or financial organizations;

(8) in the notes receivable, loans to members, or other assets of any credit union operating under this Act or the Federal Credit Union Act;¹ and

(9) in other investments that may be authorized by rules adopted by the commission, which rules must be responsive to changes in economic conditions or competitive practices, and the need for safety and soundness of credit union investments.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2315, ch. 421, § 42, eff. Sept. 1, 1983.]

¹ 12 U.S.C.A. § 1751 et seq.

CHAPTER 9. RESERVE ALLOCATIONS; DIVIDENDS; SHARE REDUCTION

Art. 2461-9.01. Reserve Allocations

(a) The commission shall adopt rules requiring credit unions to maintain reserves necessary to protect the interests of their members. Those rules may prescribe the purposes for which the reserves may be used and may authorize the commissioner to approve other uses.

(b) The board of directors may establish reserves in addition to the required reserves.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2317, ch. 421, § 43, eff. Sept. 1, 1983.]

Art. 2461-9.02. Dividends and Interest

Dividends and interest may be paid at rates and on conditions that the board of directors authorizes. The commissioner may impose restrictions on the payment of dividends if he issues a cease and desist order under Chapter 5 of this Act.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2317, ch. 421, § 44, eff. Sept. 1, 1983.]

Art. 2461-9.03. Share Reduction

If the losses of any credit union, resulting from a depreciation in value of its loans or investments or otherwise, exceed its undivided earnings and any reserves and the estimated value of its assets is less than the total amount due the shareholders, the credit union may, by a majority vote of the members of the credit union present at a meeting of members called for that purpose, order a reduction in the membership shares of each of its shareholders to divide the loss proportionately among them.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2318, ch. 421, § 45, eff. Sept. 1, 1983.]

CHAPTER 10. CHANGE IN CORPORATE STATUS

Art. 2461-10.01. Suspension and Conservation

(a) The commissioner may determine in the performance of his duties under this Act that the credit union is insolvent or in imminent danger of insolvency, or that an officer, director, honorary director, advisory director, or employee of a credit union, or the credit union itself, acting by and through an officer, director, honorary director, advisory director, or employee, has:

(1) violated this Act, a rule adopted under this Act, or any other law, rule, or regulation applicable to credit unions;

(2) violated, neglected, or refused to comply with a duly issued final order of the commissioner or commission;

(3) refused to submit to examination under oath, or to permit examination of the credit union's books, papers, records, accounts, and affairs by the commissioner or a duly authorized representative of the commissioner;

(4) failed or refused to authorize and direct any other person to permit the inspection and examination of the credit union's books, papers, records, or accounts in the other person's care, possession, custody, or control by the commissioner or a duly authorized representative of the commissioner, after the commissioner has requested the granting of that authority and direction to the other person; or

(5) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner.

(b) If the commissioner makes any of these findings, he may issue an order temporarily suspending the credit union's operations for not more than 90 days. Service of the order of suspension must be by certified or registered mail, addressed to the credit union at the last address of its principal office, as shown by the records of the department, or by delivery to an officer or director of the credit union. Service by mail is complete on deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service. The order must state the grounds for suspension with reasonable certainty.

(c) After the suspension order has been served on the credit union, the commissioner shall take possession and control of the books, records, property, assets, and business of the credit union, and the credit union shall cease all operations, except those authorized by the commissioner and conducted under his supervision. Not later than 15 days after the date the order of suspension is served, the board of directors shall file a written reply to the order, and may file a written request for a hearing to present to the commissioner a plan to continue operations setting out proposed corrective actions. The board of directors may request that a conservator be appointed for the credit union or that the credit union be closed and a liquidating agent be appointed, in which event the commissioner may immediately appoint a conservator, or order that the credit union be liquidated and appoint a liquidating agent.

(d) If the board of directors files its reply and requests a hearing as provided by this section, the commissioner shall set and hold the hearing not less than 10 or more than 30 days after the date of receipt of such a request. The commissioner shall promptly give notice to the credit union of the date, time, and place of the hearing. Not later than 10 days after the earlier of the date of conclusion of the hearing or the date on which the suspension expires, the commissioner shall adopt the plan to continue operations presented by the credit union, agree with the credit union on an alternative plan to continue operations or other appropriate measures, reject the plan to continue operations and issue an order of conservation appointing a conservator, or issue an order of liquidation ordering that the credit union be closed, ordering that its affairs and business be liquidated, and appointing a liquidating agent.

(e) If the commissioner rejects the credit union's plan to continue operations and determines that it is in the public interest and in the best interest of the members, depositors, and creditors of the credit union to rehabilitate the credit union, he may permit the credit union to operate under his direction and control, and shall issue an order of conservation appointing a conservator to manage the affairs of the credit union. The commissioner shall serve the

order of conservation in the same manner as provided for service of an order of suspension.

(f) The conservator, on behalf and under the supervision and direction of the commissioner, shall take charge of the books, records, property, assets, and business of the credit union and shall conduct the business and affairs of the credit union under the direction and supervision of the commissioner. The conservator shall take the steps toward the removal of the causes and conditions that have necessitated the order that the commissioner directs. During the conservatorship, the conservator shall make the reports to the commissioner from time to time that the commissioner requires. The conservator may take all necessary measures to preserve, protect, and recover the assets or property of the credit union, including claims or causes of action belonging to or that may be asserted by the credit union, may deal with that property in his own name as conservator, and may file, prosecute, or defend against a suit by or against the credit union if the conservator considers this action necessary to protect the interested parties or property affected by the suit.

(g) The commissioner shall determine the cost incident to the conservator's service. This cost is a charge against the assets and funds of the credit union to be allowed and paid as the commissioner directs.

(h) A suit filed against a credit union or its conservator while a conservatorship order is in effect must be brought in a court of competent jurisdiction in Travis County. The conservator may file suit in a court of competent jurisdiction in Travis County against any person for the purpose of preserving, protecting, or recovering assets or property of the credit union, including a claim or cause of action belonging to or that may be asserted by the credit union.

(i) The conservator shall serve for the period necessary to accomplish the purposes of the conservatorship as intended by this Act. If the credit union is rehabilitated, it shall be returned to the management of the board of directors under the terms that are reasonable and necessary to prevent recurrence of the conditions that occasioned the conservatorship.

(j) If the commissioner determines that the credit union in conservatorship is not in a condition to continue business and cannot be rehabilitated as provided by this section, he may issue an order of liquidation appointing a liquidating agent.

(k) If, after a hearing under this section, the board of directors of the credit union is dissatisfied with the decision of the commissioner to issue an order of conservation, the board may appeal to the commission by filing with the commissioner a written appeal, including a duly certified resolution of the board, not later than 10 days after the day that the order of conservation is served. If an appeal is duly filed, the commissioner shall set a date for a

hearing on the appeal not more than 30 days after the date on which the appeal is filed. The commissioner shall promptly give notice of the date, time, and place of the hearing to the credit union and any other interested party. The filing of an appeal does not suspend the effect of the order of conservation and this order remains in force pending final disposition of the appeal by the commission. At the conclusion of the hearing, the commission may reverse the order of the commissioner and adopt and approve the credit union's plan to continue operations, affirm the commissioner's order of conservation, or order that other appropriate action be taken.

(l) If the board of directors of the credit union does not file a reply to the order of suspension as required by this section or fails to request and appear at the hearing provided for by this section, the commissioner may dispose of the matter as he considers appropriate. The credit union is presumed to have consented to this action and may not contest it.

(m) The period of suspension and the date and time of the hearings provided for by this section may be extended by agreement of the parties and the commissioner.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2318, ch. 421, § 46, eff. Sept. 2, 1983.]

Art. 2461-10.02. Liquidation

(a) The commissioner may issue an order of liquidation appointing a liquidating agent, and directing that the credit union be liquidated, after he has issued an order of suspension and provided an opportunity for hearing as provided in Section 10.01 of this Act:

(1) if the board of directors of the credit union requests that an order of liquidation be issued and that the credit union be liquidated;

(2) if the credit union otherwise consents to the action; or

(3) if the commissioner finds that it is in the public interest and the best interest of the members, depositors, and creditors of the credit union that it be closed and its assets liquidated.

(b) Unless the commissioner has issued an order of liquidation, the board of directors of the credit union may adopt a resolution recommending that the credit union be dissolved voluntarily and directing that the question of liquidation be submitted to the members. Not later than five days after the day of the adoption of the resolution, the chairman shall notify the commissioner in writing setting forth the reasons for the proposed liquidation. A majority of the credit union members voting at a meeting specially called to consider the matter, but not less than a quorum, may vote to dissolve and liquidate the credit union. Notwithstanding any other law or the articles of incorporation or bylaws of the credit union, notice of the special meeting to

consider the matter of liquidation shall be mailed, by first-class mail, to each member of the credit union and to the commissioner not later than 10 days before the day of the meeting. Immediately after the mailing of a notice of a special meeting called to consider the matter of liquidation, the credit union shall cease to operate except for the purposes of accepting payments on loans or other obligations due the credit union. If the vote to dissolve and liquidate the credit union passes, the credit union may do no further business except that incidental to liquidation. The chairman of the board or the president and the secretary shall, within five days following the meeting and the affirmative vote to dissolve and liquidate, notify the commissioner of intention to liquidate and shall include a list of the names of the directors and officers of the credit union together with their addresses. The board of directors shall appoint a liquidating agent for the purpose of conserving and collecting the assets of the credit union, winding up its affairs, discharging its debts, distributing its assets, and all other actions necessary and incidental to the liquidation of the credit union.

(c) The commissioner shall serve an order of liquidation in the same manner as provided for service of an order of suspension. At any time within five days after the commissioner served an order of liquidation, the credit union acting through its directors, as evidenced by a duly certified resolution of the board, may sue in the district court of the county in which the principal office of the credit union is located to enjoin the commissioner from liquidating the credit union if the credit union has not requested or consented to the order of liquidation. The court may, without notice or hearing, restrain the commissioner from liquidating the assets of such credit union pending hearing of the suit on the merits, and shall, in that event, instruct the commissioner to hold the assets of the credit union in the commissioner's possession and control pending final disposition of the suit. The commissioner may, with approval of the court, take such actions as may be necessary or proper to prevent loss or depreciation in the value of the assets. The court shall, as soon as possible, hear the suit on the merits and shall enter a judgment either enjoining the commissioner from liquidating the assets of the credit union or refusing an injunction. Appeal shall lie from the judgment as in other civil cases, but the commissioner, irrespective of the character of judgment entered by the trial court or of any supersedeas bond filed, shall retain possession and control of the assets of such credit union pending final disposition on appeal.

(d) The credit union in liquidation shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business, and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted. The liquidating agent

shall use the assets of the credit union to pay, in the following order:

(1) expenses incidental to liquidation including any surety bond that may be required;

(2) any liability due nonmembers;

(3) depositors; and

(4) distributions to members proportionate to the shares held by each member.

(e) Subject to the rules adopted by the commissioner, and under the supervision of the commissioner, the liquidating agent shall:

(1) receive and take possession of the books, records, assets, and property of the credit union in liquidation; sell, enforce collection of, and liquidate all assets and property; compound all bad or doubtful debts; sue in the name of the liquidating agent or in the name of the credit union in liquidation; and defend actions brought against the liquidating agent or against the credit union;

(2) receive, examine, and pass on all claims against the credit union in liquidation, including claims of members on share;

(3) make distribution and payment to creditors and members as their interests may appear;

(4) execute such documents and papers and do such other acts and things that the liquidating agent may deem necessary or desirable to discharge his duties;

(5) cause notice to be given to creditors and members to present and make legal proof of their claims, which notice must be published once a week in each of three successive weeks in a newspaper of general circulation in each county where the credit union in liquidation maintained an office or branch for the transaction of business on the date it ceased unrestricted operations; except that when the aggregate book value of the assets and property of the credit union in liquidation is less than \$10,000, the commissioner shall declare the credit union in liquidation to be a "no publication" liquidation, and publication notice to creditors and members is not required in such case;

(6) from time to time make a ratable liquidation dividend on all claims that have been proved to the satisfaction of the board of directors or the liquidating agent or adjusted in a court of competent jurisdiction and, after the assets of the credit union have been liquidated, make further liquidation dividends on all claims previously proved or adjusted (the statement of any amount due to the creditor as shown on the books and records of the credit union may be accepted in lieu of a formal proof of claim on behalf of any creditor or member); but all claims not filed before payment of the final dividend are barred; claims rejected or disallowed by the liquidating agent are also barred unless suit is instituted within three months after notice of rejection or disallowance; and

(7) in a "no publication" liquidation, determine from all sources available, and within the limits of available funds of the credit union, the amounts due to creditors and members, and after 60 days have elapsed from the date of appointment of the liquidating agent distribute the funds of the credit union to creditors and members ratably and as their interests may appear.

(f) The commissioner shall prescribe the certificate to be completed by the liquidating agent attesting to liquidation, that distribution has been made and that liquidation has been completed. The commissioner, on receipt and approval of the certificate, shall cancel the certificate of incorporation of the credit union. The corporate existence of the credit union shall continue for a period of three years from the date of cancellation of its certificate of incorporation, during which period the liquidating agent, or any duly appointed successor, or such persons as the commissioner may designate, may act on behalf of the credit union for the purpose of paying, satisfying, and discharging any existing liabilities or obligations, collecting and distributing its assets, and doing all other acts required to adjust and wind up its business and affairs, and it may sue and be sued in its corporate name.

(g) If the commissioner finds that the liquidating agent has failed to properly perform his duties in a timely and efficient manner or has violated this Act or any rule adopted under this Act, the commissioner may take possession and control of the books, records, property, assets, and business of the credit union in liquidation by issuing an order of removal. The order shall remove the liquidating agent and appoint a successor liquidating agent to complete the process of liquidation and the winding up of the affairs of the credit union subject to the supervision and control of the commissioner. The order of removal shall be served on the liquidating agent being removed and is effective immediately on service. The commissioner shall also fill any vacancy caused by the resignation, death, illness, removal, desertion, or incapacity to function of the liquidating agent.

(h) Unless the commissioner grants prior approval in writing, no liquidating agent may acquire any of the assets of the credit union in liquidation or purchase any loans of the credit union. No liquidating agent may obtain from the liquidation any compensation or profit for personal benefit, whether directly, indirectly, for the benefit of any member of the liquidating agent's family or any person related to or associated with the liquidating agent, or for the benefit of any business enterprise with which the liquidating agent is associated, except for the credit union in liquidation. The liquidating agent may receive reasonable compensation and nothing in this Act shall prevent compensation of the liquidating agent or those salaried employees and salaried officers of the credit union during the pendency

of the liquidation, which payments shall be considered expenses incidental to liquidation.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Act 1983, 68th Leg., p. 2323, ch. 421, § eff. Sept. 1, 1983.]

Art. 2461-10.03. Merger or Consolidation

(a) A credit union may, in accordance with rules adopted by the commission and with the approval of the commissioner, merge or consolidate with any other credit union, under the existing articles of incorporation of the other credit union or otherwise, pursuant to a plan agreed to by the majority of the board of directors of each credit union joining in the merger or consolidation and approved by a majority of the members of each credit union voting at the meetings of members called for that purpose. The commissioner may waive the requirement that the plan be approved by the members of either credit union.

(b) After agreement by the directors and approval by the members, if applicable, of each credit union, the president and secretary of each credit union shall execute a certificate of merger or consolidation containing the following information:

(1) the time and place of the meeting of the board of directors at which the plan of merger or consolidation was agreed to;

(2) the vote of the board of directors in favor of and against the adoption of the plan;

(3) a copy of the resolution or other action by which the plan of merger or consolidation was agreed to;

(4) the time and place of the meeting of the members at which the plan was approved, if applicable;

(5) the vote of the membership in favor of and against approval of the plan, if applicable; and

(6) the name of the surviving credit union.

(c) The merging credit union or a consolidating credit union shall submit the certificates and a copy of the plan of merger or consolidation to the commissioner. On approving the merger or consolidation, the commissioner shall return the certificates and plan to the merging or consolidating credit unions. However, the commissioner may make his approval of a merger or consolidation conditional, and, in this event, shall set out the condition in his order approving the merger or consolidation. The commissioner may not deliver the approved certificate until the condition has been met. If the commissioner disapproves the merger or consolidation, or imposes a condition, the merging or consolidating credit unions may appeal the commissioner's decision to the commission in the same manner as provided for an appeal on an application to incorporate a credit union.

(d) After a merger or consolidation is effected, all property, property rights, and interests of the

merged or consolidated credit union vest in the surviving credit union without deed, endorsement, or other instrument of transfer, and all debts, obligations, and liabilities of the merged or consolidated credit union are assumed by the surviving credit union under whose charter the merger or consolidation is effected.

(e) This section shall be construed, whenever possible, to permit a credit union authorized to do business in this state under any other act to merge or consolidate with one authorized to do business under this Act.

(f) Notwithstanding any other law, the commissioner may authorize a merger or consolidation of a credit union that is insolvent or is in danger of insolvency with another credit union or may authorize a credit union to purchase any of the assets of, or assume any of the liabilities of, another credit union that is insolvent or in danger of insolvency if the commissioner is satisfied that:

(1) an emergency requiring expeditious action exists with respect to the credit union that is insolvent or in danger of insolvency;

(2) other options are not reasonably available; and

(3) the public interest would best be served by approval of the merger, consolidation, purchase, or assumption.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2329, ch. 421, § 48, eff. Sept. 1, 1983.]

Art. 2461-10.04. Conversion

(a) A credit union organized under the laws of this state may convert to a credit union under the laws of the United States on an affirmative vote by a majority of the members voting at a meeting called for that purpose, and by complying with rules adopted by the commission to facilitate the conversion, if any.

(b) A credit union organized under the laws of this state may convert to a credit union under the laws of another state on an affirmative vote by a majority of the members voting at a meeting called for that purpose, and by complying with rules adopted by the commission, if any.

(c) A credit union organized under the laws of the United States or of another state may convert to a credit union organized under the laws of this state by complying with the requirements of the jurisdiction under which it is organized and the rules adopted by the commission.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2332, ch. 421, § 49, eff. Sept. 1, 1983.]

CHAPTER 11. REGULATORY BODY

Art. 2461-11.01. Credit Union Commission

(a) The Credit Union Commission consists of nine members. The commission shall supervise, consult with, advise, and make recommendations to the commissioner. The jurisdiction, authority, powers, and duties previously conferred and imposed by law on the Banking Commissioner in relation to the management, control, regulation, and general supervision of credit unions are conferred and imposed on the commission and the commissioner.

(b) The Credit Union Department is composed of the Credit Union Commission and a Credit Union Commissioner, together with other officers and employees within the department. The department shall supervise and shall regulate, as provided in this Act, all credit unions organized under the laws of the State of Texas. The department shall periodically make comprehensive studies of the statutes of this state as they pertain to credit union operations. The commissioner shall report the recommendations of the department when and as necessary to the legislature for consideration. During January of each year, the department shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding year. The state auditor shall audit the financial transactions of the department during each fiscal year.

(c) The Credit Union Commission is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1995.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1841, ch. 735, § 2.068, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2332, ch. 421, § 50, eff. Sept. 1, 1983.]

Section 4 of the 1981 Act provides:

"Promptly after the effective date of this Act, the governor shall appoint the three additional members of the Credit Union Commission authorized by this Act. In making the appointments, the governor shall designate one for a term that expires February 15, 1983, one for a term that expires February 15, 1985, and one for a term that expires February 15, 1987."

Art. 2461-11.02. Eligibility of Members

(a) Six members of the commission must be individuals who are currently engaged in the exercise of the duties, responsibilities, rights, and powers of a duly authorized director, officer, or committee member of a credit union that is organized and doing business in this state under this Act or the Federal Credit Union Act¹ and that has its principal office in this state, and who have five years or more of active experience as such a director, officer, or committee member. Experience as a commissioner, deputy commissioner, or examiner is equivalent to the type of experience required by this subsection.

If a person holding a position in accordance with this subsection ceases to be engaged in the exercise of the duties, responsibilities, rights, and powers prescribed by this subsection for a period exceeding 90 days, the person is ineligible to serve as a member and the person's position on the commission is vacant.

(b) Three members of the commission are representatives of the general public. An individual appointed to serve in that capacity may not, at the time of the individual's appointment to or while serving on the commission:

(1) be engaged in the management or direction of a financial institution, such as a credit union, bank, or savings and loan association; or

(2) have, other than as a member or customer, a financial interest in a financial institution, such as a credit union, bank, or savings and loan association.

(c) No two members of the commission may be residents of the same state senatorial district.

(d) A person currently serving as chairman, first vice-chairman, president, vice-president, secretary, or treasurer of a state trade association in the credit union industry, or an employee of such an organization, may not serve as a member of the commission.

(e) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the commission or act as the general counsel to the commission.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2333, ch. 241, § 51, eff. Sept. 1, 1983.]

112 U.S.C.A. § 1751 et seq.

Art. 2461-11.03. Appointment and Terms of Members

(a) The members of the commission are appointed, without regard to race, creed, sex, religion, or national origin, by the governor, with the advice and consent of the senate, for terms of six years, with the terms of three members expiring February 15 of each odd-numbered year. The governor shall appoint the members who are representatives of the general public on the basis of recognized business ability.

(b) Each member serves until the member's successor is appointed and qualified.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.04. Vacancies; Removal

(a) The office of a member of the commission becomes vacant on January 1 if the member failed to attend more than one-half of the meetings of the commission held during the preceding calendar

year, excluding any meetings held before the member assumed office.

(b) The governor may remove a member from the member's position on the commission for neglect of duty, incompetence, or fraudulent or criminal conduct.

(c) It is grounds for removal from the commission if a member violates a prohibition established by Section 11.02(e) of this Act.

(d) The office of a member of the commission is vacant in the event of the death, resignation, or removal of the member, or if the member ceases to have the qualifications necessary to serve as a member.

(e) In the event of a vacancy on the commission for any cause, the governor, with the advice and consent of the senate, shall promptly appoint a qualified person to fill the unexpired term.

(f) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2335, ch. 421, § 52, eff. Sept. 1, 1983.]

Art. 2461-11.05. Compensation; Expenses of Members

(a) Notwithstanding any other law, a member of the commission may not receive any compensation or benefit, except as provided by Subsection (b) of this section, as a result or by virtue of the member's service as a member.

(b) Each member of the commission is entitled to per diem, as set by legislative appropriation, for each day that the member engages in the business of the commission.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2335, ch. 421, § 53, eff. Sept. 1, 1983.]

Art. 2461-11.06. Meetings

(a) The commission shall hold regular meetings at least twice each year. The chairman of the commission, the commissioner, or any five members of the commission may call special meetings. The commission shall adopt reasonable rules governing the time and place of meetings and the conduct of all meetings, including the form in which minutes of the meetings are maintained. All meetings of the commission are subject to the Open Meetings Law, Chapter 271, Acts of the 60th Legislature, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

(b) A majority of the membership of the commission constitutes a quorum for the purpose of transacting any business.

(c) The commission shall annually elect one of its members to serve as chairman. The chairman shall preside at all meetings of the commission.

(d) The commissioner shall attend meetings of the commission and shall preside in the absence of the chairman. The commissioner may not vote at any meeting.

(e) No commission member may act on matters under consideration which directly and specifically relate to any credit union of which the member of the commission is an officer, director, or member.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.07. Rulemaking Power

(a) The commission may adopt reasonable rules necessary for the administration of this Act, and in doing so, may exercise its discretion to regulate and classify credit unions according to criteria that the commission determines are appropriate and necessary to accomplish the purposes of this Act, including, but not limited to, the character of field of membership, amount of assets, number of members, or financial condition.

(b) All rules adopted under this Act must be adopted in accordance with the rulemaking provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) The commission shall promulgate reasonable rules to prescribe all supervision fees, charges, and revenues required to be paid by credit unions authorized to do business under this Act.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.08. Credit Union Commissioner

(a) The commission shall appoint, by the affirmative vote of two-thirds of the membership, a Credit Union Commissioner who shall serve as an employee and at the pleasure of the commission.

(b) The commissioner must have at least 5 years' practical experience in the operation of credit unions within the 10 years immediately preceding his appointment. The experience may consist of experience in the exercise of the duties, responsibilities, rights, and powers of a duly authorized director, officer, or committee member of a credit union or in the employment of a credit union regulatory agency.

(c) The commissioner may not be:

(1) a salaried officer, salaried employee, or salaried consultant of a trade association in the credit union industry; or

(2) related within the second degree by affinity or consanguinity to a person who is a salaried officer,

salaried employee, or salaried consultant of a trade association in the credit union industry.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.09. Deputy Credit Union Commissioner

Subject to the approval of the commission, the commissioner may appoint a Deputy Credit Union Commissioner. The deputy commissioner must meet the same qualifications as does the commissioner. The deputy commissioner, if any, shall serve at the pleasure of the commissioner. He may exercise, at the direction of the commissioner, all the powers and prerogatives of the commissioner and shall perform all the duties of the commissioner during the commissioner's absence or inability to act.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.10. Powers of Credit Union Commissioner

(a) On the appointment and qualification of a commissioner, the commissioner shall supervise and regulate all credit unions doing business in this state, except federal credit unions organized and existing under federal law, in accordance with this Act and the rules and regulations promulgated under this Act.

(b) The commissioner shall enforce the provisions of this Act and the rules and regulations promulgated from time to time.

Text of (c) effective until September 1, 1985

(c) The commissioner shall levy and collect all supervision fees, charges, and revenues required to be paid by credit unions as provided by Subsection (c), Section 11.07, of this Act.

Text of (c) effective September 1, 1985

(c) The commissioner shall levy and collect all supervision fees, charges, and revenues required to be paid by credit unions as provided by Subsection (c), Section 11.07, of this Act. All money collected under this Act shall be deposited in the credit union department expense fund, which is created as a special fund in the state treasury. Money in the fund may be used only for the administration of this Act. Income earned on the money deposited in the credit union department expense fund shall be credited to that fund.

(d) Repealed by Acts 1983, 68th Leg., p. 2337, ch. 463, § 57, eff. Sept. 1, 1983.

(e) The commission shall promulgate, and the commissioner shall enforce, reasonable rules requiring credit unions to provide or cause to be provided share and deposit insurance protection for their members and depositors, including the authorization

and establishment of a share and deposit guaranty corporation or credit union under the exclusive regulation of the department to enable the department to carry out the purposes of this Act. Share and deposit insurance protection may also be provided through other sources approved by the department, including such a program of the National Credit Union Administration.

Text of (f) and (g) effective until September 1, 1985

(f) The commissioner shall supervise the establishment and maintenance of files regarding complaints about credit unions received by the department. The files must include all relevant information regarding the nature, status, and disposition of the complaints. The commissioner shall take the steps that the commissioner determines to be necessary to notify each complainant of the procedures and remedies available for the resolution of complaints and to periodically inform each complainant of the status of his complaint.

(g) The commissioner shall supervise the preparation of information regarding the regulatory functions of the department, procedures for resolution of complaints, and other matters of general interest regarding the credit union movement and shall supervise the dissemination of that information to the general public.

Text of (f) and (g) effective September 1, 1985

(f) The commissioner shall supervise the establishment and maintenance of files regarding complaints about credit unions received by the department. The files must include all relevant information regarding the nature, status, and disposition of the complaints. The commissioner shall take the steps that the commissioner determines to be necessary to notify each complainant of the procedures and remedies available for the resolution of complaints. After a written complaint is filed, the commissioner, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(g) The commissioner shall supervise the preparation of information regarding the regulatory functions of the department, procedures for filing and resolution of complaints, and other matters of general interest regarding the credit union movement and shall supervise the dissemination of that information to the general public and appropriate state agencies.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2336, ch. 421, § 54, eff. Sept. 1, 1985; § 57, eff. Sept. 1, 1983.]

Section 59(b) of the 1983 amendatory act provides:

"Section 54 of this Act takes effect September 1, 1985, except that for purposes of preparation by the commissioner of a proposed budget for the 1985-1987 state fiscal biennium and action on that proposed budget by the commission, Section 54 takes effect

January 1, 1984. All funds in the custody of the department that are subject to Subsection (c), Section 11.10, Texas Credit Union Act (Article 2461-11.10(c), Vernon's Texas Civil Statutes), on September 1, 1985, shall be transferred to the state treasurer on that date for deposit to the credit of the credit union department expense fund."

Art. 2461-11.10A. Restrictions on Members and Commissioner

A member of the commission or the commissioner may not communicate directly or indirectly with a party or the representative of a party to any proceeding before the commission or the commissioner if such a communication violates the provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), relating to ex parte communications.

[Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.11. Credit Union Examiners

Subject to recruitment and qualifications approved by the commission, the commissioner shall appoint credit union examiners in sufficient number to perform fully the duties and responsibilities under this Act and the laws of this state.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.12. Annual Examination

(a) The department, by and through its duly appointed examiners and in accordance with the rules adopted by the commission, shall perform periodic examinations of the books and records of each credit union authorized to do business under this Act. The officers, directors, agents, and employees of each credit union shall furnish the examiner full and free access to all books, papers, securities, records, and other sources of information that relate to the business of the credit union. The commissioner or any examiner may summon witnesses or administer oaths or affirmations in the examination of the credit union, its officers, directors, agents, or employees, or any other person concerning the credit union's business, transactions, and condition and may compel the production of books, papers, securities, records, or other documents by court order if they are not voluntarily produced.

(b) All information, except statements intended for publication, obtained by the department relative to the financial conditions of credit unions, whether obtained through examination or otherwise, and all files and records of the department relative to that information are confidential and not for public record or inspection. The commissioner may disclose to the commission any information, files, or records pertinent to any hearing or matter pending before the commission or the commissioner. If the commissioner determines it is necessary or proper for the enforcement of the laws of this state applicable to credit unions or rules adopted under those laws, the commissioner may disclose any files,

records, or other information of the department to the Texas Share Guaranty Credit Union or any department, agency, or instrumentality of this state or the United States.

(c) Examiners shall report results of each examination on a form prescribed by the commissioner and approved by the commission. The examiner shall include in the report a general statement of the affairs of the credit union. The department shall send a copy of the report to the board of directors of the credit union examined within 30 days after the examination. Each credit union shall pay an examination fee established by the commission and based on the costs of performing the examination.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.13. Oaths of Office; Bond

The commissioner, the deputy commissioner, if any, each credit union examiner, and every other officer and employee of the commission, shall, before assuming the duties of office, take an oath and make fidelity bond in the sum of \$10,000 payable to the governor and all successors in the office of governor, in individual, schedule, or blanket form, executed by a surety appearing on the list of approved sureties acceptable to the United States government. Each oath and bond required under this Act must be in a form approved by the commission. The premiums for the bond are paid out of the funds of the department.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.14. Defense by Attorney General

The attorney general shall defend any action brought against any member of the commission or against any of its officers or employees by reason of the official act or omission of the person, whether or not the person is a member, officer, or employee of the commission at the time of the initiation of the action. Suits against the commission, its officers, or employees shall be brought in Travis County, Texas, and not elsewhere.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.15. Compensation of Employees

The commissioner, the deputy commissioner, if any, each examiner, and every other officer of the commission, except commission members, are employees of the commission, subject to its orders and directions, and are entitled to receive compensation fixed by the commission, but in no event may any employee receive compensation exceeding that paid

to the governor. The compensation is paid from funds of the department.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.16. Transfers to General Revenue Fund

The department shall transfer \$1,000 each year to the general revenue fund to cover the costs of governmental service rendered by other departments.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

Art. 2461-11.17. Exemption from Securities Laws

Credit unions, whether authorized to do business under this Act or the Federal Credit Union Act,¹ their officers, employees, and agents in the sale, issuance, or offering of any security issued by any state or federal credit union are exempt from the provisions of the laws of this state, other than as required by this Act, which provide for the supervision, registration, or regulation in connection with the sale, issuance, or offering of securities as the term is defined in Section 4, Securities Act, as amended (Article 581-4, Vernon's Texas Civil Statutes). The sale, issuance, or offering of any such security is legal without any action or approval on the part of any official, other than the credit union commissioner, authorized to license, regulate, or supervise the sale, issuance, or offering of securities.

[Amended by Acts 1975, 64th Leg., p. 2919, ch. 707, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 406, ch. 169, § 2, eff. Sept. 1, 1981.]

¹ 12 U.S.C.A. § 1751 et seq.

Art. 2461-11.18. Career Program; Performance Evaluation

(a) The commissioner or his designee shall develop an intra-agency career ladder program, one part of which shall be an intra-agency posting of all nonentry level positions for at least 10 days before any public posting.

(b) The commissioner or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for department employees must be based on the system established under this section.

[Acts 1983, 68th Leg., p. 2337, ch. 421, § 55, eff. Sept. 1, 1983.]

Section 58 of the 1983 Act provides:

"The requirements under Section 11.18, Texas Credit Union Act (Article 2461-11.18, Vernon's Texas Civil Statutes), as added by this Act, that the Credit Union Commissioner develop an intra-agency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of that section that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985."

CHAPTER 12. MISCELLANEOUS

Art. 2461-12.01. Hearings

The conduct of all hearings held under this Act and the judicial review of the final decisions following those hearings are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). The commission may adopt rules of procedure consistent with the Administrative Procedure and Texas Register Act, as amended, for the fair hearing and adjudication of all issues in a hearing held under this Act.

[Acts 1981, 67th Leg., p. 411, ch. 169, § 3, eff. Sept. 1, 1981.]

Art. 2461-12.02. Application of Other Law

(a) In this section:

(1) "Item" means any instrument for the payment of money even though it is not negotiable but does not include money.

(2) "Credit union" means a credit union authorized to do business in this state under this Act or the Federal Credit Union Act.¹

(b) Unless otherwise provided by written agreement of the parties, the rights, responsibilities, and liabilities of a person regarding an item drawn on a credit union, transferred to a credit union, or presented, remitted, collected, settled, negotiated, or otherwise handled by a credit union, are determined by Chapters 3 and 4, Business & Commerce Code, as if it were drawn on a bank, transferred to a bank, or presented, remitted, collected, settled, negotiated, or otherwise handled by a bank.

[Acts 1983, 68th Leg., p. 2337, ch. 421, § 56, eff. Sept. 1, 1983.]

¹ 12 U.S.C.A. § 1751 et seq.

Arts. 2461 to 2484d. Repealed by Acts 1969, 61st Leg., p. 540, ch. 186, § 50, eff. May 13, 1969

See, now, art. 2461-1.01 et seq.

2. AGRICULTURAL AND LIVESTOCK POOLS

Arts. 2485 to 2499b. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

3. MUTUAL LOAN CORPORATIONS

Arts. 2500 to 2507a. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

4. CO-OPERATIVE CREDIT ASSOCIATIONS

Arts. 2508 to 2513. Repealed by Acts 1981, 67th Leg., p. 1437, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

5. FARMERS' CO-OPERATIVE SOCIETY

Arts. 2514 to 2524. Repealed by Acts 1981, 67th Leg., p. 1437, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

TITLE 46A

DECLARATORY JUDGMENTS

Art. 2524-1. Uniform Declaratory Judgments Act

Scope

Sec. 1. Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

Power to Construe, Etc.

Sec. 2. Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a Statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, Statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

Before Breach

Sec. 3. A contract may be construed either before or after there has been a breach thereof.

Executor, Etc.

Sec. 4. Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or legal relations in respect thereto:

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others; or

(b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Enumeration Not Exclusive

Sec. 5. The enumeration in Sections 2, 3, and 4 does not limit or restrict the exercise of the general powers conferred in Section 1, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

Discretionary

Sec. 6. The Court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

Review

Sec. 7. All orders, judgments, and decrees under this Act may be reviewed as other orders, judgments, and decrees.

Supplemental Relief

Sec. 8. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a Court having jurisdiction to grant the relief. If the application be deemed sufficient, the Court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

Jury Trial

Sec. 9. When a proceeding under this Act involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the Court in which the proceeding is pending.

Costs

Sec. 10. In any proceeding under this Act the Court may make such award of costs and reasonable and necessary attorney's fees as may seem equitable and just.

Parties

Sec. 11. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the Statute, ordinance, or franchise is alleged to be unconstitutional, the Attorney General of the State shall also be served with a copy of the proceeding and be entitled to be heard.

Construction

Sec. 12. This Act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; and is to be liberally construed and administered.

Words Construed

Sec. 13. The word "person," wherever used in this Act, shall be construed to mean any person, partnership, joint stock company, unincorporated association or society, or municipal or other corporation of any character whatsoever.

Provisions Severable

Sec. 14. The several Sections and provisions of this Act, except Sections 1 and 2, are hereby declared independent and severable, and the invalidity,

if any, of any part or feature thereof shall not affect or render the remainder of the Act invalid or inoperative.

Uniformity of Interpretation

Sec. 15. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

Short Title

Sec. 16. This Act may be cited as the Uniform Declaratory Judgments Act.

[Acts 1943, 48th Leg., p. 265, ch. 164. Amended by Acts 1981, 67th Leg., p. 455, ch. 190, § 1, eff. May 25, 1981.]

Section 2 of the 1981 amendatory act provides:

"This Act applies only to actions filed on or after the effective date of this Act."

TITLE 47

DEPOSITORIES

Chapter	Article
1. State Depositories	2525
2. County Depositories	2544
3. City Depositories	2559
4. Special Depository	2567

CHAPTER ONE. STATE DEPOSITORIES

Art.	
2525.	Depository Board.
2525a.	Application of Other Laws.
2526.	Notice to Banks.
2527.	Application for Deposits.
2528.	Acceptance.
2529.	Qualifications of Depositories.
2529a.	Exemption of Banks From Furnishing Security for Deposits to Extent Deposits are Insured.
2529b.	Pledge of Bonds of Home Owners' Loan Corporation.
2529b-1.	Investment Securities as Security for Deposits of State and Public Agencies.
2529c.	Selection and Qualification of Depositories of State Agencies and Political Subdivisions.
2530.	Deposit of Securities.
2530a.	Deposit and Substitution of Securities; Acceptance of Certain Securities by Treasurer.
2531.	Failure to Qualify.
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2534.	Withdrawals.
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2543a.	Investment of Funds by State Depository Board.
2543b.	Defense Bonds and Other United States Obligations; Investment of Bond Proceeds by State.
2543b-1.	Funds Accumulated But Not Usable Because of Labor and Material Shortages; Investment in United States Obligations.
2543c.	Repealed.
2543d.	Disposition of Interest on Time Deposits.

Art. 2525. Depository Board

Sec. 1. (a) The State Treasurer, as secretary, together with one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, the Banking Commissioner, and the Comptroller of Public Accounts shall constitute the State Depository Board.

(b) Appointment to the Board shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

Sec. 2. (a) The citizen member or an employee of the Board may not be an officer, employee, or

paid consultant of a trade association in the banking industry.

(b) The citizen member or an employee of the Board may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the banking industry.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the Board may not serve as a citizen member of the Board or act as the general counsel to the Board.

(d) It is a ground for removal from the Board that the citizen member violates a prohibition established by this section. The validity of an action of the Board is not affected by the fact that it was taken when a ground for removal of the citizen member of the Board existed.

Sec. 3. Said Board shall have the right and the power to make and enforce such rules and regulations governing the establishment and conduct of State Depositories, the handling of funds therein, and the investment of state funds as the public interest may require, not inconsistent with the provisions of the laws governing such depositories and investments, which rules and regulations shall be in writing and entered upon the minutes of the Board.

Sec. 4. (a) Said Board shall have the power to determine and designate the amount of state funds to be deposited in State Depositories, the amount of deposits that shall be "demand deposits," the amount of deposits that shall be "time deposits," and the amount of state funds that shall be invested by the State Treasurer in security repurchase agreements or United States Treasury bills.

(b) The amount invested in United States Treasury bills at any one time may not exceed 10 percent of the average daily balance of all state funds eligible for deposit or investment under this article. Investments in security repurchase agreements may be made only with state or national banks domiciled in this state.

(c) The Board may contract with said depositories in regard to the payment of interest on "time or demand deposits" not to exceed such rate as may be lawful under any Act of Congress and such rules and regulations as may be promulgated by the Board of Governors of the Federal Reserve System

and the Board of Directors of the Federal Deposit Insurance Corporation.

(d) The term "demand deposits," as used herein, shall mean any deposit which is payable on demand, and the term "time deposits," as used herein, shall mean any deposit with reference to which there is in force a contract that neither the whole nor any part of such deposit may be withdrawn by check or otherwise prior to the expiration of the period of notice which must be given in writing in advance of withdrawals. In this section, "security repurchase agreement" means an agreement to buy, hold for a specified time, and then sell back any of the following securities, obligations, or participation certificates: United States government securities; direct obligations of or obligations the principal and interest of which are guaranteed by the United States; and direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Bank, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, and Banks for Cooperatives.

(e) Whenever the word "treasurer" is used in the statutes it shall mean the State Treasurer, and the word "Board" shall mean the State Depository Board.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 161, ch. 57, § 1; Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 1; Acts 1937, 45th Leg., p. 319, ch. 164, § 1; Acts 1963, 58th Leg., p. 1138, ch. 442, § 7; Acts 1983, 68th Leg., p. 2671, ch. 463, § 1.]

Section 2(a) of the 1983 amendatory act provided:

"The amendment by this Act of Article 2525, Revised Statutes, takes effect September 1, 1983, except that the provisions designated as Sections 3 and 4 of the amended article take effect immediately. In all other respects, Article 2525 as it existed January 1, 1983, remains in effect until September 1, 1983."

Art. 2525a. Application of Other Laws

Sec. 1. The State Depository Board is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the board is abolished effective September 1, 1995.

Sec. 2. The Board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

[Acts 1977, 65th Leg., p. 1842, ch. 735, § 2.072, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 2671, ch. 463, § 1, eff. Sept. 1, 1983.]

Art. 2526. Notice to Banks

The Treasurer on the second Tuesday in September of each odd numbered year shall mail to each private, State, and National Bank doing business in this state, a circular letter, stating the conditions to be complied with by applicants for designation as a state depository. The Treasurer shall keep on file in his office for the inspection of any person desir-

ing to see the same a list of the banks to which the letters have been sent. Designation of depositories shall be for a period of two years' time. If it develops that more depositories are required at any time, the Board may send out notices to all private, State, and National Banks notifying them that further application for funds for the unexpired term will be accepted, or additional funds allotted to existing depositories upon application therefor. Said additional depositories shall comply with the same rules and conditions regarding all other depositories; provided, however, that regardless of any provision of law to the contrary, any savings and loan association domiciled in this state shall be entitled to the notice to be given under this article and may apply for state funds as provided in Article 2527 and may be accepted and designated as a state depository upon qualification as required by Article 2529, and thereupon shall have all the rights and privileges of a state depository as well as the obligations and liabilities thereof under Articles 2525, 2525a, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2537, 2543d, Revised Statutes, as amended; Section 1, Chapter 180, Acts of the 44th Legislature, Regular Session, 1935 (Article 2529a, Vernon's Texas Civil Statutes); Section 1, Chapter 322, Acts of the 44th Legislature, Regular Session, 1935; Chapter 726, Acts of the 67th Legislature, Regular Session, 1981; Chapter 179, Acts of the 60th Legislature, Regular Session, 1967; Section 1, Chapter 302, Acts of the 53rd Legislature, Regular Session, 1953; Section 1, Chapter 231, Acts of the 42nd Legislature, Regular Session, 1931; Section 1, Chapter 131, Acts of the 48th Legislature, Regular Session, 1943; and Section 1, Chapter 216, Acts of the 50th Legislature, Regular Session, 1947 (Articles 2529b, 2529b-1, 2529c, 2530a, 2543a, 2543b, 2543b-1, Vernon's Texas Civil Statutes). Any depository whose accounts or deposits are insured in accordance with the laws of the United States may qualify as a depository and accept state funds to the extent of such insurance, regardless of the amount of its paid-up capital stock and permanent surplus, if any, and further provided that not more than 20 percent of the aggregate funds on deposit at any one time shall be in depository institutions other than banks.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 161, ch. 57, § 1; Acts 1937, 45th Leg., p. 319, ch. 164, § 1; Acts 1943, 48th Leg., p. 422, ch. 238, § 1; Acts 1971, 62nd Leg., p. 3057, ch. 1017, § 1, eff. June 15, 1971; Acts 1983, 68th Leg., p. 2671, ch. 463, § 1, eff. Sept. 1, 1983.]

Art. 2527. Application for Deposits

The application of the bank applying for State funds shall state its amount of paid up capital stock and permanent surplus, or in the instance of a private bank, the amount of net proprietorship, and the maximum of State funds it will accept, accompanying same with a statement of the Bank's condition at the date of said application. Such application shall contain a provision that the books and

accounts of such bank, if designated as a State Depository, shall be open at all times to the inspection of the Board, any member or any accredited representative thereof. All such applications shall be mailed to the Treasurer at Austin in time to reach his office on or before noon of the fifteenth day of October next succeeding. Applications received after said date may be considered at the option of the Board.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 319, ch. 164, § 1; Acts 1971, 62nd Leg., p. 3057, ch. 1017, § 2, eff. June 15, 1971.]

Art. 2528. Acceptance

When the Treasurer receives such application, he shall endorse thereupon the date of its receipt, and shall in November prepare three (3) lists giving the names of all applicants for funds and the amount applied for. One list shall be furnished each member of the Board. The Board shall meet on the first Monday in November thereafter, and consider said applications, giving approval to those applicants that are acceptable, and having the power to reject those whose management or condition, in the opinion of the Board, does not warrant the placing of State funds in their possession. Any private, State, or National Bank doing business in this state may be accepted. No application for State funds shall be granted to any bank whose liabilities for borrowed money are in excess of its capital stock, but the Board may in its discretion, waive this provision.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 161, ch. 57, § 1; Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 1; Acts 1937, 45th Leg., p. 319, ch. 164, § 1; Acts 1971, 62nd Leg., p. 3058, ch. 1017, § 3, eff. June 15, 1971.]

Art. 2529. Qualifications of Depositories

As soon as practicable after the Board shall have passed upon said applications, the Treasurer shall notify all banks whose applications have been accepted, of their designation as State Depositories of state funds. The Treasurer shall require each bank so designated to qualify as a State Depository on or before the 25th day of November next, by (a) depositing a depository bond signed by some surety company authorized to do business in Texas, in an amount equal to not less than double the amount of state funds allotted, such bond to be payable to the Treasurer and to be in such form as may be prescribed by the Board and subject to the approval of such Board; or (b) by pledging with the Treasurer any securities of the following kinds: bonds and certificates and other evidences of indebtedness of the United States, and all other bonds which are guaranteed as to both principal and interest by the United States; bonds of this state; bonds and other obligations issued by The University of Texas; warrants drawn on the State Treasury against the General Revenue of the state; bonds issued by the Federal Farm Mortgage Corporation, provided both principal and interest of said bonds are guaranteed by the United States government; shares or share

accounts of any building and loan association organized under the laws of this state, provided the payment of such shares or share accounts is insured by the Federal Savings and Loan Insurance Corporation, and in the shares or share accounts of any Federal Savings and Loan Association domiciled in this state, provided the payment of such shares or share accounts is insured by the Federal Savings and Loan Insurance Corporation; Home Owners Loan Corporation Bonds, provided both principal and interest of said bonds are guaranteed by the United States government, and such securities shall be accepted by the Board in an amount not less than five per cent (5%) greater than the amount of state funds which they secure; provided, that Texas Relief Bonds may be accepted at face value and without margin for the amount of state funds allotted, provided such State Relief Bonds have all unmaturing coupons attached; bonds of counties located in Texas; road districts of counties in Texas; independent and common school districts located in Texas; bonds of any hospital district created under the laws of this state; tax bonds issued by municipal corporations in Texas; and bonds issued by a municipal corporation where the payment of such bonds is secured by a pledge of the net revenues of a utility system or systems (limited to those utility systems now authorized to be encumbered under the provisions of Articles 1111-1118a, Revised Civil Statutes, as amended, inclusive). All of such securities may be accepted by the Board, provided the aggregate amount thereof is not less than twenty per cent (20%) greater than the total amount of state funds that they secure; provided that the amount of all bonds and other obligations offered as collateral shall be determined by the Board on the basis of either their par or market value, whichever is less. The term "market value" as used herein shall mean the fair and reasonable prevailing price at which said bonds are being sold on the open market at the time of the appraisalment of the securities by the Board; and the action of the Board in fixing the valuation of said bonds shall be final, and not subject to review.

No state, county, road district bond, independent or common school district or municipal bonds, bonds of any hospital district created under the laws of this state, or obligations of the Board of Regents of the University issued by The University of Texas, shall be accepted as collateral security unless they shall be approved by the Attorney General. All bonds accepted as collateral security shall be registered under the same rules and regulations as are required for bonds in which the Permanent School Funds are invested. Subject to the approval of the Board, a state depository may secure its deposits of state funds in part by an acceptable surety bond and in part by acceptable collateral of the kind herein mentioned, and any losses sustained where a depository has secured its deposits in part by collateral and in part by a surety bond, the loss may be enforced against either the collateral security or the surety bond. No warrant drawn on the State Treas-

sury shall be accepted as collateral unless said warrants are accompanied by affidavits, sworn to by some officer of the bank offering said warrants, which said affidavits shall affirm that none of the warrants offered as collateral security were transferred or assigned by the original payees of said warrants, or any of them, for a less consideration than ninety-eight per cent (98%) of the face value of said warrants, and that none of such warrants were obtained from the original payee by loaning money thereon at a rate of interest greater than eight per cent (8%) per annum. The Board shall have the power to reject any and all collateral or surety bonds tendered by a state depository, without assigning any reason therefor, and its action in so doing shall be final and not subject to review. Notwithstanding the foregoing provisions requiring security for state funds deposited in state depositories in the form of surety bond or collateral, security for such deposits shall not be required to the extent that said deposits are insured by the Federal Deposit Insurance Corporation under the provisions of Section 12b of the Federal Reserve Act as amended,¹ or as the same may hereafter be amended.

In the event the market value of the securities pledged by any depository shall decrease to the point where the collateral value of said securities, as fixed by the Board, is less than the amount of said funds on deposit in said depository, the Board shall require additional security in order to equalize such depreciation.

When the collateral pledged by a state depository to secure a deposit of state funds shall be in excess of the amount required under the provisions of this Act, the Treasurer may, subject to the approval of the Board, permit the release of any such excess. In the event the balance to the credit of the Treasurer on the books of such bank shall be thereafter increased, adequate security, as provided for in this Act, shall be deposited and maintained by such depository bank.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 161, ch. 57, § 1; Acts 1929, 41st Leg., p. 278, ch. 124; Acts 1933, 43rd Leg., p. 840, ch. 240; Acts 1933, 43rd Leg., p. 854, ch. 244; Acts 1934, 43rd Leg., 1st C.S., p. 215, ch. 80, § 1; Acts 1934, 43rd Leg., 2nd C.S., p. 133, ch. 63, § 1; Acts 1937, 45th Leg., p. 319, ch. 164, § 1; Acts 1939, 46th Leg., p. 255, § 1; Acts 1943, 48th Leg., p. 63, ch. 55, § 1; Acts 1955, 54th Leg., p. 1132, ch. 425, § 1; Acts 1967, 60th Leg., p. 1991, ch. 738, § 1, eff. June 18, 1967.]

¹ 12 U.S.C.A. § 1811.

Art. 2529a. Exemption of Banks From Furnishing Security for Deposits to Extent Deposits are Insured

Notwithstanding any provision of law of this State or of any political subdivision thereof requiring security for deposits in the form of collateral, surety bond or in any other form, security for such deposits shall not be required to the extent said deposits are insured under the provisions of Section

12B of the Federal Reserve Act, as amended,¹ or any amendments thereto.

[Acts 1935, 44th Leg., p. 442, ch. 180, § 1.]

¹ 12 U.S.C.A. § 1811.

Art. 2529b. Pledge of Bonds of Home Owners' Loan Corporation

From and after the effective date of this Act, all bonds of the Home Owners' Loan Corporation which are guaranteed both as to principal and interest by the United States Government may be pledged in lieu of personal bonds or surety bonds as security for public funds on deposit in any depository which is now authorized by law to pledge securities in lieu of personal or surety bonds. Provided that the provisions of this Act shall be cumulative and in addition to all existing laws relating to depository bonds.

[Acts 1935, 44th Leg., p. 741, ch. 322, § 1.]

Art. 2529b-1. Investment Securities as Security for Deposits of State and Public Agencies

Sec. 1. The following terms, used in this Act, have the meanings set forth below:

(a) "Government securities" means direct obligations of the United States of America, obligations which in the opinion of the attorney general of the United States are general obligations of the United States and backed by its full faith and credit, obligations guaranteed by the United States of America, evidence of indebtedness of or participation certificates guaranteed by Federal Intermediate Credit Banks, Federal Land Banks, Banks for Cooperatives, Federal Farm Credit System, Federal Home Loan Banks, Federal National Mortgage Association, Federal Financing Bank Participation Certificates in the Federal Asset Financing Trust, New Housing Authority Bonds and Project Notes fully secured by contracts with the United States of America provided such term shall not include any obligation with a declining principal balance.

(b) "Investment securities" means (i) government securities or (ii) any general or special obligation issued by a public agency (approved by the attorney general of Texas) payable from taxes, revenues, either or both.

(c) "Public agency" means any board, authority, agency, department, commission, political subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of the State of Texas, including without limitation any county, home-rule charter city, general-law city, town, or village, any state-supported educational institution of higher learning, any school, junior college, hospital, water, sewage, waste disposal, pollution, road, navigation, levee, drainage, conservation, reclamation, or other district or authority, and any other type of political or governmental entity of the State of Texas.

Sec. 2. Investment securities or any ownership or beneficial interest therein shall be eligible and lawful security for all deposits of public funds of the State of Texas and any public agency to the extent of the market value thereof.

Sec. 3. The provisions of this Act shall be cumulative of all other existing laws, but shall be full and complete authority for investment securities to be eligible to secure public funds without reference to any other law.

[Acts 1981, 67th Leg., p. 2674, ch. 726, eff. June 16, 1981.]

Art. 2529c. Selection and Qualification of Depositories of State Agencies and Political Subdivisions

Sec. 1. The selection and qualification of depositories for the deposit of public funds of all agencies and political subdivisions of the state shall be in accord with the laws now in effect and hereinafter enacted pertaining thereto.

Sec. 2. The fact that an employee or officer of a state agency or political subdivision, who is not charged with the duty of selecting the depository thereof, is an officer, director or stockholder of a bank shall not disqualify said bank from serving as the depository of said state agency or subdivision.

A bank shall not be disqualified from bidding and becoming the depository for any agency or political subdivision of the state by reason of having one or more officers, directors or stockholders of said bank who individually or collectively own or have a beneficial interest in not more than 10 percent of the bank's outstanding capital stock, and at the same time serves as a member of the board, commission, or other body charged by law with the duty of selecting the depository of such state agency or political subdivision; provided, however, that said bank must be selected as the depository by a majority vote of the members of the board, commission, or other body of such agency or political subdivision and no member thereof who is an officer, director, or stockholder of the bank shall vote or participate in the proceedings. Common-law rules in conflict with the terms and provisions of this Act are hereby modified as herein provided, but this Act shall never be deemed to alter, change, amend or supersede the provisions of any home-rule city charter which is in conflict herewith.

[Acts 1967, 60th Leg., p. 370, ch. 179, eff. May 12, 1967.]

Art. 2530. Deposit of Securities

In the event the State Depository, as designated in the preceding Article, shall elect to deposit said pledged securities, above mentioned, with the State Treasurer, the said securities shall be delivered to the Treasurer and receipted for by him, and retained by him in the vaults of the State Treasury. Provided, however, that such bank so designated as depository shall have the option, instead of depositing said pledged securities with the State Treasurer, of depositing same with another State or National

Bank situated in the State, subject to the approval of the Board; said securities to be held in trust by said custodian bank to secure funds deposited by the State Treasurer in the State Depository bank. Upon the receipt of said securities, said custodian bank shall immediately issue and deliver to the State Treasurer controlled trust receipts for said securities pledged to the State Treasurer. The security evidenced by such trust receipts shall be subject to inspection by the Board or its agents at any time deemed advisable by said Board. Said custodian bank shall have a capital stock and permanent surplus of not less than Five Hundred Thousand (\$500,000.00) Dollars, and said bank designated as depository shall itself defray the charges, if any, of such custodian bank for accepting and holding said securities.

A State Depository bank shall also have the option of depositing said pledged securities with the Federal Reserve Bank of Dallas; such securities to be held by said Bank to secure funds deposited by the State Treasurer in the State Depository bank. When such pledged securities are so deposited and subject to the approval of the Board, the Federal Reserve Bank of Dallas may apply book entry procedures to the pledged securities so held. The records of the Federal Reserve Bank of Dallas shall at all times reflect the name of the State Depository bank for whose account the pledged securities are so deposited, and an Advice of Transaction shall be issued by the Federal Reserve Bank of Dallas to the State Treasurer and the State Depository bank.

A custodian bank, holding in trust securities of a State Depository bank pledged to secure funds deposited by the State Treasurer in the State Depository bank as provided above, shall also have the option of depositing said pledged securities with the Federal Reserve Bank of Dallas provided that the Federal Reserve Bank of Dallas is the third party to the transaction; such securities to be held by said Federal Reserve Bank to secure funds deposited by the State Treasurer in the State Depository bank. When such pledged securities held by a custodian bank are so deposited, and, subject to the approval of the Board, the Federal Reserve Bank of Dallas may apply book entry procedures to the pledged securities so held. The records of the Federal Reserve Bank of Dallas shall at all times reflect the name of the custodian bank for whose account the pledged securities are so deposited, and an Advice of Transaction or other document evidencing each deposit of securities shall be issued by the Federal Reserve Bank of Dallas to the custodian bank. The custodian bank shall immediately issue and deliver to the State Treasurer controlled trust receipts for said pledged securities. The trust receipt shall reflect that the custodian bank has deposited with the Federal Reserve Bank of Dallas the pledged securities held in trust for the State Depository bank.

Subject to the approval of the Board, a State Depository may have the right to substitute one group of securities for another group of securities

pledged with the State Treasurer, when and as such State Depository may desire to make such substitution, so long as the securities desired to be substituted by such bank shall come within the classification of securities acceptable under the terms of this Act.

If, in any case, or at any time, such bonds or other securities are not satisfactory security, in the opinion of the Board, for the deposits made under this Act, they may require such additional security to be given as will be satisfactory to them. Said Board shall, from time to time inspect such bonds and see that the same are actually kept in the vaults of the State Treasury and in said custodian banks. If the pledged securities are deposited with the Federal Reserve Bank of Dallas, the Board shall conduct such audits and inspections of the records of the Federal Reserve Bank of Dallas as may be reasonably necessary to verify the existence of and proper accounting for said pledged securities. In the event that any State Depository shall fail to pay deposits or any part thereof on the check of the Treasurer, he shall have the power to forthwith realize upon such bonds or other securities deposited by said bank, and disburse the money arising therefrom, according to law, upon the warrants drawn by the Comptroller upon the funds for which said bonds or other securities were secured. Any bank making deposits of bonds or other securities with the Treasurer under the provisions of this Act may cause such bonds or other securities to be endorsed or stamped, as they may deem proper, so as to show that they are deposited as collateral and not transferable, except as herein provided.

Upon request of the owner or owners, the Treasurer or custodian bank may surrender interest coupons or other evidence of interest when due on securities deposited by depository banks, provided, said securities are ample to meet the requirements of the State.

Whenever any private bank now organized as provided for by the private banking laws of Texas should seek to become a depository for State funds or any other governmental agency, it shall agree in writing to submit itself to examination as to its solvency.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 63, ch. 33; Acts 1934, 43rd Leg., 2nd C.S., p. 133, ch. 63, § 2; Acts 1937, 45th Leg., p. 319, ch. 164, § 1; Acts 1975, 64th Leg., p. 1021, ch. 390, § 1, eff. June 19, 1975; Acts 1977, 65th Leg., p. 560, ch. 196, § 1, eff. May 20, 1977.]

Art. 2530a. Deposit and Substitution of Securities; Acceptance of Certain Securities by Treasurer

In the deposit and exchange or substitution of securities by state depository banks under the provisions of Chapter 1, Title 47, Revised Civil Statutes of Texas, 1925, as amended, the State Depository Board may authorize the State Treasurer to accept such securities offered for deposit and those securities offered for exchange of securities already on

deposit without further action of said Board where such offered securities are bonds and certificates and other evidences of indebtedness of the United States and all other bonds which are guaranteed as to both principal and interest by the United States. [Acts 1953, 53rd Leg., p. 754, ch. 302, § 1.]

Art. 2531. Failure to Qualify

In case any bank that has submitted an application for State funds shall fail to qualify within the time specified in this Act after being notified to do so, it shall forfeit its right to act as a depository for a period of one year, at the option of the Board. [Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 319, ch. 164, § 1.]

Art. 2532. Placing Deposits

After the depositories have qualified as provided in the preceding articles, it shall be the duty of the Treasurer to deposit the funds belonging to the State in such depositories or to invest the funds as provided by Article 2525, Revised Statutes. Funds designated as time deposits shall be deposited in amounts considered appropriate by the Board. Funds designated as demand deposits shall be deposited only in banks designated as centrally located depositories and in any other depository considered appropriate by the Board, in amounts considered by the Board to be necessary to accommodate the State warrant activity in the area.

No depositories shall be entitled to keep on deposit State funds in an amount in excess of their paid up capital stock and permanent surplus. Any reduction in the capital stock and permanent surplus of any depository shall reduce correspondingly the amount of State funds which it can retain as a depository, and the Treasurer is authorized to withdraw from said depository any funds in excess of its capital and permanent surplus, provided, that where any depository shall pledge as security for State funds on deposit with it warrants drawn upon the State Treasury against the General Fund of this State as provided by Article 2529, and shall also make the proof required in such Article that such warrants were acquired by it as therein provided, then the limitation upon the amount of deposits that may be placed in said depository shall not apply, but the amount of said funds to be deposited in said depository shall be determined by the State Depository Board.

If there be a surplus after the awards are made, the surplus shall be prorated among the applying banks.

Such provisions, however, shall not affect arrangements for clearing checks made by said Board with State Depositories as hereinafter provided.

All State Depositories shall collect all checks, drafts and demands for money so deposited with them by the Treasurer and when using due diligence shall not be liable on such collections until the proceeds thereof have been duly received by the

Depository Bank, provided, that any expense incurred in collection thereof by the Depository which the Depository is not allowed or permitted to pay by reason of any Act of the Congress of the United States or any rule or regulation promulgated thereunder by either the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation shall be charged to and paid by the State Treasurer out of any moneys appropriated by the Legislature for that purpose.

The State Depositories shall show in their statements, published according to law, the amount of State funds on deposit with them.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 161, ch. 57, § 1; Acts 1937, 45th Leg., p. 319, ch. 164, § 1; Acts 1983, 68th Leg., p. 2671, ch. 463, § 1, eff. Aug. 29, 1983.]

Art. 2533. Centrally Located Depositories

The Board shall designate one or more banks which have been selected as State Depositories in centrally located cities to be used for clearing checks and other obligations due the State, and the Treasurer shall keep sufficient moneys on deposit in the "demand deposits" account in said Depositories to meet all current claims upon the State, and all items received by the Treasurer for collection shall be deposited with such Depositories to be credited to the "demand deposits" account in said banks, and all checks drawn by the Treasurer for the payment of obligations due by the State may be drawn on such accounts in such Depositories or on the "demand deposits" account in other State Depositories so that the checks of the State may at all times pass current as cash.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 161, ch. 57, § 1; Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 1; Acts 1937, 45th Leg., p. 319, ch. 164, § 1.]

Art. 2534. Withdrawals

The funds on deposit with depositories shall be subject to withdrawal at any time by the Treasurer, except funds designated by the Board as "time deposits" which shall be withdrawn in the manner agreed upon in the contract under which such funds have been deposited.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 319, ch. 164, § 1.]

Art. 2535. Remittances

All State Depositories shall remit free of charge, except such charges which depository is not allowed or permitted to pay by reason of any Act of the Congress of the United States or any rule or regulation promulgated thereunder by either the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation, to the Treasurer on his demand, all withdrawals of State funds as provided for in the preceding Article. All remittances to the Treasurer made by the State Depositories, or any person or

persons may be in cash by registered and insured letter; by post office money order; express money order of any company authorized to do business in Texas, or by any bank draft on any bank in the following cities: Dallas, Fort Worth, Waco, Houston, Austin, Galveston and San Antonio. The liability of any State Depository or person sending the same shall not cease until the said money is actually received by the Treasurer. Any depository that refuses to remit for State items, or Treasury drafts, as above indicated, shall upon order of the Board forfeit its right to receive further deposits, and the Board shall have the right to withdraw all funds from said bank, which shall thereafter cease to be a State Depository.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 319, ch. 164, § 1.]

Art. 2536. Repealed by Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 2

Art. 2537. Cancellation of Contracts

Each State Depository shall have the right to cancel its depository contract upon accounting to the Treasurer for all funds deposited with it at any time by giving thirty days' notice in advance.

The Board shall have the right to terminate a contract with the depository at any time they deem it to the interest of the state to do so, upon giving the depository fifteen days' notice of such termination. The Treasurer shall discontinue making deposits in any bank when in the opinion of the Board the condition or management of the bank warrants such action on his part.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 1; Acts 1937, 45th Leg., p. 319, ch. 164, § 1; Acts 1943, 48th Leg., p. 422, ch. 288, § 1.]

Art. 2538. Repealed by Acts 1927, 40th Leg., 1st C.S., p. 161, ch. 57, § 1

Art. 2539. Repealed by Acts 1937, 45th Leg., p. 319, ch. 164, § 3

Arts. 2540 to 2543. Repealed by Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 2

Art. 2543a. Investment of Funds by State Depository Board

The State Depository Board is hereby authorized and empowered to invest the permanent funds of the Texas School for the Blind, Texas School for the Deaf, Austin State Hospital, State Orphans' Home and any other permanent funds the investment of which is not otherwise provided for, whenever such permanent funds shall have as much as One Thousand Dollars (\$1000) of funds on deposit with the State Treasurer which are not invested, and it is hereby made the duty of the State Depository Board to invest such funds in the same class of bonds as are authorized for investment of the Permanent School Fund.

[Acts 1931, 42nd Leg., p. 336, ch. 231, § 1.]

Art. 2543b. Defense Bonds and Other United States Obligations; Investment of Bond Proceeds by State

Where the State of Texas has heretofore or hereafter accumulated funds for certain purposes and is unable to obtain labor or materials to carry out such purposes, such funds may be invested in defense bonds or other obligations of the United States of America; provided, however, that when war time or any other regulations shall permit the state to acquire the necessary labor and materials, the obligations of the United States in which said funds are invested shall be sold or redeemed and the proceeds of said obligations shall be used for the purpose for which the funds were originally authorized or collected.

[Acts 1943, 48th Leg., p. 211, ch. 131, § 1.]

Art. 2543b-1. Funds Accumulated But Not Usable Because of Labor and Material Shortages; Investment in United States Obligations

Where the State of Texas has heretofore or hereafter accumulated funds for certain purposes and is unable to obtain labor or materials to carry out such purposes, such funds may be invested in government bonds or other obligations of the United States of America; provided, however, that when other regulations shall permit the State to acquire the necessary labor and materials, the obligations of the United States in which said funds are invested shall be sold or redeemed and the proceeds of said obligations shall be used for the purpose for which the funds were originally authorized and collected.

[Acts 1947, 50th Leg., p. 388, ch. 216, § 1.]

Art. 2543c. Repealed by Acts 1971, 62nd Leg., p. 3319, ch. 1024, art. 1, § 3, eff. Sept. 1, 1971

See, now, Education Code, § 51.008.

Art. 2543d. Disposition of Interest on Time Deposits

Sec. 1. Interest received on account of time deposits of moneys in funds and accounts in the charge of the State Treasurer shall be allocated as follows: To each constitutional fund there shall be credited the pro rata portion of the interest received due to such fund. The remainder of the interest received, with the exception of that portion required by other statutes to be credited on a pro rata basis to protested tax payments, shall be credited to the General Revenue Fund. The interest received shall be allocated on a monthly basis.

Sec. 2. Whenever a deficit occurs in the General Revenue Fund, the State Treasurer may place with any designated depository bank an offsetting compensating balance in a special depository account known as "Special Demand Account Secured by General Revenue Warrants Only."

Sec. 3. As to the proper interpretation and application of this Article, the State Treasurer is entitled to rely upon the opinion and advice of the Attorney General.

[Acts 1969, 61st Leg., p. 2703, ch. 885, § 1, eff. June 21, 1969.]

CHAPTER TWO. COUNTY DEPOSITORIES

Art.

- 2544. Notice to Banks.
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Art. 2544. Notice to Banks

The Commissioners Court of each county is hereby authorized and required at the February Regular Term thereof next following each general election to enter into a contract with any banking corporation, association or individual banker in such county for the depositing of the public funds of such county in such bank or banks. Notice that such contracts will be made by the Commissioners Court shall be published by and over the name of the County Judge, once each week for at least twenty (20) days before the commencement of such term in some newspaper published in said county; and if no newspaper be published therein, then in any newspaper published in the nearest county. In addition thereto, notice shall be published by posting same at the courthouse door of said county.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 1.]

Art. 2545. Application by Banks

Any banking corporation, association or individual banker in such county desiring to be designated as county depository shall make and deliver to the County Judge an application applying for such funds and said application shall state the amount of paid up capital stock and permanent surplus of said bank and there shall be furnished with said application a statement showing the financial condition of said bank at the date of said application which shall be delivered to the County Judge on or before the first day of the term of the Commissioners Court at

which the selection of the depositories is to be made. Said application shall also be accompanied by a certified check for not less than one-half of one percent of the county's revenue for the preceding year as a guarantee of the good faith on the part of said bank, and that if said bank is accepted, as county depository, that it will enter into the bond hereinafter provided. Upon the failure of the banking corporation, association, or individual banker in such county that may be selected as depository, to give the bond required by law, the amount of such certified check shall go to the county as liquidated damages and the county judge shall readvertise for applications, if necessary, to obtain a county depository for said county.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1292, ch. 484, § 1.]

Art. 2546. Selecting County Depository

It shall be the duty of the Commissioners Court at ten o'clock a.m. on the first day of each term at which banks are to be selected as county depositories, to consider all applications filed with the County Judge, cause such applications to be entered upon the minutes of the Court and to select those applicants that are acceptable and who offer the most favorable terms and conditions for the handling of such funds and having the power to reject those whose management or condition, in the opinion of the Court, does not warrant placing of county funds in their possession. The County Commissioners Court shall have the power to determine and designate the character and amount of county funds which will be deposited by it in said depositories that shall be "demand deposits" and what character and amount of funds shall be "time deposits," and may contract with said depositories in regard to the payment of interest on "time deposits" at such rate or rates as may be lawful under any Act of the Congress of the United States and any rule or regulations that may be promulgated by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation. When the selection of a depository or depositories has been made, the checks of those applicants which have been rejected shall be immediately returned. The check or checks of the applicant or applicants whose applications are accepted shall be returned when said depository or depositories enter into and file the bond required by law and said bond has been approved by the Commissioners Court, and not until such bond is filed and approved. The term "demand deposits," as used herein, shall mean any deposit which is payable on demand, and the term "time deposits," as used herein, shall mean any deposit with reference to which there is in force a contract, that neither the whole nor any part of such deposit may be withdrawn by check or otherwise prior to the expiration

of the period of notice which must be given in writing in advance of withdrawals.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 1. Acts 1981, 67th Leg., p. 88, ch. 48, § 1, eff. April 15, 1981.]

Art. 2546a. Political Subdivisions; Designation of Outstate Depository; Prohibition

No governing body of a political subdivision of the State of Texas, including counties, municipalities, school districts, and other districts, may designate a financial institution located outside the State as a depository for funds under its jurisdiction; however, any institution selected as a paying agent for specific bonds or obligations shall not be considered a depository as set forth herein.

[Acts 1971, 62nd Leg., p. 1240, ch. 305, eff. May 24, 1971.]

Art. 2547. Bonds

Within fifteen (15) days after the selection of such depository, it shall be the duty of the banking corporation, association or individual banker so selected, to qualify as county depository in one or more of the following ways, at the option of the Commissioners' Court:

(a) By executing and filing with the Commissioners' Court, a bond or bonds, payable to the County Judge and his successors in office, to be approved by the Commissioners' Court, and immediately thereafter filed in the office of the County Clerk of said county, said bond to be signed by not less than five (5) solvent sureties who shall own unencumbered real estate in this State not exempt from execution under the Constitution and laws of this State, of a value equal to, or in excess of, the amount of said bonds where there is more than one bond; said bond or bonds to be in an amount equal to the estimated highest daily balance of such county, as determined by the Commissioners' Court, such estimated daily balance to be in no event less than seventy-five (75%) per cent of the highest daily balance of said county for the next preceding year, less the amount of bond funds received and expended; provided, however, in the event that county funds derived from the sale of county securities during the term of such bond are deposited, such Commissioners' Court shall require additional bond and/or bonds, and/or pledge of securities equal to the amount of such additional county funds. The sureties shall file with the Commissioners' Court at the time of filing said bond or bonds, a statement containing a description of the unencumbered and non-exempt lands owned by them, sufficient to identify such lands on the ground, and such statement shall remain on file with the County Clerk and attached to such bond or bonds; and such statement shall contain a value of each tract of land so listed, together with the value of the improvements thereon.

(b) By having issued and executed by some solvent surety company or companies authorized to do business in the State of Texas, such bond or bonds, as provided by law, to be in the amount and payable as provided in subdivision (a) hereinabove, which said surety bond shall be approved by the Commissioners' Court, and filed in the office of the County Clerk of said county. Provided, however, such surety company or companies may be relieved of its or their obligation on thirty (30) days notice in writing to the Commissioners' Court, such bonding surety company or companies not to be relieved of any liability for loss sustained by the county prior to the expiration date of such bonds or bond; and provided further, in the event any surety company or companies shall ask to be relieved of such bond or bonds, such depository shall, previous to the termination date of such obligation of such surety company or companies, present further security acceptable to the County Commissioners' Court, and filed in the office of the County Clerk of said county, for the securing of county funds in accordance with the provisions of this Act.

(c) In lieu of such personal bonds or surety bonds as above specified, said banking corporation, association or individual banker so selected as county depository, may pledge, and said depository bank is authorized to pledge with the Commissioners' Court for the purpose of securing such county funds, securities of the following kind, in an amount equal to the amount of such county funds on deposit in said depository bank, to-wit: bonds and notes of the United States, securities of indebtedness of the United States, and other evidences of indebtedness of the United States, when said evidences of indebtedness are supported by the full faith and credit of the United States of America, and other bonds or other evidences of indebtedness which are guaranteed as to both principal and interest by the United States Government, bonds of the State of Texas, or of any county, city, town, independent school district, common school district, or bonds issued under the Federal Farm Loan Act, or road district bonds, bonds, pledges or other securities issued by the Board of Regents of the University of Texas, bank acceptances of banks having a capital stock of not less than Five Hundred Thousand (\$500,000.00) Dollars, notes or bonds secured by mortgages insured and debentures issued by the Federal Housing Administrator of the United States Government, shares or share accounts of any building and loan association organized under the laws of this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation, and in the shares or share accounts of any Federal Savings & Loan Association domiciled in this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation; and bonds issued by municipal corporations in Texas, all said securities having a total market value equal to the amount of the depository bond; an amount of the following described securities not to

exceed twenty-five (25%) per cent of the assessed value of the property in the county as shown by the certified tax roll for the preceding year, viz.: closed first mortgages on improved and unencumbered real estate situated in the State of Texas, provided such security so offered must be first approved by the Commissioners' Court; and before approving such a mortgage tendered as security for deposits, the Commissioners' Court shall require a written opinion by an attorney selected by the Court, showing that the lien so offered is superior to any and all other claims or rights in the property, and the Court shall also require that the improvements on each tract of real estate described in such mortgage be fully insured in some Stock Fire Insurance Company, or a Mutual Fire Insurance Company having One Hundred Thousand (\$100,000.00) Dollars surplus in excess of all legal reserves and other liabilities, to be approved by the County Judge, with loss payable clause in favor of the County Judge, such mortgage as may be approved as acceptable security under the provisions of this Article shall be assigned to the County Judge by written instrument, duly acknowledged, and the same shall be placed of record forthwith in each county where any part of said real estate is situated; and as security for such deposits, unencumbered, improved real estate, subject to approval of Commissioners' Court, may be pledged directly by Deed of Trust executed to a trustee selected by the Commissioners' Court, with the County Judge as beneficiary; provided that the Court shall first require the written opinion of an attorney selected by the Court, showing that the lien offered as security for deposits is superior to any and all other claims or rights in the property; and provided further that the Court shall require that all improvements on any real estate, so pledged, be fully insured in a Stock Fire Insurance Company or a Mutual Fire Insurance Company having One Hundred Thousand (\$100,000.00) Dollars surplus in excess of all legal reserves and other liabilities, approved by the County Judge, with loss payable clause in favor of the County Judge; and the Commissioners' Court shall investigate all real estate security and determine the value at which such real estate security as is herein described shall be accepted; provided that in no event shall such security be accepted as collateral at a value in excess of fifty (50%) per cent of the reasonable market value of the real property covered by such mortgages, except where such mortgages are insured or guaranteed by the Federal Housing Administrator of the United States; and such real estate security as herein described may be withdrawn and replaced by other real estate securities meeting the requirements of this Act, or any class of securities above enumerated, provided all such withdrawals, substitutions and replacements must be approved by the Commissioners' Court; and the County Judge shall execute such instruments as may be necessary to transfer to the depository or its order, all liens, so withdrawn, and said Commissioners' Court may accept said securities in lieu of such

personal or surety bonds; and such securities so pledged by such depository bank shall be deposited as the Commissioners' Court may direct.

When the securities pledged by a depository bank to secure county funds shall be in excess of the amount required under the provisions of this Article, the Commissioners' Court shall permit the release of such excess; and when the county funds deposited with said depository bank shall for any reason, increase beyond the amount of securities pledged, said depository bank shall immediately pledge additional securities with the Commissioners' Court so that the securities pledged shall at no time be less than the total amount of county funds on deposit in said depository bank. The right of substitution of securities shall be granted to depositories, provided the securities substituted meet with the requirements of the law, and are approved by the Commissioners' Court. Upon the request of such depository bank, the Commissioners' Court shall surrender interest coupons or other evidence of interest, when due, on securities deposited with the Commissioners' Court by such depository bank, provided said securities remaining pledged are ample to meet the requirements of said Commissioners' Court. Such depository may secure said funds by one or more of the ways herein provided, at the option of the Commissioners' Court.

The condition of the personal bond or bonds, or contract for securities pledged, as hereinabove provided, shall be conditioned for the faithful performance of all the duties and obligations devolving by law upon such depository, and for the payment upon presentation of all checks drawn upon any "demand deposit" account in any depository by the county treasurer of the county, and all checks drawn upon any "time deposit" account, upon presentation, after the expiration of the period of notice required in the case of "time deposits"; and that said county funds shall be faithfully kept by said depository and accounted for according to law. Any suits arising thereon shall be tried in the county for which such depository is selected; and provided further, that upon reasonable notice to the Commissioners' Court, such county depository may change from time to time its method of securing such funds, so long as the same are at all times secured in the amount and manner specified herein.

Where separate bonds are given to secure county funds, each surety thereunder shall be liable only for such part of any loss sustained by failure of the depository, as the amount of each bond shall bear to the aggregate amount of all bonds and/or securities held by the county for protection of the funds covered by said bonds.

In the event of payment of a loss to the county by personal sureties or surety companies, said sureties shall be subrogated by the county in the amounts such payment bears to the deposit secured by them or it, at the time of default of the depository.

It shall be the duty of the Commissioners' Court to investigate and inquire into the solvency of each and every surety, on any personal bond or bonds so filed by such county depository, and accepted by the Commissioners' Court and approved as required by law, at least twice during each and every year such bonds are effective and in force; and for that purpose shall have authority to require each surety to render an itemized and verified financial statement, under oath, showing his true financial condition. If any such statement or statements indicate that any of said sureties have become insolvent, or their net worth depreciated below the amount required by law as such sureties, or if any of the assets listed are shown to be, or are known to be depreciated, or their value in any way impaired, then and in any such events, the Commissioners' Court shall require a new bond meeting fully the requirements of this law; and in case of a bond or bonds the sureties on which are required to own unencumbered and non-exempt real estate as herein provided, such statement shall show each tract of land owned by each surety and the value thereof; and if the statements provided for herein shall indicate that any of such lands have been disposed of or encumbered, and the value of the remaining unencumbered or non-exempt lands shall not be sufficient to meet the requirements of this law, then the said Commissioners' Court shall require a new bond, meeting fully the requirements of this law. The Commissioners' Court shall at any time it may deem necessary for the protection of the county, investigate and inquire into the solvency of any surety company or companies issuing a bond or bonds for any depository, and to investigate the value of any of the securities that may be pledged by such depository in lieu of the personal bond; and such Commissioners' Court may request any such depository if it deem advisable, to execute a new bond. If said new bond required by the Commissioners' Court for any reason as herein specified be not filed within five (5) days from the time of the service of a copy of said order upon said depository, the Commissioners' Court may proceed to the selection of another depository, in the same manner as provided for the selection of a depository at the regular time for such selection. Nothing in this law shall in any manner limit, restrict or prevent the Commissioners' Court from requiring any depository to execute a new bond at any time such Commissioners' Court may deem it necessary for the protection of the county.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 197, ch. 129; Acts 1929, 41st Leg., p. 33, ch. 11; Acts 1933, 43rd Leg., p. 40, ch. 19; Acts 1933, 43rd Leg., p. 137, ch. 66; Acts 1937, 45th Leg., p. 1298, ch. 484, § 1; Acts 1943, 48th Leg., p. 70, ch. 58, § 1; Acts 1981, 67th Leg., p. 88, ch. 48, § 1, eff. April 15, 1981.]

Art. 2548. Additional Bond

Whenever, after the creation of a county depository, as by this Act provided, there shall accrue to the county or any subdivision thereof, any funds or moneys from the sale of bonds or otherwise, the

Commissioners Court of such county at its first meeting after such special funds shall have come into the Treasury, or depository of such county, or so soon thereafter as may be practicable, may make written demand upon the duly accredited and established depository of the county for a special additional bond as such depository in a sum equal to the whole amount of such special fund, to be kept in force so long as such funds remain in such depository. Such extra or special bond may be cancelled and a new bond contemporaneously substituted therefor as such special fund may have been reduced. Such special bond shall at all times be sufficient in amount to cover such special fund then on hand. Upon the failure of such depository to furnish such additional bond within thirty (30) days from the date of such demand, the Commissioners Court may cause such special funds to be withdrawn, upon the draft of the county treasurer from such depository, and cause the same to be deposited in some solvent National bank or State bank whose combined capital stock and surplus is in excess of such special fund, and to leave the same or so much thereof as may not have been expended with such National bank or State bank of last deposit, until such time that such county depository may have filed with the Commissioners Court the required additional bond, when such special fund or so much thereof as shall not have been expended shall be forthwith returned to and deposited with such county depository. The requiring of such additional or special bond shall be optional with such Commissioners Court. When a banking institution selected, qualified and acting as a county depository shall become insolvent and it shall become necessary to resort to the depository bond or bonds to collect the county and State funds deposited therein, payment shall be made to the county and State pro rata.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 1.]

Art. 2548a. Pledge of State General Fund Warrants as Security for Deposited Funds of County or School District in Lieu of Bonds

Any banking corporation in the State of Texas selected as the depository bank for County Funds, or for the funds of any School District in Texas, including Common School Districts, Independent School Districts, Rural High School Districts, Consolidated School Districts, and any other School District in Texas, or funds of any State institution, shall be authorized to pledge General Fund Warrants of the State of Texas as securities for the purpose of securing such funds when, as otherwise provided by law, such banking corporations are authorized to pledge securities in lieu of personal bonds or surety bonds for the purpose of securing such Funds; provided, however, this privilege shall cease and be null and void whenever the deficit in

the General Fund shall exceed Forty-two Million (\$42,000,000.00) Dollars.

[Acts 1941, 47th Leg., p. 100, ch. 82, § 1.]

Art. 2549. Designating Depository

(a) As soon as said bond be given and approved by the Commissioners Court, an order shall be made and entered upon the minutes of said Court designating such banking corporation, association or individual banker, as a depository for the funds of said county until sixty (60) days after the time fixed for the next selection of a depository; and thereupon, it shall be the duty of the county treasurer of said county immediately upon the making of such order, to transfer to said depository all the funds belonging to said county, as well as all funds belonging to any district or other municipal subdivision thereof not selecting its own depository, and immediately upon receipt of any money thereafter, to deposit the same with said depository to the credit of said county, district and municipalities. It shall also be the duty of the tax collector of such county to deposit all taxes collected by him, or under his authority, for the State and such county and its various districts and other municipal subdivisions, in such depository or depositories, as soon as collected, pending the preparation of his report of such collection and settlement thereon. The bond of such county depository or depositories shall stand as security for all such funds. Upon such funds being deposited as herein required, the tax collector and sureties on his bond, shall thereafter be relieved of responsibility of its safekeeping. All county depositories shall collect all checks, drafts and demands for money so deposited with them by the county and when using due diligence shall not be liable on such collections until the proceeds thereof have been duly received by the depository bank, provided that any expense incurred in collection thereof by the depository, which the depository is not allowed or permitted to pay or absorb by reason of any act of Congress of the United States or any regulation by either the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation, shall be charged to and paid by the county. All money collected or held by any district, county or precinct officer in such county, or the officers of any defined district or subdivision in such county, including the funds of any municipal or quasi-municipal subdivision or corporation which has the power to select its own depository, but has not done so, shall be governed by this law, and shall be deposited in accordance with its requirements, and shall be considered in fixing the bond of such depository, and shall be protected by such bond; and all warrants, checks, and vouchers evidencing such funds shall be subject to audit and countersignature as now or hereafter provided by law.

(b) If during a school year, a Commissioners Court having control of school district funds elects to transfer the funds from one bank serving as

county depository to another bank, the school district affected may require that the Commissioners Court delay the transfer of the district's funds until the end of the school district's fiscal year or until September 1, whichever date follows nearest the date the Commissioners Court took action on the transfer.

(c) Unless expressly prohibited by law or unless it is in contravention of any depository contract between a county and any depository bank, the Commissioners Court may direct the county treasurer to:

(1) withdraw any amount of funds of the county that are deposited in a county depository and that are not required immediately to pay obligations of the county or required to be kept on deposit under the terms of the depository contract: and

(2) invest those funds in direct debt securities of the United States.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 604, ch. 201; Acts 1937, 45th Leg., p. 1298, ch. 484, § 1; Acts 1969, 61st Leg., p. 1048, ch. 342, § 1, eff. May 27, 1969; Acts 1981, 67th Leg., p. 88, ch. 48, § 1, eff. April 15, 1981; Acts 1981, 67th Leg., p. 2259, ch. 542, § 1, eff. Aug. 31, 1981.]

Acts 1981, 67th Leg., p. 2260, ch. 542, § 3, provides:

"This Act does not apply to funds that, on the effective date of this Act, are on deposit in a depository in accordance with Article 2549 or Article 2561, Revised Civil Statutes of Texas, 1925, as they exist immediately before this Act takes effect."

Art. 2550. Deposits Not Applied For

If for any reason no applications are submitted by any banking corporation, association or individual banker to act as county depository or in case all applications shall be declined, then in any such case, the Commissioners Court shall have the power, and it shall be their duty to deposit the funds of the county with any one or more banking corporations, associations or individual bankers in the county or in the adjoining counties in such amounts and for such periods as may be deemed advisable by the Court. Any bank or banking concern receiving deposits under this Article shall execute a bond in the manner and form provided for depositories of county funds with all the conditions provided for same, the penalty of said bonds to be not less than the total amount of county funds deposited with such bank or banking concern.

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., p. 394, ch. 152, § 1; Acts 1937, 45th Leg., p. 1298, ch. 484, § 1.]

Art. 2551. Clearing House to be Selected

When the funds of any county shall be deposited with two or more depositories, the Commissioners Court shall select and name by order one of said depositories to act as a clearing house for the others, at which all county warrants shall be finally paid.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 1.]

Art. 2552. Checks Payable at County Seat

It shall be the duty of the depository or depositories to pay, upon presentment at the county seat of the county, or in the case of "time deposits" to pay upon presentment after the expiration of the period of notice agreed upon, all checks or warrants drawn by the county treasurer upon the funds of said county deposited with said depository or depositories, as long as such funds shall be in the possession of such depository subject to such checks or warrants. For every failure to pay such check or warrant at such county seat either upon presentment in case of "demand deposits," or upon presentment after the expiration of the period of notice required in the case of "time deposits" said depository or depositories shall forfeit and pay to the holder of such check ten per cent (10%) of the amount thereof; and the Commissioners Court shall revoke the order creating such depository or depositories.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 1.]

Art. 2553. Depository Not Located at County Seat

If any depository selected by the Commissioners Court be not located at the seat of such county, said Commissioners Court may in its discretion require said depository to file with the county treasurer of such county a statement designating the place at said county seat where, and the person by whom, all deposits may be received from the treasurer for such depository, and where and by whom all checks will be paid, said person to be approved by the Commissioners Court; and such depository shall cause every check to be paid upon presentation or upon presentation at the expiration of the period of notice in the case of "time deposits" at the place so designated so long as the said depository has sufficient funds to the credit of said county applicable to its payment.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 1; Acts 1949, 51st Leg., p. 187, ch. 103, § 1.]

Art. 2554. Warrants, How Paid and Charged

It shall be the duty of the county treasurer upon the presentation to him of any warrant, check, voucher, or order drawn by the proper authority, if there be funds sufficient for the payment thereof on deposit in the account against which such warrant is drawn, to endorse upon the face of such instrument his order to pay the same to the payee named therein and to charge the same on his books to the fund upon which it is drawn. The county treasurer shall not make an endorsement upon any warrant, check, voucher, or order, upon any funds deposited with said depository or depositories which are designated as "time deposits" until after notice is duly given and the time has expired as required in the contract with said depository in designating said funds as "time deposits." It shall be the duty of

such depository to make a detailed monthly statement to the Commissioners Court at each regular term of said Court showing the daily balances to the credit of each of the funds on deposit. In case any bonds, coupons, or other indebtedness of any county by the terms thereof are payable at any place other than the treasury of the county, nothing herein contained shall prevent the Commissioners Court of such county from causing the treasurer to place a sufficient sum at the place where such debts shall be payable at the time and place of their maturity, provided such payments shall be made in the manner prescribed by law. All checks or warrants issued or drawn by any officer under the provisions of this Act, shall be subject to all the laws and regulations providing for auditing and countersigning and all such laws and regulations are hereby continued in full force and effect.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 1.]

Art. 2555. May Select at Subsequent Term

If for any reason, no selection of a depository be made at the time provided by law, the Commissioners Court may, at any subsequent time after twenty (20) days' notice, select a depository or depositories in the manner provided for such selection at the regular time; and the depository or depositories so selected shall remain the depository or depositories until the next regular time for selecting a depository, unless the order selecting and naming such depository be revoked for lawful reasons.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 1.]

Art. 2556. New Bond May be Required

If the Commissioners Court shall at any time deem it necessary for the protection of the county, it may require any depository to execute a new bond; and, if said new bond be not filed within five (5) days from the time of the service of a copy of said order upon said depository, the Commissioners Court may proceed to the selection of another depository in the manner provided for the selection of a depository at the regular time for such selection.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 1.]

Art. 2557. Liability of Treasurer

The county treasurer shall not be responsible for any loss of the county funds through the failure or negligence of any depository; but nothing in this Act shall release any county treasurer for any loss resulting from any official misconduct or negligence on his part, nor from any responsibility for the funds of the county until a depository shall be selected and the funds deposited therein, nor for any misappropriation of such funds by him.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 1.]

Art. 2558. Applications From Adjoining Counties

If there be no bank or banks situated within the county that seeks to be designated as county depository, then in that event the Commissioners Court shall be authorized to advertise for applications from banks in adjoining counties or any other counties in this State in the manner provided by law of this State with reference to advertising in the counties desiring such depositories. When a depository has been selected by the Commissioners Court in the manner as provided herein, said depository shall, within five (5) days after notice of such designation and selection, file with county treasurer of such county a statement designating the place at said county seat where, and the person by whom all deposits may be received from the treasurer for such depository, and where and by whom all checks will be paid.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 194, ch. 89; Acts 1937, 45th Leg., p. 1298, ch. 484, § 1.]

Art. 2558a. Depositories for Trust Funds in Hands of County and District Clerks

Applications

Sec. 1. The Commissioners Court of each county is authorized and required at the February term thereof next following each general election to receive applications from any banking corporation, association or individual banker in such county as may desire to be selected as a depository for Trust Funds in possession of the County and District Clerks. Said applications shall be filed with the County Clerk on/or before ten o'clock a.m. on the first day of the term of Court at which said applications are to be received. Said applications shall be accompanied by a certified check for not less than one-half of one percent of the average daily balances of the amount of Trust Funds in the possession of the Clerks during the preceding calendar year which amount shall be determined by the County Clerk on/or before ten (10) days before the applications herein provided for are required to be filed, and a certified check accompanying the application as herein provided for in the amount so determined by the County Clerk shall be sufficient compliance with this provision, which certified check shall be a guarantee of the good faith on the part of the applicant, and that if his application is accepted the bond hereinafter provided for will be entered into. Upon the failure of the banking corporation, association or individual banker that may be selected as such depository, to give the bond required by law, the amount of such certified check shall go to the county as liquidated damages, and the county shall select another depository as hereinafter provided. In the event any application shall not be accepted, the certified check accompanying the same shall be returned. The check of the applicant whose application is accepted shall be returned

when his bond is filed and approved by the Commissioners Court and not until such bond is filed and approved. It shall not be necessary for the county to advertise or give notice that applications will be received as provided by this Statute.

Entry of Applications and Selection of Depository

Sec. 2. It shall be the duty of the Commissioners Court at ten o'clock a.m. on the first day of each term at which applications are required to be received to enter said applications on the minutes of the Court and to select a depository for the Trust Funds in the possession of County and District Clerks.

Qualification of Depository

Sec. 3. Within thirty (30) days after the selection of such depository, it shall be the duty of the banking corporation, association, or individual banker so selected to qualify in the same manner as now provided by law for the qualification of county depositories.

Entry of Order Designating Depository; Funds Deposited; Failure to Select New Depository

Sec. 4. As soon as said depository has qualified as provided by law and has been approved by the Commissioners Court, said Court shall make and enter an order upon the minutes, designating such banking corporation, association, or individual banker as County Depository for Trust Funds until the designation and qualification of a successor, and thereupon it shall be the duty of the County and District Clerks of such county to deposit all Trust Funds in their possession with said depository in the manner hereinafter provided; provided, in the event, a new depository has not been selected and qualified by April 15th succeeding the term of Court at which a depository is required to be selected as required by this Act, then the term of such depository shall end and all Trust Funds due or on deposit shall be paid to the Clerk in whose name the account is carried.

Placing Trust Funds on Time Deposit; Withdrawals; Interest

Sec. 4a. The Commissioners Court of each county, acting by and through the County Auditor, or if there is no County Auditor then the County Treasurer, of such county, is authorized to place on time deposit with the depository bank for trust funds in the possession of County and District Clerks of such County, that portion of the trust funds account estimated by the County Auditor or County Treasurer, as the case may be, as not required immediately to pay out all amounts in accordance with proper orders of the Judge of the Court in which funds have been deposited. If at any time the funds so placed on time deposit are required before maturity, they shall be made available by the depository bank but the depository bank shall not be liable for interest earned on such amount with-

drawn from time deposit. The Commissioners Court is authorized and directed to receive all interest so earned on time deposit of such trust funds and to place all such interest into the General Fund of the County as an offset to the expenses of handling such trust funds for the benefit of litigants.

Accumulated Interest; Placing in General Fund

Sec. 4b. The Commissioners Court of each county, acting by and through the County Auditor, or if there is no County Auditor then the County Treasurer, of such county, is authorized to place in the proper General Fund of the county any accumulated interest derived from trust funds in the possession of County and District Clerks of such county prior to the enactment of Chapter 270, Acts of the 56th Legislature, Regular Session, 1959, to offset the expenses of handling such trust funds for the benefit of litigants.

Advertisement for Applications Under Certain Conditions

Sec. 5. If for any reason there shall be submitted no application by any banking corporation, association or individual banker in the county, or in case there shall be no application for the entire amount of Trust Funds, or in the event all applications submitted have been rejected by the Commissioners Court, or in the event a depository selected has failed to qualify, or in the event that the depository shall become insolvent, or in the event a new depository has been selected on account of the failure of the regular depository to execute a new bond as hereinafter provided, then in either event, the Commissioners Court shall advertise for applications from any banking corporation, association, or individual banker within the State of Texas, and may select a depository, which depository shall qualify in the manner above provided. Notice of the selection of a depository as provided by this Act shall be published once each week for two (2) successive weeks in a newspaper of general circulation within the county, if there be such newspaper. If there is no newspaper published in the county, then the same shall be posted at the courthouse for said period. In the discretion of the Commissioners Court said notice may also be published in any newspaper outside of the county for the same length of time.

Provision for Payment on Presentment of Checks; Penalty

Sec. 6. It shall be the duty of the depository to provide for the payment at the county seat of the county upon presentment all checks drawn by the County or District Clerk upon the funds deposited in the name of such Clerk as long as such funds shall be in the possession of the depository subject to such checks. For every failure to pay such check at such county seat upon presentment, said depository shall forfeit and pay to the holder of such checks ten per cent (10%) of the amount thereof.

Depository Not Located at County Seat

Sec. 7. If any depository selected by the Commissioners Court be not located at the seat of such county, said depository shall file with the County Clerk of such county, a statement designating the place at said county seat where, and the person, firm or corporation by whom, all the deposits may be received from the Clerks for such depository, and where and by whom in said county seat all checks drawn on such depository will be paid and such depository shall cause every check to be paid upon presentation at the place so designated so long as the said depository has sufficient funds to the credit of such funds applicable to their payment.

New Bond

Sec. 8. If the Commissioners Court shall at any time deem it necessary for the protection of the Trust Funds, it may require any depository to execute a new bond. If said new bond is not filed within fifteen days from the time of the service of a copy of said order upon said depository, the Commissioners Court may proceed to the election of another depository in the manner provided for the selection of a depository as provided in this Act.

County and District Clerks Not Responsible for Loss of Trust Funds Through Depository's Failure or Negligence

Sec. 9. The County and District Clerks shall not be responsible for any loss of the Trust Funds through failure or negligence of any depository, but nothing in this Act shall release any County or District Clerk for any loss resulting from any official misconduct or negligence on his part nor from any responsibility for such Trust Funds until a depository shall be selected and the funds deposited therein nor for any misappropriation of such funds by him. Upon the deposit in the legally selected depository of the Trust Funds by any County or District Clerk, such Clerk shall thereafter be relieved of the safekeeping of said funds.

Loss of Deposit on Account of Insolvency of Depository or Other Cause; Liability of County

Sec. 10. In the event of the insolvency of any depository, or if for any reason, on account of the deposit of the Trust Funds with any depository, any part of said funds are lost, the county shall be liable to the person to whom any part of said Trust Funds is due for the full amount of said funds due such person.

Duty to Deposit; Trust Fund Account

Sec. 11. Any County or District Clerk having the custody by law of any money that may have been deposited in court to abide the result of any legal proceeding, which amount is to be in his possession for a period longer than three (3) days, shall deposit the same in the county depository for Trust Funds, if there be such a depository. The funds deposited by the Clerk shall be carried as a

Trust Fund account in the name of the Clerk making the deposit, and same shall be subject to withdrawal by the Clerk under the conditions set out in the succeeding paragraph of this Act.

Withdrawal of Deposits by Check

Sec. 12. Except upon an order of the Judge of the Court in which funds have been deposited, no check shall be drawn on said depository for any part of said funds by the Clerk except for payment to the person or persons to whom the amount of said check is due. All checks drawn by the Clerks shall show the style and number of the proceeding in which said money was deposited with the Clerk.

Transfer of Funds to New Depository

Sec. 13. If at any time, a new depository has been selected and qualified, it shall be the duty of the County and District Clerks to transfer to the new depository all funds in said depository in the name of such Clerk and for this purpose a check may be drawn on such funds by such Clerks.

Failure to Select Depository

Sec. 14. In the event there has been no selection of a county depository for Trust Funds, each County or District Clerk having the custody by law of any money, evidence of debt, script, instrument of writing, or other legal proceeding¹ shall seal up in a secure package the identical money or other article received by him and deposit the same in some iron safe or bank vault.

¹ So in enrolled bill; probably should read "or other article that may have been deposited in court to abide the result of any legal proceeding" as prior to amendment of 1937.

Clerk's Failure to Perform Duties; Penalty

Sec. 15. Any county or district clerk who fails to perform any duty required by this Act, or shall do or perform any act prohibited by the provisions of this Act shall be punished by fine of not exceeding Five Thousand Dollars (\$5,000.00), or by imprisonment in jail not exceeding two years, or by both such fine and imprisonment, and in addition thereto may be punished for contempt.

[Acts 1930, 41st Leg., 4th C.S., p. 21, ch. 14. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 2; Acts 1959, 56th Leg., p. 586, ch. 270, § 1; Acts 1969, 61st Leg., p. 1961, ch. 660, § 1, eff. Sept. 1, 1969.]

CHAPTER THREE. CITY DEPOSITORIES**Art.**

- 2559. Council to Take Applications for Depository.
- 2560. Award and Bond.
- 2561. Designating Depository, etc.
- 2562. Warrants and Checks Paid.
- 2563. May Select at Subsequent Meeting.
- 2564. Liability of Treasurer.
- 2565. Restrictions Upon Drawing.
- 2566. Definitions of Terms.
- 2566a. Security for Deposits Not Required to Extent Covered by Federal Deposit Insurance.

Art. 2559. Council to Take Applications for Depository

The governing body of every city, town and village in the State of Texas, incorporated under either the General or Special Laws, including those operating under special charter or amendments of charter adopted pursuant to the "Home Rule" provisions of the Constitution, is authorized to receive applications for the custody of city funds from any banking corporation, association or individual banker that may desire to be selected as a depository of the city, town or village. The school funds, from whatever source derived of incorporated cities, is part of the city funds and is subject to the provisions of this Act. Notice that such applications will be received shall be published by the City Secretary not less than one (1) nor more than four (4) weeks before said meeting in some newspaper published in that city. Any banking corporation, association or individual banker desiring to apply to be designated as a depository of the funds of such city, town, or village shall deliver to the city secretary on or before the day of such meeting designated by such published notice, its application for such funds, provided, however, that if any city has two or more banking institutions doing business within the city, the city shall consider bids and applications from only those institutions.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., 1st C.S., p. 16, ch. 9, § 1; Acts 1937, 45th Leg., p. 1298, ch. 484, § 3; Acts 1971, 62nd Leg., p. 3047, ch. 1008, § 1, eff. Aug. 30, 1971.]

Art. 2560. Award and Bond

Upon considering the applications submitted, the governing body shall select as the depository or depositories of such funds the banking corporations, association or individual banker or bankers offering the most favorable terms and conditions for the handling of such funds. The governing body of such city, town or village shall have the right to reject any and all applications and readvertise for any applications. The governing body of such city, town or village shall have the power to determine and designate the character and amount of city funds which will be deposited by it in said depositories that shall be "demand deposits" and what character and amount of funds shall be "time deposits"; and may contract with said depositories in regard to the payment of interest on "time deposits" at such rate or rates as may be lawful under any Act of Congress of the United States and any rule or regulations that may be promulgated by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation. The term "demand deposits", as used herein, shall mean any deposit which is payable on demand, and the term "time deposits", as used herein, shall mean any deposit with reference to which there is in force a contract, that neither the whole nor any part of such deposit may be withdrawn by check or otherwise prior to the expiration

of the period of notice which must be given in writing in advance of withdrawals. Within five (5) days after the selection of such depository or depositories, it shall be the duty of the banking corporation or corporations, association or associations, individual banker or bankers so selected to qualify as city depository, in one or more of the following ways, at the option of the governing body of such city, town or village:

(a) By executing and filing with the governing body, a bond or bonds, payable to the city, to be approved by the governing body, said bond to be signed by not less than five (5) solvent sureties who shall own unencumbered real estate in this State not exempt from execution under the Constitution and Laws of this State of a value equal to, or in excess of, the amount of said bond, or of a value equal to, or in excess of, the amount of said bonds when there is more than one (1) bond; and said bond or bonds shall in no event be for less than the total amount of the revenue of such city for the next preceding year for which said bond or bonds are made. The sureties shall file with the city at the time of filing said bond or bonds, a statement containing a description of the unencumbered and non-exempt lands owned by them sufficient to identify such lands on the ground; and such statement shall remain on file with the City Secretary, attached to such bond or bonds, which statement shall contain a fair estimate of the value of each tract of land so listed, together with the value of the improvements thereon.

(b) By having issued and executed by some solvent surety company or companies authorized to do business in the State of Texas, such bond or bonds, as provided by law, to be in the amount and payable as provided in subdivision (a) hereinabove, which said surety bond shall be approved by the governing body and filed with the City Secretary.

(c) By executing and filing with the governing body, a bond or bonds, in an amount and payable as provided in subdivision (a) hereinabove, to be approved by the governing body and filed with the City Secretary of such city; said bond or bonds to be signed by not less than five (5) solvent sureties, who shall prepare and file with the governing body, at the time of the filing of said bond, an itemized and verified financial statement, which shall show the aggregate net worth of all to be equal to, or in excess of, the amount of such bond or bonds as hereinabove provided for.

(d) In lieu of such personal bonds or surety bonds as above specified, said banking corporation or corporations, association or associations, individual banker or bankers so selected as the city depository, may pledge, and said depository is hereby authorized to pledge with the governing body of such city for the purpose of securing such city funds, securities of the following kind, in an amount equal to the amount of said city funds on deposit in said depository bank or banks, to-wit: United States Bonds,

Certificates of Indebtedness of the United States, Treasury notes of the United States, and other evidences of indebtedness of the United States which are guaranteed as to both principal and interest by the United States Government, bonds of the State of Texas, or of any county, city, town, independent school district, common school district or other school district in the State of Texas; or bonds issued under the Federal Farm Loan Act,¹ or road district bonds, bonds, pledges or other evidences of indebtedness issued by the Board of Regents of the University of Texas, notes or bonds secured by mortgages insured and debentures issued by the Federal Housing Administrator of the United States Government; in shares or share accounts of any building and loan association organized under the laws of this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation, and in the shares or share accounts of any Federal Savings & Loan Association domiciled in this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation; bank acceptances of banks having a capital stock of not less than Five Hundred Thousand (\$500,000.00) Dollars, and bonds issued by municipal corporations in Texas; and said city may accept said securities in lieu of such personal or surety bonds, which securities so pledged shall be deposited as the governing body may direct. It is provided, however, that such securities so pledged shall be approved as to kind and value by the governing body.

When the securities pledged by the depository bank to secure city funds shall be in excess of the amount required under the provisions of this Act, the governing body of such city shall permit the release of such excess; and when the city funds deposited with such depository bank shall, for any reason, increase beyond the amount of securities pledged, said depository bank shall immediately pledge additional securities with the governing body so that the securities pledged shall at no time be of a value of less than the total amount of city funds on deposit in said depository bank. Provided, however, the determination of such value shall be in the discretion of the governing body whose decision shall be final and binding on such depository. The right of substitution of securities shall be granted to depositories, provided the securities substituted meet with the requirements of the law, and are approved by the governing body. Upon the request of such depository bank, the governing body shall surrender interest coupons or other evidence of interest, when due, on securities deposited with said governing body by such depository bank, provided said securities remaining pledged are ample to meet the requirements of this Act and of such governing body.

The condition of the personal bond or bonds, or surety company bond or contract, for securities pledged as hereinabove provided, shall be condi-

tioned for the faithful performance of all the duties and obligations devolving by law upon such depository, and for the payment upon presentation of all checks drawn upon any "demand deposit" account in said depository, or upon presentation upon any "time deposit" after the expiration of the period of notice required in the case of "time deposits" by the City Treasurer of the city; and that said city funds shall be faithfully kept by said depository and accounted for according to law. Any suits arising thereon shall be tried in the county in which such city, town, or village is located.

It shall be the duty of the governing body to investigate and inquire into the solvency of each and every surety on any personal bond or bonds so filed by such city depository and accepted by the governing body and approved as required by law, at least twice during each and every year such bonds are effective and in force, and for that purpose shall have authority to require each surety to render an itemized and verified financial statement, under oath, showing his true financial condition. If any such statement or statements indicate that any of said sureties have become insolvent, or their net worth depreciated below the amount required by law as such sureties, or if any of the assets listed are shown to be, or are known to be depreciated, or their value in any way impaired, then and in any of such events, the governing body shall require a new bond meeting fully the requirements of this law; and in case of a bond or bonds, the sureties on which are required to own unencumbered and non-exempt real estate as herein provided, such statement shall show each tract of land owned by each surety and the value thereof; and if the statements provided for herein shall indicate that any of such lands have been disposed of, or encumbered, and the value of the remaining unencumbered or non-exempt lands shall not be sufficient to meet the requirements of this law, then the said governing body shall require a new bond meeting fully the requirements of this law. The governing body shall at any time it may deem necessary for the protection of the city, investigate and inquire into the solvency of any surety company or companies issuing a bond or bonds for any depository, and to investigate the value of any of the securities that may be pledged by such depository in lieu of the personal bond; and such governing body may require any such depository, if it deems advisable, to execute a new bond, or to deliver into pledge additional or other securities. If said new bond or securities required by the governing body for any reason, as herein specified, be not filed within five (5) days from the time of the service of a copy of said order upon said depository, the governing body may proceed to the selection of another depository in the same manner as provided for the selection of a depository at the regular time for such selection. Nothing in the law shall in any manner limit, restrict, or prevent the governing body from requiring any depository to execute a new bond, at any time

such governing body may deem it necessary for the protection of the city.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., 1st C.S., p. 16, ch. 9, § 2; Acts 1937, 45th Leg., p. 1298, ch. 484, § 3; Acts 1943, 48th Leg., p. 67, ch. 57, § 1.]

¹ 12 U.S.C.A. § 641 et seq. (repealed).

Art. 2561. Designating Depository, etc.

(a) As soon as said bond shall be given and approved, an order shall be made by the council designating said banking corporation, association, or individual banker, as the depository of the funds of the city until the time fixed by this Act for another selection, and such order shall be entered upon the minutes. It shall be the duty of the city treasurer, immediately upon the making of said order, to transfer to said depository all the funds in his hands belonging to the city, and immediately upon the receipt of the money thereafter, he shall deposit the same with said depository to the credit of the city. If any banking corporation, association, or individual banker, after having been selected as such depository, shall fail to give bond within the time provided by this Act, then the selection of such banking corporation, association, or individual banker, as the depository of the city funds shall be set aside and be null and void, and the governing body shall, after the notice published in the manner hereinbefore provided, proceed to receive new applications and select another depository.

(b) Unless expressly prohibited by law or unless it is in contravention of any depository contract between a city, town, or village and any depository bank, the governing body of a city, town, or village may direct the treasurer of the entity to:

(1) withdraw any amount of funds of the entity that are deposited in a depository and that are not required immediately to pay obligations of the entity or required to be kept on deposit under the terms of the depository contract; and

(2) invest those funds in direct debt securities of the United States.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 3; Acts 1981, 67th Leg., p. 2259, ch. 542, § 2, eff. Aug. 31, 1981.]

Section 3 of the 1981 amendatory act provides:

"This Act does not apply to funds that, on the effective date of this Act, are on deposit in a depository in accordance with Article 2549 or Article 2561, Revised Civil Statutes of Texas, 1925, as they exist immediately before this Act takes effect."

Art. 2562. Warrant and Checks Paid

The city treasurer, upon presentation to him of any warrant drawn by the proper authority, if there shall be enough money in the depository belonging to the fund upon which said warrant is drawn and out of which the same is payable, shall draw his check as city treasurer upon the city depository in favor of the legal holder of said warrant, and to take up said warrant, and charge the same to the fund upon which it is drawn. In no case shall the city treasurer draw any check upon any fund in the

city depository, unless there is sufficient money belonging to the fund upon which said warrant is drawn to pay the same, nor shall said city treasurer draw any check upon any funds deposited with said depository or depositories which are designated as "time deposits" until after notice is duly given and the time has expired, as required in the contract with said depository in designating said funds as "time deposits." No money belonging to the city shall be paid out of the city depository, except upon checks of the city treasurer. All such checks shall be payable by said depository at its place of business in the city. In case any bonds or coupons or other indebtedness of the city are payable, by the terms of such bonds, coupons or other indebtedness, at any particular place other than the city treasury, nothing herein shall prevent the governing body from causing the treasurer to withdraw from the depository and to place at the place where such bonds, coupons or other indebtedness shall be payable at the time of their maturity, a sufficient sum to meet the same.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 3.]

Art. 2563. May Select at Subsequent Meeting

If for any reason no selection of a depository is made at the time fixed by this Act, said governing body may, at any subsequent meeting, after notice published as hereinbefore provided, receive applications and select a depository in the manner herein set out, and the banking corporation, association, or individual banker so selected shall remain the depository until the next regular term for the selection of a depository unless the order selecting it be revoked for the causes specified in this Act. If the governing body shall at any time deem it necessary for the protection of the city, it may by resolution, require the depository to execute a new bond; and upon failure to do so within five (5) days after the service of a copy of the resolution on said depository, said body may proceed to select another depository in the manner hereinbefore provided.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 3.]

Art. 2564. Liability of Treasurer

The City Treasurer shall not be responsible for any loss of the city funds through negligence, failure or wrongful act of such depository, but nothing in this Act shall release said treasurer from responsibility for any loss resulting from any official misconduct on his part nor from responsibility for the said funds at any time, when, for any reason, there shall be no city depository, nor until a depository shall be selected and the funds deposited therein, nor for any misappropriation of such funds in any manner by him.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 3.]

Art. 2565. Restrictions Upon Drawing

No check shall be drawn upon the city depository by the treasurer, except upon a warrant signed by the mayor and attested by the secretary, except where cities are operating under charter provisions that provide for the drawing of checks or warrants on the depository or city funds in a different manner than is herein provided. No warrant shall be drawn by the mayor and secretary upon any of the special funds created for the purpose of paying the bonded indebtedness of said city, in the hands of the City Treasurer, or in the depository, for any purpose whatsoever other than to pay the principal or interest of said indebtedness, or for the purpose of investing said special fund according to law. No City Treasurer shall pay or issue a check to pay any money out of any special fund created for the purpose of paying any bonded indebtedness of said city other than for the purpose of paying interest due on said bonds, the principal of said bonds or for the purpose of making an investment of said funds according to law. The treasurer shall report to the council on or before its first regular meeting in July in each year, the amount of receipts and expenditures of the treasury, the amount of money on hand in each fund, and the amount of bonds falling due for redemption of which provision must be made; also the amount of interest to be paid during the next fiscal year, and such other reports as the existing law requires of him.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 3.]

Art. 2566. Definitions of Terms

All provisions of this Act shall apply to towns and villages incorporated under the General Laws of Texas, as well as to cities so incorporated, and the terms "City Secretary," and "Secretary" shall be construed to include the clerk or secretary of such towns or villages; the term "City Treasurer" shall be construed to include the treasurer of such towns and villages and the term "city" shall be construed to include towns and villages.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 1298, ch. 484, § 3.]

Art. 2566a. Security for Deposits Not Required to Extent Covered by Federal Deposit Insurance

Notwithstanding any provisions of this Act¹ requiring securities for deposits in the form of collateral, surety bond or in any other form, security for such deposits shall not be required to the extent said deposits are insured under the provisions of Section 12b of the Federal Reserve Act as amended, or any amendments thereto.²

[Acts 1937, 45th Leg., p. 1298, ch. 484, § 4.]

¹ Articles 2544 to 2566.
² 12 U.S.C.A. § 1811.

CHAPTER FOUR. SPECIAL DEPOSITORY**Art.**

2567. Selection of Special Depository.

2568. For State Funds.

2569. Selection Optional.

Art. 2567. Selection of Special Depository

When any bank, which is a county, city or district depository of public funds under the laws of this State, suspends business or is taken charge of by the Comptroller of the currency or the Commissioner of Banking, as the case may be, the lawful county, city or district authorities, authorized to select the depository in the first instance, shall have the discretion and authority to select by contract a special depository for the public funds in such suspended bank. Such special depository shall assume the payment of the amount of public funds due by the suspended bank on the date of its suspension, including interest to that date, and shall pay the same to the lawfully designated public authority in accordance with the contract entered into by such special depository. The contract shall be for the performance of the agreement entered into between the proper public authorities designated above, and the special depository, and shall require the payment of the deposit in such installments as may be agreed upon, the last of which shall be paid not exceeding three years from the date of the contract. The installments, or the amount due, may be evidenced in the discretion of the contracting parties by negotiable certificates of deposit or cashier's checks, payable at specified dates, if made a part of the contract. The performance of the contract and the payment of funds described therein shall be secured by bond, or by several bonds in case of installments, to be given by the special depository with the same character of sureties as is required by regular depository bonds. The contracts and bonds of special depositories shall be approved by the authority authorized by law to approve contracts and bonds of regularly selected depositories. The rate of interest which funds placed in a special depository hereunder shall bear shall be fixed by the contract, or such funds may, in the discretion of the contracting parties, be non-interest bearing.

[Acts 1925, S.B. 84.]

Art. 2568. For State Funds

If any State funds are in the county depository which has failed, the amount thereof shall be ascertained by the Comptroller, who shall be authorized in his discretion to enter into a contract for the custody and payment of the same, with the special depository selected by the county authorities in the same manner that the county authorities are herein authorized so to do, and to take and approve contracts and bonds therefor. State funds thus placed in such special depository shall bear the average rate of interest received by the State on State funds

placed with the regularly selected State depositories.

[Acts 1925, S.B. 84.]

Art. 2569. Selection Optional

Nothing in this chapter shall require the State, county, city or district authorities to select any

special depository as herein permitted, but they may proceed by their lawful remedies against the failed bank, if, in their discretion, it is best for the public interest so to do.

[Acts 1925, S.B. 84.]

TITLE 48

DESCENT AND DISTRIBUTION

Arts. 2570 to 2583a. Repealed by Acts 1955, 54th Leg., p. 88, ch. 55, § 434

See, now, Probate Code, §§ 38 to 47.

TITLE 49

EDUCATION—PUBLIC

All the general and permanent laws formerly encompassed in this Title 49 were repealed with the enactment of the Education Code in 1969, 1971 and 1973.

For disposition of the subject matter of the repealed articles of this Title, see the Disposition Table preceding the Education Code.

For table of special laws classified to this Title 49, that were neither repealed by, nor incorporated into, the Education Code, see the Special Laws Table following the Education Code.

TITLE 50

ELECTIONS [REPEALED]

Arts. 2923 to 3173. Repealed by Acts 1951, 52nd Leg., p. 1097, ch. 492, § 2

See, now, the Election Code.

TITLE 51

ELEEMOSYNARY INSTITUTIONS

Chapter	Article
1. General Provisions	3174
2. State Hospitals	3184
3. Other Institutions	3202

CHAPTER ONE. GENERAL PROVISIONS

Art.	Management.
3174.	Institutions to be Known as Texas State Hospitals and Special Schools.
3174b.	Board for Texas State Hospitals and Special Schools.
3174b-1.	Repealed.
3174b-2.	Medical Treatment and Services, Power to Provide Without Consent of Relatives, etc.
3174b-3.	Occupational Therapy Programs; Equipment and Materials; Sale of Goods.
3174b-4.	Outpatient Clinics; Mental Hospital; Community Hospital for Research and Education in Mental Illness.
3174b-5.	Contracts for Medical Care and Treatment.
3174b-6.	Conveyance of Waterworks and Sanitary Sewer System to Smith County Water Control and Improvement District No. 1.
3174b-7.	Easements and Rights-of-Way on Lands of Institutions.
3174c.	Refund of Moneys by Board for Texas State Hospitals and Special Schools.
3175.	Duties of Superintendent.
3176.	Powers of Superintendent.
3177.	Functions and Duties of Superintendent.
3178.	Reports.
3179.	Funds.
3179a.	Refunds of Excess Funds Received as Support Payments.
3180.	Duty of Treasurer.
3181.	Interest in Contracts.
3182.	Disbursements.
3183.	Support and Maintenance.
3183a.	Repealed.
3183b.	Eminent Domain Exercised by Charitable and Eleemosynary Corporations.
3183b-1.	Eminent Domain by Certain Nonprofit Charitable Corporations.
3183c.	Money and Property of Inmates.
3183d.	Repealed.
3183e.	Contracts with Public Schools for Education of Inmates.
3183f.	Habeas Corpus to Secure Release of Inmates Having Contagious Disease; Return.
3183g.	Standards of Physical Safety to Assure Adequate Medical, Psychiatric and Rehabilitative Care at State Tuberculosis and Mental Hospitals and Schools for the Retarded.

Art. 3174. Management

Each eleemosynary institution¹ established by law shall be managed and controlled in accordance

with the provisions of this title. The general control, management and direction of the affairs, property and business of such institutions is vested in the State Board of Control.

[Acts 1925, S.B. 84.]

¹ Redesignated Texas State Hospitals and Special Schools. See arts. 3174a and 3174b and notes thereunder.

Management and Control

Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, which abolished the Board for Texas State Hospitals and Special Schools and which created the Texas Department of Mental Health and Mental Retardation, gave to the Department of Mental Health and Mental Retardation exclusive control and management of certain Texas State Hospitals and Special Schools. See article 5547-202, § 2.16.

Art. 3174a. Institutions to be Known as Texas State Hospitals and Special Schools

Sec. 1. From and after passage of this Act, the name "Eleemosynary Institutions" under which the Austin State Hospital, Abilene State Hospital,¹ Big Spring State Hospital, Rusk State Hospital, San Antonio State Hospital, Terrell State Hospital, Wichita Falls State Hospital, Austin State School, Austin State School Farm Colony,² Mexia State School and Home, State Orphans Home,³ Waco State Home,⁴ Texas School for the Deaf, Texas School for the Blind, Texas Deaf Blind and Orphan School,⁵ Confederate Home for Men,⁶ Confederate Woman's Home, East Texas Tuberculosis Sanatorium, Weaver H. Baker Memorial Tuberculosis Sanatorium, Kerrville State Sanatorium,⁷ State Tuberculosis Sanatorium,⁸ Gainesville State School for Girls, Gatesville State School for Boys, Brady State School, Alabama-Coushatti Indian Agency⁹ and the State Dairy and Hog Farm operate and have been entitled is hereby changed and the general name of said institutions shall hereafter be known and designated as the "Texas State Hospitals and Special Schools."

Sec. 2. Wherever the name "Eleemosynary Institutions" or any reference thereto appears in the Legislative Statutes of Texas of 1925, or in any amendment thereto or in any Acts of any Legislature passed since adoption of said Revised Statutes, such name and such reference shall hereafter mean and apply to the "Texas State Hospitals and Special

Schools" in order to conform to the new name of said institutions as provided in Section 1 hereof.

Sec. 3. All Legislative Acts and appropriations heretofore passed either in or by reference to the Eleemosynary Institutions are hereby in all things ratified and confirmed in behalf of the Texas State Hospitals and Special Schools.

[Acts 1949, 51st Leg., p. 324, ch. 157.]

¹ Name of Abilene State Hospital changed to Abilene State School. See art. 3232b, § 1.

² Name of State School Farm Colony, Austin, Texas changed to Travis State School. See Acts 1961, 57th Leg., p. 280, ch. 153, § 1.

³ Name changed to Corsicana State Home. See Acts 1957, 55th Leg., p. 660, ch. 281.

⁴ Waco State Home, transfer of management, government and control to State Department of Public Welfare. See art. 3255b.

⁵ Name of Texas Blind, Deaf and Orphan School changed to Texas School for the Deaf. See art. 3221c, § 2.

⁶ Name of Texas Confederate Home for Men changed to Austin State Hospital Annex. See art. 3213a, § 1.

⁷ Name of Kerrville State Home, Kerrville, Texas changed to Kerrville State Hospital. See Acts 1959, 56th Leg., p. 112, ch. 60, § 1.

⁸ Name of State Tuberculosis Sanatorium changed to McKnight State Sanatorium. See art. 3238b.

⁹ Alabama-Coushatti Indian Reservation, management and control changed to Commission for Indian Affairs. See art. 5421z.

Art. 3174b. Board for Texas State Hospitals and Special Schools

Creation of Board; Members

Sec. 1. There is hereby created the Board for Texas State Hospitals and Special Schools, which shall be composed of nine (9) members to be appointed by the Governor with the advice and consent of the Senate of Texas, such appointments to be made biennially on or before February 15th. Not more than three (3) medical doctors may be members of this Board. Each member of said Board shall be a State Officer within the meaning of the Constitution and before entering upon the discharge of his duties shall take the Constitutional oath of office. The term of office of each member shall be six (6) years, except that in making the first appointments the Governor shall appoint three (3) members for a term of two (2) years each, three (3) members for a term of four (4) years each, and three (3) members for a term of six (6) years each, so that the terms of three (3) members shall expire every two (2) years. Vacancies occurring in the Board shall be filled by appointment of the Governor for the unexpired term.

Organization; Transfer of Power and Duties

Sec. 2. Upon the effective date of this Act, the Governor shall appoint the Board provided in this Act and the Board shall proceed to organize as required by Section 5 of this Act and employ the Executive Director and such other personnel necessary to carry out the provisions of this Act. Effective September 1, 1949, the control and management of, and all rights, privileges, powers, and duties incident thereto including building, design and construction of the Texas State Hospitals and Special

Schools which are now vested in and exercised by the State Board of Control shall be transferred to, vested in, and exercised by the Board for Texas State Hospitals and Special Schools. Provided, however, that the Board of Control shall continue to handle purchases for such institutions in the same manner as they do for other State agencies.

Institutions Included

Sec. 3. The term "Texas State Hospitals and Special Schools" as used in this Act shall mean The Austin State Hospital, Austin State School, Austin State School Farm Colony¹, The Confederate Home for Women, The Texas Confederate Home for Men², The Texas Blind, Deaf and Orphan School³, The Texas School for the Blind, The Texas School for the Deaf, and the State Dairy and Hog Farm, all located in or adjacent to the City of Austin, Texas, The Abilene State Hospital, Abilene Texas⁴, The Big Spring State Hospital, Big Spring, Texas, The Rusk State Hospital, Rusk, Texas, The San Antonio State Hospital, San Antonio, Texas, The Terrell State Hospital, Terrell, Texas, The Wichita Falls State Hospital, Wichita Falls, Texas, The State Tuberculosis Sanatorium⁵, Sanatorium, Texas, The Kerrville State Sanatorium⁶, Kerrville, Texas, The East Texas Tuberculosis Sanatorium, Tyler, Texas, The Weaver H. Baker Tuberculosis Sanatorium, Mission, Texas, The Mexia State School and Home, Mexia, Texas, The Alabama Coushatti Indian Reservation, Livingston, Texas⁷, The Waco State Home⁸, Waco, Texas, The State Orphans Home, Corsicana, Texas⁹, The School for the Cerebral Palsied and all other institutions heretofore or hereafter referred to as "eleemosynary institutions" or "hospitals and special schools" except the Gatesville State School for Boys, Gatesville, Texas, Gainesville State School for Girls, Gainesville, Texas, and Brady State School for Negro Girls, Brady, Texas.

¹ Name of Austin State School Farm Colony changed to Travis State School. Acts 1961, 57th Leg., p. 280, ch. 153, § 1.

² Name of Texas Confederate Home for Men changed to Austin State Hospital. See art. 3213a, § 1.

³ Name of Texas Blind, Deaf and Orphan School changed to Texas School for the Deaf. See art. 3221c, § 2.

⁴ Name of Abilene State Hospital changed to Abilene State School. See art. 3232b, § 1.

⁵ Name of State Tuberculosis Sanatorium changed to McKnight State Sanatorium. See art. 3238b.

⁶ Name of Kerrville State Home, Kerrville, Texas changed to Kerrville State Hospital. Acts 1959, 56th Leg., p. 112, ch. 60, § 1.

⁷ Alabama-Coushatti Indian Reservation, management and control changed to Commission for Indian Affairs. See art. 5421z.

⁸ Waco State Home, transfer of management, government and control to State Department of Public welfare. See art. 3255b.

⁹ Name changed to Corsicana State Home. See Acts 1957, 55th Leg., p. 660, ch. 281.

Per Diem and Expenses; Meetings

Sec. 4. Each member of the Board for Texas State Hospitals and Special Schools shall be entitled to a per diem of Ten Dollars (\$10) per day and actual and necessary expenses when engaged in the discharge of his official duties. Said Board shall hold a regular meeting on the second Monday in

January, March, May, July, September and November of each year for the transaction of any and all official business. Special meetings may be called by the Chairman. Five (5) members of the Board shall constitute a quorum for the transaction of business at any meeting thereof. All meetings shall be open to the public and the Board shall keep a complete record of all its proceedings.

Officers and Personnel; Rules and Regulations

Sec. 5. The Board shall organize by the election of a Chairman and a Vice-Chairman from its membership, and shall organize the work of said Board as may seem proper. The Board shall have the authority to promulgate such rules and regulations as it deems proper for the efficient administration of this Act. The Board shall have the authority to employ such personnel as may be necessary for the discharge of its duties. The Board shall employ an Executive Director of the Texas State Hospitals and Special Schools named herein under said Board. The Executive Director shall receive a salary of not to exceed Ten Thousand Dollars (\$10,000) per annum and shall possess qualifications and training which suit him to manage the affairs of a modern system of State Hospitals and Special Schools, and it shall be his duty to carry out the policies of the Board in the management and control of the institutions under said Board. The Executive Director shall give bond in the sum of Fifty Thousand Dollars (\$50,000) payable to the State of Texas conditioned upon the faithful performance of his duties.

Acquiring Property for Tuberculosis Sanatoriums

Sec. 8. The Board for Texas State Hospitals and Special Schools is hereby authorized to negotiate for and to acquire from the United State Government, or any agency thereof, or from any source whatsoever, by gift, purchase, or leasehold, for and on behalf of the State of Texas, for use in the State service, and in the establishment of State tuberculosis hospitals, any lands, buildings, and facilities within the State of Texas, and any personal properties wherever located, and to take title thereto for and in the name of the State of Texas.

Transfer of Personal Property

Sec. 9. All personal property now in use by the Board of Control for the administration of any of the institutions named herein is hereby transferred to the Board for Texas State Hospitals and Special Schools.

Institutional Business Managers

Sec. 10. The Superintendent of any institution named herein with the approval of the Executive Director may appoint a business manager who shall receive a salary not to exceed Six Thousand Dollars (\$6,000) per year and who shall receive the same emoluments as the Superintendent. The business manager shall manage the fiscal affairs of the institution, handle all maintenance matters, be re-

sponsible for the efficient operation of all auxiliary enterprises, and prepare and submit to the Executive Director the estimate of needed appropriations each biennium. He may have such other duties and powers as the Board for Texas State Hospitals and Special Schools may by rule and regulation prescribe. He shall give bond in the sum of Twenty-five Thousand Dollars (\$25,000) payable to the State of Texas conditioned upon the faithful performance of his duties. His signature and the approval of the State Board of Control on any account against the appropriated funds of the institutions named herein shall authorize the Comptroller to draw his warrant against the State Treasurer in payment, provided, however, the Board of Control approval shall not be required on accounts other than those arising from the purchase of merchandise.

Partial Invalidity

Sec. 12. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such invalid part or parts thereof would be so declared unconstitutional.

[Acts 1949, 51st Leg., p. 588, ch. 316. Amended by Acts 1959, 56th Leg., p. 379, ch. 181, § 21, eff. Aug. 11, 1959.]

Abolition

Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204 creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive control and management of certain state hospitals and schools, abolished, in section 2 thereof, the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.

Art. 3174b-1. Repealed by Acts 1957, 55th Leg., p. 505, ch. 243, § 103, eff. Jan. 1, 1958

Art. 3174b-2. Medical Treatment and Services, Power to Provide Without Consent of Relatives, etc.

Sec. 1. The Texas Department of Mental Health and Mental Retardation, directly or through its authorized agent or agents, shall provide or perform recognized medical treatment or services to persons admitted or committed to its care. Where the consent of any person or guardian is considered necessary, and is requested, and such person or guardian shall fail to immediately reply thereto, the performance or provision for the treatment or services shall be ordered by the superintendent upon the advice and consent of three (3) physicians licensed by the Texas State Board of Medical Examiners, at least one of whom must principally be engaged in the private practice of medicine. Where there is no guardian or responsible relative to whom request

can be made, treatment and operation shall be performed on the advice and consent of three (3) physicians licensed by the Texas State Board of Medical Examiners. This authority shall not allow the performance of any operation involving sexual sterilization or frontal lobotomies.

Sec. 2. The Texas Department of Mental Health and Mental Retardation, directly or through its authorized agent or agents, also shall provide or perform recognized dental treatment or services to persons admitted or committed to its care. Where the consent of any person or guardian is considered necessary, and is requested, and such person or guardian shall fail to immediately reply thereto, the performance or provision for the treatment or services shall be ordered by the superintendent upon the advice and consent of one dentist licensed by the State Board of Dental Examiners and two physicians licensed by the Texas State Board of Medical Examiners, at least one of whom must principally be engaged in the private practice of medicine. Where there is no guardian or responsible relative to whom request can be made, treatment and services shall be performed on the advice and consent of one dentist licensed by the State Board of Dental Examiners and two physicians licensed by the Texas State Board of Medical Examiners.

[Acts 1955, 54th Leg., p. 86, ch. 54, § 1, eff. Sept. 6, 1955. Amended by Acts 1981, 67th Leg., p. 665, ch. 257, § 1, eff. May 29, 1981.]

Art. 3174b-3. Occupational Therapy Programs; Equipment and Materials; Sale of Goods

Sec. 1. The Board for Texas State Hospitals and Special Schools may furnish equipment, materials, and merchandise at any institution under the control and management of said Board for occupational therapy programs. The finished goods and products produced in these programs may be sold, and the proceeds thereof may be placed in the patients' benefit fund, patients' trust fund, or a revolving fund for their further use; or the patient may purchase from the state the material to be used and keep the finished product.

Sec. 2. Pursuant to such rules and regulations as the Board shall make, the superintendents of the institutions under the control and management of said Board may enter into agreements with private individuals, persons or corporations whereby such private individuals, persons or corporations may furnish equipment, materials, and merchandise for occupational therapy programs. Such agreements, when the finished or semi-finished goods and products produced in these programs remain the property of the private individuals, persons or corporations, shall provide for the payment to the institution of a fair and reasonable rental for the use of institutional buildings and premises and equipment based upon the amount of time such buildings and premises and equipment or parts thereof are used for such activities.

Sec. 3. The Board is authorized to accept donations in money or materials to be used in these programs and may use and expend the donations in the manner requested by the donor, if not contrary to the policy of the Board for Texas State Hospitals and Special Schools.

[Acts 1955, 54th Leg., p. 1183, ch. 462, § 1. Amended by Acts 1965, 59th Leg., p. 238, ch. 104, § 1, eff. Aug. 30, 1965.]

Art. 3174b-4. Outpatient Clinics; Mental Hospital; Community Hospital for Research and Education in Mental Illness

Statement of Purposes and Public Policies

Sec. 1. It is the sense of the Legislature that the Board for Texas State Hospitals and Special Schools be authorized to establish such outpatient clinics for treating the mentally ill as such Board deems necessary and as funds for their operation are made available; and that a total mental health program be established in a given area of this State which shall consist of the following: (1) An area or community hospital of approximately sixty (60) beds to be used for treating the mentally ill and for research, training, and education in treating mental illness and an outpatient clinic which may be operated in conjunction with the community hospital; the outpatient clinics to be authorized and the community hospital and clinic to be provided for in this Act; and (2) A separate larger mental hospital of approximately five hundred (500) beds.

Authorization for Outpatient Clinics

Sec. 2. The Board for Texas State Hospitals and Special Schools is authorized to establish outpatient clinics for treatment of the mentally ill in such locations as deemed necessary by said Board and as money for their operation shall be made available. The Board shall acquire facilities, provide a staff, make rules and regulations, and make contracts with persons, corporations, and agencies of local, State, and Federal governments as shall be necessary for the establishment and operation of said clinics.

Establishment of Community or Research Hospital

Sec. 3. There shall be constructed, established, and maintained an area or community hospital of approximately sixty (60) beds to be used in treating the mentally ill and for research, training, and education in mental illness and an outpatient clinic which may be operated in conjunction with the community hospital. Such hospital and clinic shall be located within a city where a recognized medical center is located and operating. The Board for Texas State Hospitals and Special Schools shall designate the city and select a site or sites therein for the location of said community hospital and outpatient clinic. Such site or sites shall be accessible and convenient to the local medical center and shall contain sufficient land served by adequate

utilities to meet the requirements of said hospital and outpatient clinic. Said Board shall take title to the land or lands so selected by them in the name of the State of Texas for the use and benefit of said hospital and clinic; provided, that the Attorney General's Department shall first approve the title to the land or lands so selected by the Board.

Location and Construction of Mental Hospital

Sec. 4. The Board for Texas State Hospitals and Special Schools shall select the site for said mental hospital, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants and available medical facilities, and the same shall contain sufficient land and have utilities readily available. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said hospital; provided, however, that the Attorney General's Department shall first approve the title to the land so selected by the Board. There shall be constructed upon said grounds so selected permanent, suitable, substantial, and fireproof buildings sufficient in all respects to be used for the treatment of the mentally ill; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation, and sewage.

Preparation of Plans

Sec. 5. The Board for Texas State Hospitals and Special Schools shall proceed, within the limits of legislative appropriation of funds, to prepare plans and specifications for said buildings; and said Board is authorized to make contracts with such persons, corporations, or agencies of State, local, and Federal governments, and to accept gifts or grants of land as said Board deems proper and necessary to effect the purposes of this Act within the limits of appropriations authorized therefor.

Personnel; Patients

Sec. 6. Upon the completion of the buildings and facilities for either or both of said research hospital or the larger separate mental hospital, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such hospital and clinic and to adequately treat such patients as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit patients to the area or community hospital and shall provide for their care and maintenance under the same applicable laws, rules and regulations as govern the admission and care of mentally ill persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally ill. The outpatient clinic shall be operated under such rules and regulations as the Board may promulgate.

The Board for Texas State Hospitals and Special Schools is hereby authorized, in its discretion, to

operate and maintain such hospital and clinic as a part of such other hospital as may be constructed or operated by the Board.

Appropriation

Sec. 7. There is hereby appropriated to the Board for Texas State Hospitals and Special Schools such Federal funds as the United States Government may grant for the construction of such buildings, and such other funds as may be given or granted by any State agency, foundation, estate, or individual, and said Board is authorized and directed to obtain and expend such funds as may become available for the programs and facilities authorized by this Act.

Contracts

Sec. 8. In carrying out the research authorized by this Act, the Board or such Board's successor in function may contract with any public or private agency as it deems necessary for such purposes. [Acts 1957, 55th Leg., p. 1280, ch. 427. Amended by Acts 1961, 57th Leg., p. 626, ch. 293, § 1; Acts 1963, 58th Leg., p. 336, ch. 128, § 1; Acts 1965, 59th Leg., p. 624, ch. 309, § 1, eff. June 1, 1965.]

Art. 3174b-5. Contracts for Medical Care and Treatment

Sec. 1. The Board for Texas State Hospitals and Special Schools may contract for the support, maintenance, care and treatment of mentally ill and tubercular patients committed to its jurisdiction or for whom the Board is legally responsible. Such contracts may be made between the Board and city, county, and state hospitals, private physicians, licensed nursing homes and hospitals and hospital districts.

Sec. 2. Authority to contract provided herein shall be cumulative of all other contractual rights of the Board for Texas State Hospitals and Special Schools. Provided such contracts shall not include the assignment of any lien accruing to the State.

[Acts 1961, 57th Leg., p. 464, ch. 231, eff. May 25, 1961. Amended by Acts 1963, 58th Leg., p. 63, ch. 43, § 1, eff. Aug. 23, 1963.]

Art. 3174b-6. Conveyance of Waterworks and Sanitary Sewer System to Smith County Water Control and Improvement District No. 1.

Sec. 1. The Board for Texas State Hospitals and Special Schools, joined by or with the consent of the United States of America acting by and through the department or agency thereof duly authorized to act therefor, is hereby authorized and empowered to convey to Smith County Water Control and Improvement District No. 1 (Owentown), a political subdivision of the state duly created and acting under the laws of Texas, the waterworks and sanitary sewer system, together with the land and easements on which same is situated, located in Smith County, Texas, and now serving East Texas Tuber-

culosis Hospital, Tyler, Texas, which waterworks and sanitary sewer system was heretofore conditionally conveyed to the State of Texas by the United States of America by an instrument of conveyance dated July 28, 1948. The Executive Director of the Board for Texas State Hospitals and Special Schools may execute and deliver on behalf of said Board a proper instrument or instruments necessary to effect this conveyance.

Sec. 2. The consideration for the conveyance of said waterworks and sanitary sewer system shall be the agreement of the Smith County Water Control and Improvement District No. 1 (Owentown) to operate, maintain and keep said water works and sanitary sewer system in such manner as will assure an adequate water and sewer service to the East Texas Tuberculosis Hospital at rates and charges to be agreed upon between the Board for Texas State Hospitals and Special Schools and the Board of Directors of the Smith County Water Control and Improvement District No. 1 (Owentown).

[Acts 1961, 57th Leg., 1st C.S., p. 33, ch. 11, eff. Aug. 11, 1961.]

Art. 3174b-7. Easements and Rights-of-Way on Lands of Institutions

The Board for Texas State Hospitals and Special Schools or such Board's successor in function is hereby authorized and empowered to grant permanent and temporary easements and rights-of-way over and on lands of institutions under the control and management of such Board as shall be necessary to insure the efficient and expeditious construction, improvement, renovation, use and operation of such institutions.

[Acts 1965, 59th Leg., p. 562, ch. 285, § 1, eff. Aug. 30, 1965.]

Art. 3174c. Refund of Moneys by Board for Texas State Hospitals and Special Schools

Sec. 1. The Board for Texas State Hospitals and Special Schools is hereby authorized to refund any moneys collected by or paid to the state and to which it was not legally entitled, and to refund any moneys which may be paid to the state by mistake of fact or law or under duress.

Sec. 2. The Board for Texas State Hospitals and Special Schools is hereby authorized to refund any unexpended portions of payments received for the care, treatment, custody or education of any patient or student admitted to any hospital, special school, or other institution under their respective jurisdictions.

Sec. 3. The Legislature may, through its biennial Appropriation Acts for the general support and maintenance of the state government or through any special Appropriation Act, provide moneys from

which the refunds authorized by this Act may be paid.

[Acts 1959, 56th Leg., p. 837, ch. 376, eff. Aug. 11, 1959.]

Art. 3175. Duties of Superintendent

Each superintendent shall: 1. Receive and discharge patients and pupils, superintend repairs and improvements, and see that all moneys intrusted to him are judiciously and economically expended. He shall keep an accurate and detailed account of all moneys received and expended by him, specifying the sources from which they were received, and to whom an on what account paid out.

2. Keep a register of all patients and pupils received and discharged and a full record of all operations of the institution.

3. On November 1st, of each year, submit to the Board an inventory of all the personal property belonging to the asylum, in which the estimated value shall be set opposite each article.

[Acts. 1925, S.B. 84.]

Art. 3176. Powers of Superintendent

The Superintendent shall be the administrative head of the institution to which he is appointed. He shall have the following powers:

1. To establish such rules and regulations for the government of the institution in his charge, as he deems will best promote the interest and welfare of its inmates.

2. Where not otherwise provided by law, to appoint the subordinate officers, teachers, attendants, and other employes, and to fix their salaries.

3. To remove for good cause, with the consent of the Board, any officer, teacher or employe.

4. The care and custody of the buildings, grounds, furniture, and other property pertaining to the institution.

[Acts 1925, S.B. 84.]

Art. 3177. Functions and Duties of Superintendent

The business manager of each State hospital and/or special school, under the control and management of the Board for Texas State Hospitals and Special Schools, shall be the chief disbursing officer of the institution. He shall be directly responsible to the superintendent of the institution. Each superintendent shall admit the Executive Director and members of the Board into every part of the institution and exhibit to them, at their request, all books, papers, and accounts of the institution pertaining to its business, management, discipline, and government and shall furnish the Executive Director and the Board with copies, abstracts, and reports as they may require.

[Acts 1925, S.B. 84. Amended by Acts 1951, 52nd Leg., p. 588, ch. 344, § 1.]

Art. 3178. Reports

On January 1st, and July 1st, of each year, the superintendent of each institution shall report to the Governor and to the Board of Control, a full sworn statement of all moneys and choses of action received by such superintendent and how disbursed or otherwise disposed of. Such report shall show in detail the operations of the institution for the term, accompanied with such suggestions and recommendations as the superintendent may deem important to the well-being of the institution, the number of employes and the salaries of each, the number of inmates received and discharged and the number still in said institution. The report shall state the general condition of the inmates, and contain an estimate of the appropriations needed for maintenance.

[Acts 1925, S.B. 84.]

Art. 3179. Funds

All funds of every character received by or belonging to the institutions, other than money appropriated for their support from time to time by the Legislature, shall as soon as received, be paid over to the State Treasurer by the Board, superintendent or other person receiving them. The Treasurer shall place such sums to the credit of the general revenue fund.

[Acts 1925, S.B. 84.]

Art. 3179a. Refunds of Excess Funds Received as Support Payments

Sec. 1. Each of the institutions under the control and management of the Board for Texas State Hospitals and Special Schools, and The Texas Youth Commission are authorized to make refunds of excess funds received by them as payment for support, maintenance, and treatment of patients or students admitted or committed to their jurisdiction when such patients or students die, escape, or are discharged. They may also refund all excess funds deducted from employees' salaries for the payment of food, lodging, and laundry when such employee dies or terminates his employment.

Sec. 2. All moneys received by any of the institutions under the control and management of the Board for Texas State Hospitals and Special Schools and The Texas Youth Commission shall be deposited in a local bank approved by the respective governing Boards. Unless otherwise specifically authorized by law, the head of the institution shall transmit such moneys as are deposited in such local bank, less authorized refunds and expenses, to the State Treasurer within seven (7) days after said moneys are deposited in such bank.

[Acts 1959, 56th Leg., p. 1062, ch. 485, eff. June 1, 1959. Amended by Acts 1983, 68th Leg., p. 183, ch. 44, art. IV, § 1, eff. April 26, 1983.]

Art. 3180. Duty of Treasurer

The State Treasurer shall keep an exact account of the moneys received by him belonging to the institutions, from what source received, and to whom paid out and on what account. To each annual report that he may be required by law to make to the Governor or to the Legislature, he shall append a full report of such account showing the receipts and expenditures thereof for the year for which such report is made.

[Acts 1925, S.B. 84.]

Art. 3181. Interest in Contracts

No member of the Board of Control, superintendent or other person connected with the asylums shall sell or be in any way concerned in the sale of any merchandise, supplies or other articles to the asylums, or have any interest in any contract therewith.

[Acts 1925, S.B. 84.]

Art. 3182. Disbursements

The appropriations made from time to time by the Legislature for the maintenance of the asylums shall remain on deposit in the State Treasury and be paid out as are other public funds upon the warrant of the Comptroller. The Comptroller shall not draw his warrant upon the Treasurer unless the account upon which such warrant is drawn is certified as just and correct by the superintendent and is approved by the Board.

[Acts 1925, S.B. 84.]

Art. 3183. Support and Maintenance

The Legislature from time to time shall make suitable provision in the general appropriation bill or otherwise for the proper support and maintenance of each asylum and eleemosynary institution of this State.

[Acts 1925, S.B. 84.]

Art. 3183a. Repealed by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(4), eff. Sept. 1, 1977

Acts 1977, 65th Leg., ch. 871, repealing this article, enacts the Natural Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Natural Resources Code.

Art. 3183b. Eminent Domain Exercised by Charitable and Eleemosynary Corporations

That any Charitable or Eleemosynary Institution incorporated under the laws of the State of Texas, shall have the right of eminent domain and condemnation within the confines of any incorporated city in this State having more than 43,000 inhabitants according to the United States Census of 1920, which city is in a county having a population of less than 100,000 inhabitants according to said Census; such Charitable or Eleemosynary Corporation shall have

the right to eminent domain with all rights and powers as fully as are conferred by Law upon steam railway corporations, which power of domain shall be exercised in accordance with the provisions of Title 52, Revised Statutes of Texas of 1925. [Acts 1931, 42nd Leg., Spec.Laws, p. 132, ch. 52, § 1.]

Art. 3183b-1. Eminent Domain by Certain Non-profit Charitable Corporations

Nonprofit Charitable Corporation Affiliated with Medical Center having Medical School in County of Over 600,000 Population

Sec. 1. Any nonprofit corporation incorporated under the laws of this state for purely charitable purposes and which is directly affiliated or associated with a medical center having a medical school recognized by the Council on Medical Education and Hospitals of the American Medical Association as an integral part of its establishment, and which has for a purpose of its incorporation the provision or support of medical facilities or services for the use and benefit of the public, and which is situated in any county of this state having a population in excess of six hundred thousand (600,000) inhabitants according to the most recent Federal Census shall have the power of eminent domain and condemnation for the purposes set forth in Section 2 and Section 3 of this Act.

Acquisition of Lands Adjacent to Medical Center for Construction, Maintenance and Operation of Facilities

Sec. 2. Any charitable corporation as defined in Section 1 of this Act shall have the power of eminent domain and condemnation for the purpose of acquiring lands adjacent or contiguous (whether or not separated by public thoroughfares) to such medical center upon which are to be constructed, maintained, and operated as a part of the medical center, facilities dedicated to medical care, teaching, and research for the public welfare, including ancillary or service activities generally and customarily recognized as essential to such facilities in a medical center.

Acquisition of Lands Adjacent to Medical Center for Purpose of Conveying or Leasing; Use of Lands

Sec. 3. Any charitable corporation as defined in Section 1 of this Act shall have the power of eminent domain and condemnation for the purpose of acquiring lands adjacent or contiguous (whether or not separated by public thoroughfares) to such medical center for the purpose of conveying or leasing such lands in the manner set forth in Section 4 of this Act to any nonprofit corporation, association, foundation or trust for the construction, maintenance, and operation of facilities to be a part of the medical center and dedicated to medical care, teaching, or research for the public welfare, including ancillary or service activities generally and customarily recognized as essential to such facilities in a medical center.

Authority and Power to Control Property Acquired; Deeds of Conveyance or Lease

Sec. 4. Any charitable corporation as defined in Section 1 of this Act in the exercise of the power of eminent domain conferred herein shall have full authority and power to control the property acquired for the purposes authorized herein, and shall have the authority to convey such property or to lease the same for a period of ninety-nine (99) years with an option to renew. Any deed of conveyance or lease as provided in Section 3 of this Act shall set forth the defeasance of conditions under which the property is conveyed or leased and the fact that it is dedicated to medical care, teaching, or research for the public welfare.

Reversion of Title to Original Owner

Sec. 5. It is expressly provided that if any property acquired under authority of this Act is not used for the purpose of medical care, teaching, or research or essential ancillary and service activities, but use for such purposes is abandoned, title to the property shall revert to the original owner from whom such property was acquired by condemnation pursuant to this Act, or to his heirs, devisees, or assigns.

Procedures and Conditions

Sec. 6. The power of eminent domain granted by this Act shall be in accordance with the procedure, conditions, and provisions as prescribed in Title 52, Revised Civil Statutes of Texas, 1925, as amended. [Acts 1959, 56th Leg., p. 367, ch. 178, eff. Aug. 11, 1959.]

Art. 3183c. Money and Property of Inmates

Sec. 1. The superintendent of any State institution under the jurisdiction of the Board for Texas State Hospitals and Special Schools may deposit any funds of inmates in his possession in any bank in the State, or in bonds or obligations of the United States of America or for the payment of which the faith and credit of the United States are pledged, and for the purposes of deposit or investment only, may mingle the funds of any inmate with the funds of other inmates. The superintendent may deposit the interest or increment accruing on such funds in a special fund, to be designated the "Benefit Fund," of which he shall be the trustee. He may expend the moneys in any such fund for the education or entertainment of the inmates of the institution, or for the actual expense of maintaining the fund at the institution.

Sec. 2. For the purposes of this Act the superintendent of each institution shall act as custodian of the inmates' personal funds on deposit with each particular institution. The business manager shall maintain records at all times of the amount of funds on deposit for each inmate. All disbursements of personal funds and all disbursements out of the "Benefit Fund" shall be made upon the joint signature of the superintendent and business manager.

Sec. 3. Whenever any person confined in any State institution subject to the jurisdiction of the Board for Texas State Hospitals and Special Schools dies, escapes, or is discharged or paroled from such institution, and any personal funds or property of such person remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative, the superintendent shall hold and dispose of such funds or property as follows: (a) Funds: The superintendent shall hold the funds in the patients' personal deposit fund for a period of three (3) years. If, at the end of three (3) years, no demand has been made for the funds, the superintendent shall turn the said funds over to the State Treasurer. The State Treasurer shall hold the funds for a period of five (5) years and if, at the end of that five (5) year period, the funds have not been demanded by the owner or a legal representative, then the funds shall escheat to the State and shall become a part of the General Fund. (b) Miscellaneous Personal Property: The superintendent shall hold all other miscellaneous personal property for a period of three (3) years. At the end of that time, if there has been no demand by the owner of the property or his legal representative, the superintendent shall file with the county clerk of the county of commitment of said owner, all deeds, wills, contracts or assignments. The balance of the personal property shall be sold at auction and the funds turned over to the State Treasurer to be disposed of in the same manner as cash funds under the provisions above. If some of the property is not of a type to be filed with the county clerk and is not salable at public auction, then the superintendent of the hospital shall hold the same for a period of one more year and if at the expiration of that time no demand has been made by the owner or his legal representative, the property shall be destroyed. Before any funds are turned over to the State Treasurer, under subdivision (a), and before any papers are filed with the county clerk, and before any personal property is sold at auction or disposed of under subdivision (b) of this Section, notice of said intended disposition shall be posted at least ten (10) days prior to the disposition, in a public place at the institution where the disposition is to be made. A copy of such notice shall be mailed to the last known address of the owner of the property at least ten (10) days prior to the disposition of the property.

[Acts 1951, 52nd Leg., p. 393, ch. 251.]

Art. 3183d. Repealed by Acts 1959, 56th Leg., p. 379, ch. 181, § 28, eff. Aug. 11, 1959

Art. 3183e. Contracts with Public Schools for Education of Inmates

Sec. 1. The Board for Texas State Hospitals and Special Schools may negotiate an enter into contracts with public schools in counties where Special Schools are located to accept and educate inmates of the Special Schools in the public schools. The

Board is authorized to pay tuition to the public schools out of any appropriated funds it has available.

Sec. 2. Children admitted or committed to the Special Schools may be placed in public schools by the superintendent, and the Special School may pay a reasonable rate for the tuition of such children.

[Acts 1954, 53rd Leg., 1st C.S., p. 64, ch. 25, eff. April 22, 1954.]

Art. 3183f. Habeas Corpus to Secure Release of Inmates Having Contagious Disease; Return

All writs of habeas corpus filed to secure the release of persons who have contagious diseases from State Hospitals and Special Schools shall be returnable to the appropriate court in the county where the hospital in which the person is confined is located.

[Acts 1961, 57th Leg., p. 921, ch. 406, § 1, eff. June 17, 1961.]

Art. 3183g. Standards of Physical Safety to Assure Adequate Medical, Psychiatric and Rehabilitative Care at State Tuberculosis and Mental Hospitals and Schools for the Retarded

Sec. 1. On and after the effective date of this Act, the Texas State Department of Health shall by rule and regulation set standards as to the physical safety of buildings and adequacy of staff, in number and quality, necessary to assure a continuous plan of adequate medical, psychiatric, nursing and social work services to patients cared for in State tuberculosis hospitals, State mental hospitals and State schools for the retarded.

Sec. 2. The Texas State Department of Health shall approve those State tuberculosis hospitals, State mental hospitals and State schools for the retarded which meet the standards promulgated by it and shall certify its approval to the Texas Department of Public Welfare or the United States Department of Health, Education and Welfare when requested to do so.

[Acts 1967, 60th Leg., p. 430, ch. 195, eff. May 15, 1967.]

CHAPTER TWO. STATE HOSPITALS

Art.	
3184.	Superintendent; Qualifications.
3185.	Repealed.
3185a.	State Hospital Established West of One Hundredth Meridian.
3186, 3186a.	Repealed.
3187.	Applicable to Other Institutions.
3188.	Division into Districts.
3189.	Repealed.
3190.	Board of Control Shall Appoint.
3191.	Clinic.
3192.	State Psychopathic Hospital.
3192a.	Dallas State Hospital Created; Consolidation of Hospitals.

- Art.
3192b. Galveston State Psychopathic Hospital Transferred to Board of Regents of University of Texas.
- 3193 to 3196. Repealed.
- 3196a. Classes of Patients Admitted.
- 3196a-1. Admission of Patients Eligible for Services Under Department of Health Program.
- 3196b. State Hospital Fund.
- 3196c. Alcoholics, Treatment in State Hospitals.
- 3196c-1. Narcotic Drug Addicts; Voluntary Treatment and Commitment in State Hospitals.
- 3196d. Repealed.
3197. Admission to Pasteur Hospital.
3198. Expenses of Patients.
3199. Laws Applicable.
3200. Disposition of Fees.
3201. Compensation of Assistant Physician.
- 3201a. Harlingen State Chest Hospital; San Antonio State Chest Hospital.
- 3201a-1. Care, Treatment and Custody of Mentally Ill and Retarded Persons Infected with Tuberculosis.
- 3201a-2. Change of Names of State Tuberculosis Hospitals; Appropriations.
- 3201a-2.1. Change of Name of Harlingen State Chest Hospital.
- 3201a-3. Pilot Program for Treatment of Respiratory Diseases; Harlingen State Chest Hospital and San Antonio State Chest Hospital.
- 3201a-4. Transfer of Control of East Texas Chest Hospital.
- 3201b, 3201b-1. Repealed.
- 3201b-2. Legion Annex of the Kerrville State Hospital.
- 3201c. Security at San Antonio State Hospital.

Art. 3184. Superintendent; Qualifications

Sec. 1. The Superintendent of the Austin State Hospital, San Antonio State Hospital, Wichita Falls State Hospital, Big Springs State Hospital, Rusk State Hospital, Terrell State Hospital, Kerrville State Hospital, Vernon Center and the Texas Research Institute of Mental Sciences shall meet such requirements for eligibility for appointment as Superintendent as the Board, by substantive rule adopted in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), may adopt.

Sec. 2. In adopting requirements for eligibility for appointment as Superintendent, the Board shall give appropriate consideration to the desirability of the need if possible of a physician authorized to practice medicine in Texas who has experience in the treatment of mental disease and who has proven administrative experience and ability. In appointing superintendents, the Commissioner shall give preferential consideration to a qualified candidate who is authorized to practice medicine in Texas who shall have experience in the treatment of mental diseases and who has proven administrative experience and ability.

Sec. 3. If no such physician as described in Section 2 is available, the Board may appoint as Superintendent of the institutions described in Section 1 of this Act a person of proven administrative experi-

ence and ability, however, prior to said appointment, the Board shall have authority and shall promulgate appropriate rules and regulations to insure that all duties of admitting patients, providing appropriate medical care and treatment and determinations whether a patient has recovered to the extent that cure is effected or the patient no longer needs to be restrained and should be discharged, or that it would be in the best interest of patients that he or she should be sooner released prior to the period of detention, as well as all medical decisions are only made by physicians licensed to practice medicine in Texas.

Sec. 4. This Act shall not be construed to:

(a) authorize the Department or any person, other than a duly licensed physician, acting within the scope of his or her license, to engage, directly or indirectly, in the practice of medicine; or

(b) authorize the Department, or any person to regulate, interfere, or intervene in any manner in the practice of medicine.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 82, ch. 65, § 1; Acts 1979, 66th Leg., p. 1797, ch. 730, § 2, eff. Aug. 27, 1979.]

Art. 3185. Repealed by Acts 1979, 66th Leg., p. 607, ch. 283, § 2, eff. Aug. 27, 1979

Art. 3185a. State Hospital Established West of One Hundredth Meridian

That there shall be constructed, established, and maintained a hospital for the care, treatment, and support of mentally ill persons of this State. It shall be known as the State Hospital; that after the said hospital has been located then the name of the town near which it is located shall be added to the name so as to thereafter read _____ State Hospital. The hospital shall be located at some point west of the one hundredth meridian, or within any county through which the one hundredth meridian passes, and any place where not less than three hundred (300) acres of good fertile agricultural land can be secured by donation to the State of Texas.

The Board of Control of the State of Texas shall select a site for said hospital, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants, the supply of water, building material, fuel, fertility of soil, and healthfulness, and the same shall contain not less than three hundred (300) acres of land as above described. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said hospital; provided, however, that the Attorney General's Department shall first approve the title to the said land so selected by the said Board.

At the completion of the buildings, and when the said hospital is ready to open, the Board of Control shall appoint a Superintendent and other employees to superintend and carry on the work of such hospi-

tal as is now provided by the General Laws of the State of Texas governing such institutions.

The support and general maintenance of said hospital shall be the same in every respect as is provided for insane hospitals as now provided by law.

There shall be constructed upon said grounds so selected permanent, suitable, substantial, and fire-proof buildings sufficient to accommodate at least five hundred and forty (540) inmates; said buildings to be provided with modern improvements for furnishing water, heat, ventilation, and sewerage; and the Board of Control immediately after this Act goes into effect and after the selection of the site for said hospital, and after the title of said land shall have been approved by the Attorney General, shall advertise for plans and specifications for said buildings and contract for the erection of the same; and shall have the power and authority to do and perform all things necessary for carrying out the purpose of this Act. Provided that all buildings authorized by this Act, and for which an appropriation is hereby made, shall be of fireproof construction, and that the part of all plans and specifications for the erection of said buildings relating to fire protection shall be subject to the approval of the State Fire Insurance Commission.

That there shall be and there is hereby appropriated out of the General Revenues of this State not otherwise appropriated the sum of Eight Hundred and Seventeen Thousand Dollars (\$817,000) for the buildings and improvements and the expenses incurred in securing the lands for the site, providing that no money herein appropriated shall be expended for the payment of the lands selected for the site.

The total appropriation as heretofore set out shall be allocated as follows:

Item 1 Ward building and equipment	\$115,000.00
Item 2 Ward building and equipment	115,000.00
Item 3 Psychopathic building and equipment	127,000.00
Item 4 General hospital-clinic building and equipment	75,000.00
Item 5 Administration building and equipment	100,000.00
Item 6 Employees' quarters and equipment	60,000.00
Item 7 Storeroom-warehouse and equipment	40,000.00
Item 8 Utility and other buildings, utility and other equipment, roads, sidewalks, furniture, livestock, implements, and contingencies	185,000.00
Grand total, proposed new hospital	\$817,000.00

In the expenditure of the above itemized amounts, the Board of Control shall have the authority to

make proper adjustments in the above set forth items.

[Acts 1937, 45th Leg., p. 793, ch. 388, § 1.]

Arts. 3186, 3186a. Repealed by Acts 1957, 55th Leg., p. 1413, ch. 486, § 22, eff. Jan. 1, 1958

Art. 3187. Applicable to Other Institutions

All laws now in force in any way affecting the East Texas Hospital for the Insane, the Northwest Texas Insane Asylum, the North Texas Hospital for Insane, the Southwestern Insane Asylum, the State Lunatic Asylum, the State Colony for Feeble Minded and the State Epileptic Colony, shall apply to the Rusk State Hospital, the Wichita Falls State Hospital, the Terrell State Hospital, the San Antonio State Hospital, the Austin State Hospital, the Austin State School and the Abilene State Hospital, subject to such changes in said laws as shall be hereinafter made.

[Acts 1925, S.B. 84.]

Art. 3188. Division into Districts

The Board of Control¹ shall divide the State into hospital districts, may change the districts from time to time, and shall designate the State hospitals to which insane, epileptic and feeble-minded persons from each district shall be admitted and may transfer patients from one institution to another. All such persons within any such districts committed, shall be committed to the State hospital designated for that district, or to the United States Veterans' Administration or such other agency or department of the United States as will accept such insane person for care or treatment. The said State Board of Control shall also have authority to transfer any legally committed patient from a State hospital to the United States Veterans' Administration or any other agency or department of the United States as will accept such person of unsound mind for care or treatment, and in case such transfer is or shall be made, the commitment and transfer order shall constitute legal authority for the restraint of such patient by the United States Veterans' Administration or such other agency or department of the United States until the Court by which such patient was adjudged insane and committed shall order such patient released.

[Acts 1925, S.B. 84. Amended by Acts 1936, 44th Leg., 3rd C.S., p. 2025, ch. 485, § 1.]

¹ Control and management of state hospitals, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3189. Repealed by Acts 1937, 45th Leg., p. 293, ch. 152, § 6

Art. 3190. Board of Control Shall Appoint

The superintendent of the psychopathic hospitals hereinafter mentioned shall be appointed by the Board of Control.¹ Each superintendent shall be a

well qualified physician thoroughly trained in psychiatry, and experienced in hospital management. He shall reside at the hospital and shall devote his whole time exclusively to the duties of his office. Each superintendent shall be appointed for an indefinite time, his continuance in service being determined by the character of administration rendered by the hospital, and shall receive a salary of four thousand dollars (\$4,000.00) per annum, payable monthly; provided that any superintendent may be dismissed by the Board of Control for good cause, the reasons for such dismissal to be specified in writing, and filed with the Secretary of State.

[Acts 1925, S.B. 84.]

¹ Control and management of state hospitals, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3191. Clinic

The Board of Control¹ may through its agents and institutions, develop a mental hygiene clinic service for co-operation with the State Department of Public Instruction and local boards of education in the study of the mental and physical health of children who are seriously retarded in school progress or in mental development, and of all children who present problems in personality development.

[Acts 1925, S.B. 84.]

¹ Control and management of state hospitals, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3192. State Psychopathic Hospital

There shall be established and maintained a Psychopathic Hospital at Galveston to be known as the Galveston State Psychopathic Hospital, and one at Dallas to be known as the Dallas State Psychopathic Hospital. The Galveston State Psychopathic Hospital shall be a hospital for the treatment of nervous and mental diseases both in the hospital and out patient clinic, and shall be available as a part of the teaching facilities in mental medicine for the State Medical College. The Dallas State Psychopathic Hospital shall be a hospital for the treatment of nervous and mental diseases both in the hospital and in out patient clinic.

[Acts 1925, S.B. 84.]

Art. 3192a. Dallas State Hospital Created; Consolidation of Hospitals

That the Dallas State Hospital is hereby created, to be composed of the Dallas Psychopathic Hospital as defined in Chapter 2, Article 3192, Revised Civil Statutes, 1925, and the State Cancer and Pellagra Hospital as defined in Chapter 185 of the General and Special Laws of the 41st Legislature, Regular Session, 1929, provided there shall be only one Superintendent for said consolidated hospitals.

[Acts 1931, 42nd Leg., p. 70, ch. 47, § 1.]

Art. 3192b. Galveston State Psychopathic Hospital Transferred to Board of Regents of University of Texas

Sec. 1. From and after the effective date of this Act, the control and management of, and all rights, privileges, powers, and duties incident thereto, the Galveston State Psychopathic Hospital, located at Galveston, Texas, which were formerly vested in and exercised by the State Board of Control, shall be transferred to, vested in, and exercised by the Board of Regents of The University of Texas, and, hereafter, the aforesaid Hospital shall no longer be a part of the eleemosynary service of the State of Texas.

Sec. 2. The Galveston State Psychopathic Hospital shall continue to be used as a Hospital for the treatment of nervous and mental diseases, both in the Hospital and out-patient clinic, and shall be available as a part of the teaching facilities in mental medicine for the School of Medicine of The University of Texas, located at Galveston, Texas.

[Acts 1945, 49th Leg., p. 384, ch. 246.]

Arts. 3193 to 3193o-2. Repealed by Acts 1957, 55th Leg., p. 505, ch. 243, § 103, eff. Jan. 1, 1958

Art. 3193-1. Repealed by Acts 1957, 55th Leg., p. 505, ch. 243, § 103, eff. Jan. 1, 1958

Arts. 3194 to 3196. Repealed by Acts 1957, 55th Leg., p. 505, ch. 243, § 103, eff. Jan. 1, 1958

Art. 3196a. Classes of Patients Admitted

Indigent Patients; Non-Indigent Patients

Sec. 1. Patients admitted to State hospitals under the management and control of the Texas Department of Mental Health and Mental Retardation shall be of two classes, to wit:

Indigent patients;

Non-indigent patients;

Indigent patients are those who possess no property of any kind nor have anyone legally responsible for their support, and who are unable to reimburse the State. This class shall be supported at the expense of the State.

Non-indigent patients are those who possess some property out of which the State may be reimbursed, or who have someone legally liable for their support. This class shall be kept and maintained at the expense of the State, as in the first instance, but in such cases the State shall have the right to be reimbursed for the support, maintenance, and treatment of such patients.

Persons Chargeable with Expenses of Patients

Sec. 2. Where the patient has no sufficient estate of his own, he shall be maintained at the expense:

Of the husband or wife of such person, if able to do so;

Of the father or mother of such person, if able to do so, provided such person is less than 18 years old.

Child support payments for the benefit of a patient paid or owing by a parent pursuant to a divorce decree or other court order shall be considered to be the property and estate of the patient, and charges may be made against such child support obligations. The parent who is obligated to pay child support on behalf of the patient shall be given a credit against charges for which he or she would otherwise be liable based on ability to pay for the amount of child support the parent actually pays for the benefit of the patient. The parent who receives the child support payments is liable for the charges based on the child support obligation to the extent such payments are actually received in addition to the liability of such parent based on ability to pay. The department may, upon the failure of a parent to pay child support in accordance with the child support obligation or upon the failure of a parent to pay charges based on the child support obligation, file a motion to modify the court order to require the child support to be paid directly to the State hospital or facility in which the patient resides for the patient's support, maintenance, and treatment. The court may, in addition, order all past due child support to be paid to the State hospital or facility to the extent that charges have been made against the child support obligation.

Investigations to Determine Means of Support

Sec. 3. The Texas Department of Mental Health and Mental Retardation is authorized to demand and conduct investigations in the County Court to determine whether or not a patient is possessed of or entitled to property and/or whether or not some other person is legally liable for his support, maintenance, and treatment and to pay therefor, and to have citation issued and witnesses summoned to be heard on said investigation.

Contracts Fixing Support

Sec. 4. The Texas Department of Mental Health and Mental Retardation, directly or through an authorized agent or agents, may make contracts fixing the price for the support, maintenance, and treatment of patients in any State hospital under its management and control at a sum not to exceed the cost of same or for such part thereof as such respective patient, his relatives or guardian of his estate may be able to and agree to pay, and binding the persons making such contracts to payment thereunder.

State Representative in Filing Claims in Probate Court

Sec. 5. Upon the written request of the Texas Department of Mental Health and Mental Retardation the County or District Attorney, or in case of the refusal or inability of both to act, the Attorney

General, shall represent the State in filing a claim in Probate Court or a petition in a Court of competent jurisdiction, wherein the guardian of such patient and/or other person legally liable for his support may be cited to appear then and there to show cause why the State should not have judgment against him or them for the amount due it for the support, maintenance, and treatment of such patient; and, upon sufficient showing, judgment may be entered against such guardian or other persons for the amount found to be due the State, which judgment may be enforced as in other cases. A verified account, sworn to by the superintendent or director of the respective hospitals wherein such patient is being treated, or has been treated, as to the amount due shall be sufficient evidence to authorize the Court to render judgment therein. The Texas Department of Mental Health and Mental Retardation may also utilize the procedure contained in this section with regard to claims for reimbursement against a resident for his support and maintenance and/or against other persons liable for his support and maintenance in a residential care facility for the mentally retarded operated by the department when such liability arises pursuant to Section 61, Mentally Retarded Persons Act of 1977, as amended (Article 5547-300, Vernon's Texas Civil Statutes). In such cases, a verified account sworn to by the superintendent or director of the residential care facility for the mentally retarded operated by the department wherein such mentally retarded person resides or has resided as to the amount due shall be sufficient evidence to authorize the court to render judgment. The County or District Attorney representing the State shall be entitled to a commission of ten (10) per cent, of the amount collected.

Repeals

Sec. 6. Section 4, Chapter 174, Acts, Regular Session of the Thirty-ninth Legislature, being Article 3189, Revised Civil Statutes of Texas of 1925, and all laws and parts of laws in conflict with this Act, be and they are hereby expressly repealed. There is however, specifically reserved and preserved to the State any and all rights and causes of action that accrued or arose under and by virtue of said Section 4, Chapter 174, Acts, Regular Session, Thirty-ninth Legislature, being Article 3189, Revised Civil Statutes of Texas of 1925, or any other laws repealed by this Act.

Partial Invalidity

Sec. 7. If any section, sentence, clause, or part of this Act shall, for any reason, be held to be invalid, such decision or holding shall not affect the remaining portions of this Act, and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause, or part thereof irrespective of the fact that any other sen-

tence, section, clause, or part thereof may be declared invalid.

[Acts 1937, 45th Leg., p. 293, ch. 152. Amended by Acts 1977, 65th Leg., p. 264, ch. 125, § 1, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 677, ch. 156, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 680, ch. 157, § 1, eff. Aug. 29, 1983.]

Art. 3196a-1. Admission of Patients Eligible for Services Under Department of Health Program

(a) The Texas Board of Health may admit to any hospital under its supervision a patient who is eligible to receive patient services under a program of the Texas Department of Health and who will benefit from the hospitalization.

(b) Admission to a hospital as authorized by this Act is subject to the availability of appropriate space after the needs of eligible tuberculosis and chronic respiratory disease patients have been met and to the availability of trained medical personnel for the necessary medical care and treatment.

(c) The board may enter into contracts and make rules necessary to implement this Act.

(d) This Act does not require the board or department to admit a patient to a particular hospital, guarantee the availability of space at any hospital, or provide treatment for a particular medical need at any hospital.

(e) The board may establish cancer screening, diagnostic, and education services and an obstetrical and gynecological service at the South Texas Hospital.

[Acts 1979, 66th Leg., p. 1523, ch. 657, § 1, eff. Aug. 27, 1979. Amended by Acts 1983, 68th Leg., p. 3815, ch. 590, § 2, eff. Aug. 29, 1983.]

Art. 3196b. State Hospital Fund

The STATE HOSPITAL FUND is created hereby. All revenue and funds derived under and by virtue of the provisions of this Act,¹ save an except any portion required by Section 3, Article 7 of the Constitution of the State of Texas to be set apart for the benefit of the Public Free Schools, shall be paid into such STATE HOSPITAL FUND, anything in this Act or any other law of this State to the contrary notwithstanding. The moneys in the STATE HOSPITAL FUND shall be used for the support and maintenance, construction, remodeling and repairing of buildings, the acquisition of sites therefor, and the purchase of equipment for State Hospitals and Special Schools and those institutions under the direction of the State Youth Development Council of the State of Texas, as the same may be appropriated by the Legislature. But the Legislature may at any time provide for the transfer of any

moneys remaining in or accruing to such Fund after August 31, 1951.

[Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, art. IX.]

¹ Arts. 4769½, 7047, subd. 41.a(a-1), 7047b, 7047k-1, 7047l, 7047m, 7047n, 7047o, 7057a, 7057e, 7060½, 7064a-1, 7064b, 7064½, 7066c, 7070A, 7084½; Penal Auxiliary Laws, arts. 666-21½, 666-21a, 667-23A; Penal Code, art. 1111d.

Art. 3196c. Alcoholics, Treatment in State Hospitals

Constitutional Authority for Law

Sec. 1. This Act is adopted by virtue of the provisions of Section 42, Article 16, of the Constitution of the State of Texas.

Eligibility for Admission

Sec. 2. Any person who has been a bona fide resident of the State of Texas for a continuous period of twelve (12) months immediately prior to making application for admittance to a State Hospital as herein provided, and who is suffering from the disease of alcoholism, and who is not at that time charged with any criminal offense, shall be eligible for admission into, and care and treatment in, any State Hospital authorized by law to care for and treat mentally ill persons, subject to the provisions of this Act.

Admission of Alcoholics; Certification; Refusal of Admittance

Sec. 3. If there be facilities available in any such hospital, it shall be the duty of the Superintendent thereof to admit into such hospital for care and treatment, any person suffering from the disease of alcoholism who voluntarily applies for such admission, and who is certified to said hospital by a reputable citizen of this State, who is a recovered alcoholic, and by a reputable practicing physician licensed to practice medicine in this State, each of whom shall, by written statement, certify that to the best of his knowledge and belief such applicant is an alcoholic and is in need of hospitalization and treatment; provided, however, that the Superintendent of such hospital may refuse admittance to any applicant who has been a patient receiving treatment solely for alcoholism in any such State Hospital and who has been released therefrom within twelve (12) months immediately preceding his application for admittance, if, in the opinion of the Superintendent, no useful purpose would be served by the admission of such applicant. Provided, however, no admissions shall be made under the provisions of this bill by any State Hospital which at the time of application of anyone under the provisions of this bill has a waiting list of mental patients committed to said State Hospital.

Period of Detention and Treatment; Notice on Release

Sec. 4. Any person admitted to a State Hospital under the provisions of this Act shall be cared for and treated, and shall be detained as a patient in such hospital for at least ten (10) days after his

admittance, unless the Superintendent of such hospital determines that it is to the best interest of such patient that he be sooner released. No patient admitted to a State Hospital under the provisions of this Act shall be treated and kept in such hospital for a period in excess of ninety (90) days from the time of his admittance. Upon the release of any such patient from any such hospital, it shall be the duty of the Superintendent to give notice to the person, other than the licensed physician, who certified the patient for admittance. Any applicant who applies for admission to a State Hospital under the provisions of this Act shall be deemed to have voluntarily consented to his detention in said hospital for a period of ten (10) days and shall waive any right to be released from said hospital before the expiration of such period of time.

Payments for Maintenance

Sec. 5. Any person admitted to a State Hospital under the provisions of this Act shall, if he has sufficient funds, be required to pay for his maintenance at the same rate charged other patients for maintenance at such hospital, and all of the provisions of Chapter 152, Acts of the Regular Session of the 45th Legislature, 1937 (Article 3196a, Vernon's Civil Statutes) shall be applicable to any person admitted to a State Hospital under the provisions of this Act. It is provided, however, that no person otherwise eligible for admittance to a State Hospital under the provisions of this Act shall be denied admittance thereto, and care and treatment therein, because of financial inability to pay for his maintenance.

Partial Invalidity

Sec. 6. If any section, portion, clause, phrase or sentence in this Act be for any reason held invalid by any court, such holdings shall not in any manner affect the validity of any other portions hereof, and if all or any portion of this Act is held to be invalid as to any particular person or class of persons, such holdings shall not in any manner affect the validity of this Act as to other persons and classes of persons.

[Acts 1951, 52nd Leg., p. 691, ch. 398.]

Art. 3196c-1. Narcotic Drug Addicts; Voluntary Treatment and Commitment in State Hospitals

Eligibility for Admission

Sec. 1. Any person who has been a bona fide resident of the State of Texas for a continuous period of twelve (12) months immediately prior to making application for admittance to a state hospital as herein provided, and who is addicted to the use of narcotic drugs, shall be eligible for admission into, and care and treatment in, a state hospital under the jurisdiction of the Board of Texas State Hospitals and Special Schools.

Admission of Addicts; Certification; Refusal of Admittance

Sec. 2. If there be facilities available in a state hospital, the Board may in its discretion admit into a state hospital, for care and treatment, any person eligible for admission under this Act who voluntarily applies for such admission, and who is certified to the Board by a reputable practicing physician licensed to practice medicine in this State, by written statement certifying that to the best of his knowledge and belief such applicant is a narcotic drug addict and is in need of hospitalization and treatment; provided, however, that the Board may refuse admittance to any applicant who has been a patient receiving treatment solely for drug addiction in a state hospital and who has been released for admittance, if, in the opinion of the Board, no useful purpose would be served by the admission of such applicant.

Period of Treatment; Voluntary Consent to Detention; Waiver of Right to Release

Sec. 3. A patient admitted to a state hospital under the provisions of this Article may be treated in the hospital until he is pronounced cured by the medical authorities of the hospital unless the Superintendent of the hospital determines that further treatment will not likely be beneficial; provided, however, that the patient shall be released upon his request for release at any time. Any applicant who applies for admission to a state hospital under the provisions of this Article shall be deemed to have voluntarily consented to his detention in the hospital and shall waive any right to be released from the hospital before the expiration of such period of time.

Payments for Maintenance

Sec. 4. Any person admitted to a state hospital under the provision of this Article shall, if he has sufficient funds, be required to pay for his maintenance at the same rate charged other patients for maintenance at such hospital, and all the provisions of Chapter 152, Acts of the Regular Session of the Forty-fifth Legislature, 1937 (Article 3196a, Vernon's Texas Civil Statutes) shall be applicable to any person admitted to a state hospital under the provisions of this Article. However, no person otherwise eligible for admittance to a state hospital under the provisions of this Article shall be denied admittance thereto, and care and treatment therein, because of financial inability to pay for his maintenance.

Delinquent Children as Addicts; Commitment

Sec. 5. When any juvenile is declared to be a delinquent child because of his habitual use of or addiction to narcotic drugs, or when the judge of the juvenile court finds that any delinquent child under the jurisdiction of the court is addicted to the use of narcotic drugs, the court may order the child to be committed to the custody of the Board for Texas State Hospitals and Special Schools for treat-

ment in a state hospital, providing there are facilities available in a State Hospital and the Board consents to such admission, to remain in the hospital until the medical authorities of the hospital certify that he is cured or that further treatment will not likely be beneficial. The delinquent child shall continue to be subject to the jurisdiction and orders of the committing court during the time of his confinement in the hospital, and shall be remanded to the court upon his discharge.

[Acts 1957, 55th Leg., p. 340, ch. 154, eff. May 6, 1957.]

Art. 3196d. Repealed by Acts 1957, 55th Leg., p. 505, ch. 243, § 103, eff. Jan. 1, 1958

Art. 3197. Admission to Pasteur Hospital

Any person affected with hydrophobia within this State shall be admitted to the Pasteur Hospital or department for the treatment of hydrophobia, under the management of the Austin State Hospital, such admission to be upon the certificate of a practicing physician and the recommendation of any county judge in this State.

[Acts 1925, S.B. 84.]

Art. 3198. Expenses of Patients

All indigent persons afflicted with hydrophobia in the State shall be treated at the expense of the State at said Pasteur Hospital, but the county in which such indigent persons reside shall pay the traveling expenses of such persons to and from Austin and the necessary living expenses of such persons while in Austin undergoing said treatment, such expenses to be paid upon the order of the commissioners court of the county in which such persons reside when satisfactory showing is made to said court as to indigency and the reasonableness and the necessity of the expense. All non-indigent persons shall be kept, treated and maintained at said hospital at their own expense or that of the relatives, friends or guardians.

[Acts 1925, S.B. 84.]

Art. 3199. Laws Applicable

Laws pertaining to the introduction and control of said patients shall be the same as those applying to the Austin State Hospital.

[Acts 1925, S.B. 84.]

Art. 3200. Disposition of Fees

All fees collected from non-indigent patients shall be used as the Board and superintendent may direct for the support and maintenance of said hospital.

[Acts 1925, S.B. 84.]

Art. 3201. Compensation of Assistant Physician

The board may allow such additional compensation, not to exceed two hundred and fifty dollars per annum, to the assistant physician who does the work of this department, out of such fees collected

as may be justified by the extra labor done by said assistant.

[Acts 1925, S.B. 84.]

Art. 3201a. Harlingen State Chest Hospital; San Antonio State Chest Hospital

Establishment

Sec. 1. There shall be constructed, established, and maintained two new hospitals for the care, treatment, and support of tuberculosis patients of this State, which hospitals are to replace the Weaver H. Baker Tuberculosis Sanatorium. One of the new hospitals shall be known as the Harlingen State Tuberculosis Hospital, and shall be located on the real property donated to the State of Texas for this purpose by Cameron County. The second of the new hospitals shall be known as the San Antonio State Tuberculosis Hospital, and shall be located on the grounds of the present San Antonio State Hospital. Upon completion of the new San Antonio State Tuberculosis Hospital, the buildings, now under construction at the San Antonio State Hospital for treating tubercular mentally ill persons shall become a unit of, and a part of, the new tuberculosis hospital.

Buildings

Sec. 2. There shall be constructed upon the sites of the two new State Tuberculosis Hospitals specified above, permanent, suitable, substantial, and fireproof buildings sufficient in all respects to care for and treat tuberculosis patients. The Board of Texas State Hospitals and Special Schools shall proceed to prepare plans and specifications for said buildings; and immediately after this Act becomes effective and title to land designated as the site for the Harlingen State Tuberculosis Hospital shall have been approved by the Attorney General as being vested in the State of Texas, the Board shall contract for the erection of said buildings for the two tuberculosis hospitals established by this Act, as provided by law; and said Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Superintendent; Personnel; Patients

Sec. 3. Upon the completion of the buildings and facilities, the Board for Texas State Hospitals and Special Schools may employ a Superintendent for each of the two new hospitals; and shall also employ such additional personnel as are necessary to operate and maintain properly such institutions and to treat adequately such patients as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit patients to the two new hospitals, and shall provide for the care and maintenance of such patients, under the same laws, rules and regulations as govern the admission and care of tubercular patients at the McKnight State Sanatorium at Sanatorium, Texas. The Board for Texas State Hospi-

tals and Special Schools is authorized to transfer patients between institutions in the State Hospital System for the effective use of physical facilities and medical services.

Appropriation

Sec. 4. There is hereby appropriated to the Board for Texas State Hospitals and Special Schools out of moneys not otherwise appropriated in the General Revenue Fund of the State Treasury, the sum of Three Million Two Hundred Twenty-five Thousand (\$3,225,000.00) Dollars for the buildings, improvements and equipment of buildings authorized in this Act.

Federal Funds

Sec. 5. In addition, there also is appropriated to the Board for Texas State Hospitals and Special Schools such Federal funds as the U.S. Government may grant for the construction of the Harlingen State Tuberculosis Hospital and the San Antonio State Tuberculosis Hospital, and such other funds as may be given or granted by any State Agency, and said Board is authorized and directed to obtain and to expend such funds as are available for those two projects.

Architectural Services

Sec. 5a. Any fees for architectural services paid from the appropriations made herein shall be at the same rate as provided in Chapter 499, Article 6, Section 3, page 1478 of the General and Special Laws of Texas, 52nd Legislature.¹ All contracts made in connection with such constructions and furnishings shall be subject to the review and approval of the State Board of Control.

[Acts 1953, 53rd Leg., p. 36, ch. 29, eff. March 4, 1953.]

¹ Appropriation Act.

Change of Names

Acts 1971, 62nd Leg., p. 1001, ch. 189, § 1, changed the names of Harlingen State Tuberculosis Hospital to Harlingen State Chest Hospital, and of San Antonio State Tuberculosis Hospital to San Antonio State Chest Hospital. See article 3201a-2, § 1.

Art. 3201a-1. Care, Treatment and Custody of Mentally Ill and Retarded Persons Infected with Tuberculosis

Effective September 1, 1965, the neuropsychiatric wards of the San Antonio State Tuberculosis Hospital shall be under the control, management and supervision of the State Department of Health and shall be operated as a part of the San Antonio State Tuberculosis Hospital. The Texas Department of Mental Health and Mental Retardation may transfer mentally ill persons and mentally retarded persons infected with tuberculosis to the San Antonio State Tuberculosis Hospital with or without such person's

consent. The cost of maintaining and treating such persons at the San Antonio State Tuberculosis Hospital shall be paid from appropriations to the San Antonio State Tuberculosis Hospital.

[Acts 1965, 59th Leg., p. 1139, ch. 535, § 1, eff. Aug. 30, 1965.]

Art. 3201a-2. Change of Names of State Tuberculosis Hospitals; Appropriations

Sec. 1. The name of the Harlingen State Tuberculosis Hospital is changed to the Harlingen State Chest Hospital and the name of the San Antonio State Tuberculosis Hospital is changed to the San Antonio State Chest Hospital. The name of the East Texas Tuberculosis Hospital is changed to the East Texas Chest Hospital.

Sec. 2. All appropriations heretofore made by the Legislature for the use and benefit of the Harlingen State Tuberculosis Hospital shall be available for the use and benefit of the Harlingen State Chest Hospital, and all appropriations made by the Legislature for the use and benefit of the San Antonio State Tuberculosis Hospital shall be available for the use and benefit of the San Antonio State Chest Hospital. All appropriations heretofore made by the Legislature for the use and benefit of the East Texas Tuberculosis Hospital shall be available for the use and benefit of the East Texas Chest Hospital.

[Acts 1971, 62nd Leg., p. 1001, ch. 189, eff. May 13, 1971.]

Art. 3201a-2.1. Change of Name of Harlingen State Chest Hospital

Sec. 1. The name of the Harlingen State Chest Hospital is changed to the South Texas Hospital.

Sec. 2. [Amends art. 3196a-1].

Sec. 3. Any reference in the law to the Harlingen State Chest Hospital means the South Texas Hospital.

Sec. 4. All appropriations heretofore or hereafter made by the legislature for the use and benefit of the Harlingen State Chest Hospital shall be available for the use and benefit of the South Texas Hospital.

[Acts 1983, 68th Leg., p. 3815, ch. 590, §§ 1, 3, 4, eff. Aug. 29, 1983.]

Art. 3201a-3. Pilot Program for Treatment of Respiratory Diseases; Harlingen State Chest Hospital and San Antonio State Chest Hospital

Creation

Sec. 1. In addition to the treatment of tuberculosis, the Harlingen State Chest Hospital and San Antonio State Chest Hospital may create a pilot program to treat persons afflicted with other chronic diseases of the respiratory system regardless of the diagnosis.

Number of Patients; Persons Treated; Payment of Charges

Sec. 2. (a) Under this pilot program, the Harlingen State Chest Hospital and San Antonio State Chest Hospital may treat not more than 25 patients at any one time, except as specified by this Act.

(b) The program shall be limited to:

(1) persons who are medically indigent and who have resided within the State of Texas for at least one year before making application to enter the hospital;

(2) persons who are able to pay for treatment but who are unable to obtain treatment at any other public or private institution;

(3) persons having a type of chronic pulmonary disease for which there is some hope of improvement and rehabilitation.

(c) Repealed by Acts 1975, 64th Leg., p. 2194, ch. 700, § 3, eff. June 21, 1975.

Gifts and Grants; Appropriations

Sec. 3. The State Board of Health may accept and administer gifts and grants of money in whole or in a formula basis from the federal government and from any individual, corporation, trust, federal or state vocational rehabilitation program, or foundation to carry out the purpose of this Act, and shall use any funds appropriated by the Legislature for this pilot program to operate the program.

Treatment of Patients in Excess of Number Limited; Use of Appropriations

Sec. 4. The State Board of Health may admit and treat more than 25 patients under this program so far as 25 or more patients do not conflict with the purpose stated in Section 6 of this Act and may use funds appropriated by the State of Texas for the inpatient cost of treating tuberculosis based on the projected average daily patient population when and to such extent that the actual overall daily patient population is less than the attendance projected in the appropriation, for the operation of the Harlingen State Chest Hospital and San Antonio State Chest Hospital during the biennium for which this appropriation and pilot program are concurrent.

Rules and Regulations

Sec. 5. The State Board of Health may establish necessary rules or regulations as to the admission requirements or procedures for persons admitted for treatment under the pilot program established by this Act.

Tuberculosis Control Program; Interference Prohibited

Sec. 6. Services rendered under the pilot program created by this Act shall not interfere with the primary objective of the tuberculosis control program, which is case-finding, treatment, both inpatient and outpatient, and eventual eradication of the disease tuberculosis.

Disposition of Fees and Charges

Sec. 6A. Fees and charges collected by each hospital for physicians' services shall be retained locally and shall be used only for the purpose of recruiting, retaining, and supplementing the salaries of the hospital's medical staff. Distribution of fees and charges for physicians' services shall be subject to rules and regulations adopted by the medical staff, not inconsistent with the laws of this state regulating the practice of medicine.

Plans and Policies

Sec. 7. The State Board of Health may formulate plans and policies for utilizing the program created by this Act at the Harlingen State Chest Hospital and San Antonio State Chest Hospital, in connection with any other agency, institution, or facility of this State, including but not limited to research, treatment, study, and training.

[Acts 1971, 62nd Leg., p. 1860, ch. 548, eff. June 1, 1971. Amended by Acts 1975, 64th Leg., p. 2194, ch. 700, §§ 2 and 3, eff. June 21, 1975.]

Art. 3201a-4. Transfer of Control of East Texas Chest Hospital**Intent of Act**

Sec. 1. By this Act the legislature does intend:

(1) that the East Texas Chest Hospital shall continue to serve as a "state tuberculosis hospital" under the terms and provisions of the Texas Tuberculosis Code;¹

(2) that the Texas Department of Health Resources² shall continue to have the authority and power to assign and send tuberculosis patients to the East Texas Chest Hospital for treatment and/or hospitalization under the terms and provisions of the Texas Tuberculosis Code;

(3) that The University of Texas System shall provide and pay for the care and treatment of tuberculosis patients in the East Texas Chest Hospital out of such funds as the legislature may appropriate for the hospital to use for that purpose;

(4) that The University of Texas System shall honor and perform all existing contracts heretofore entered into by, for, or on behalf of the East Texas Chest Hospital, including but not limited to the existing contracts covering the training and education of osteopathic resident physicians at the East Texas Chest Hospital;

(5) that if future contracts are required to provide for the care and treatment of the outpatients of the East Texas Chest Hospital, The University of Texas System shall pay for that care and treatment out of such funds as the legislature may appropriate for such hospital to use for that purpose, or The University of Texas System shall transfer to the Texas Department of Health Resources, out of such funds as the legislature may appropriate for the East Texas Chest Hospital to use for that purpose, mon-

ey to pay for the care and treatment of the outpatients of that hospital, whichever may be appropriate; and

(6) that except for the transfer of the governance and management of the East Texas Chest Hospital from the Texas Board of Health Resources to The University of Texas System, the power and authority of the Texas Department of Health Resources to examine, diagnose, isolate, quarantine, hospitalize, treat, and/or otherwise care for tuberculosis patients under the terms and provisions of the Texas Tuberculosis Code shall remain undiminished, unchanged, and in full force and effect.

¹ Article 4477-11.

² Name changed to Department of Health; see art. 4418g.

Transfer of Control to University of Texas System

Sec. 2. From and after the effective date of this Act, the governance, operation, management, control, and ownership of the East Texas Chest Hospital and all land, buildings, facilities, improvements, equipment, supplies, and property comprising said hospital shall be, and are hereby, transferred from the Texas Board of Health Resources to the Board of Regents of The University of Texas System. Said hospital, land, buildings, facilities, improvements, equipment, supplies, and property shall be governed, operated, managed, and controlled pursuant to such powers, duties, and responsibilities as are now, or as may be hereafter, conferred by law upon the Board of Regents of The University of Texas System for the governance, management, and control of the component institutions comprising said system.

Transfer of Appropriations and Funds

Sec. 3. All appropriations heretofore or hereafter made by the legislature for the use and benefit of the East Texas Chest Hospital under the governance of the Texas Board of Health Resources shall be transferred to the Board of Regents of The University of Texas System for the use and benefit of such hospital, and all other funds held for the use and benefit of the East Texas Chest Hospital shall be similarly transferred.

Validation of Contracts

Sec. 4. All contracts heretofore entered into in behalf of the East Texas Chest Hospital, or in names previously used by such hospital, are hereby ratified, confirmed, and validated for and on its behalf.

Use and Name of Hospital

Sec. 5. The Board of Regents of The University of Texas System is authorized to use the East Texas Chest Hospital as a teaching hospital and is authorized to change the name of the hospital, if and when deemed appropriate, so as to conform to the policies, rules, and regulations of said board.

Chest Diseases

Sec. 6. It shall continue to be the policy of the State of Texas to provide a program of treatment of the citizens of this state who are affected with chest diseases, and in pursuance of that policy the East Texas Chest Hospital shall among other functions continue to serve as the primary facility in this state to conduct research, develop diagnostic and treatment techniques and procedures, provide training and teaching programs, and provide diagnosis and treatment for both inpatients and outpatients with respect to all chest diseases.

Application of Tuberculosis Code

Sec. 7. The East Texas Chest Hospital shall among other functions continue to serve as a "state tuberculosis hospital" under the terms and provisions of the Texas Tuberculosis Code (Article 4477-11, Vernon's Texas Civil Statutes), but insofar as applicable to the East Texas Chest Hospital, Subsections (b) through (e) of Section 12 and all of Section 15, Texas Tuberculosis Code (Article 4477-11, Vernon's Texas Civil Statutes), are repealed.

Repealer

Sec. 8. Chapter 528, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 4477-13, Vernon's Texas Civil Statutes), is repealed, and all other laws or parts of laws in conflict with this Act are repealed to the extent of such conflict.

Effective Date

Sec. 9. The effective date of this Act shall be September 1, 1977.

Severability

Sec. 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1977, 65th Leg., p. 752, ch. 282, eff. Sept. 1, 1977.]

Arts. 3201b, 3201b-1. Repealed by Acts 1963, 58th Leg., p. 103, ch. 57, § 6, eff. Aug. 23, 1963

Art. 3201b-2. Legion Annex of the Kerrville State Hospital

Change of Name

Sec. 1. The name of "Legion Branch of the San Antonio State Tuberculosis Hospital," established by House Bill No. 409, Chapter 429, Acts, Fifty-fourth Legislature, Regular Session, 1955,¹ is hereby changed to "Legion Annex of the Kerrville State Hospital."

¹ Article 3201b-1 (repealed).

Control and Management; Function

Sec. 2. The Legion Annex of the Kerrville State Hospital shall be under the control and management of the Board for Texas State Hospitals and Special Schools. The function of the Legion Annex of the Kerrville State Hospital will be to provide support, maintenance and treatment under provisions of the Texas Mental Health Code for persons suffering from mental illness.

Appropriations

Sec. 3. All appropriations heretofore made by the Legislature for the use and benefit of the "Legion Branch of the San Antonio State Tuberculosis Hospital" and now effective shall be available for the use and benefit of the Legion Annex of the Kerrville State Hospital.

Contracts

Sec. 4. All contracts heretofore entered into in behalf of "Legion Branch of the San Antonio State Tuberculosis Hospital" are hereby ratified, confirmed and validated for and in behalf of Legion Annex of the Kerrville State Hospital.

Contracts for Use of Facilities

Sec. 5. The Board for Texas State Hospitals and Special Schools may contract with the Veterans Administration for the use of the facilities now occupied and known as "Legion Branch of the San Antonio State Tuberculosis Hospital" and to be hereafter known as the Legion Annex of the Kerrville State Hospital.

Repealer

Sec. 6. The following Statutes and Acts, together with all laws or parts of laws in conflict herewith, are hereby repealed.

House Bill No. 68, Chapter 30, Acts of the Fifty-third Legislature, Regular Session, 1953, compiled as Article 3201b, Texas Civil Statutes; House Bill No. 409, Chapter 429, Acts of the Fifty-fourth Legislature, Regular Session, 1955, compiled as Article 3201b-1, Texas Civil Statutes.

[Acts 1963, 58th Leg., p. 103, ch. 57, eff. Aug. 23, 1963.]

Art. 3201c. Security at San Antonio State Hospital

The Texas Department of Mental Health and Mental Retardation shall establish and enforce security measures at the San Antonio State Hospital to ensure that the patients in that institution do not leave without authorization and that patients absent without authorization are returned as quickly as practicable. Among other measures, the department shall provide for a daily check to determine if any patients are absent and for immediate reporting to local law enforcement officials of a patient who is absent without authorization.

[Acts 1979, 66th Leg., p. 575, ch. 265, § 1, eff. May 24, 1979.]

CHAPTER THREE. OTHER INSTITUTIONS

Art.

- 3202. Application for Admission.
- 3202-a. Price for Care.
- 3202-b. Failure to Make Required Payments.
- 3202-c. Repealed.

TEXAS SCHOOL FOR THE DEAF

3203 to 3205a. Repealed.

TEXAS SCHOOL FOR THE BLIND

3206, 3207. Repealed.
3207a to 3207d. Repealed.

STATE ORPHAN HOME

- 3208. Duties of Superintendent.
- 3209. Industrial Manager.
- 3210. Matron.
- 3211. Children Admitted.
- 3212. Removal of Children.

AUSTIN STATE HOSPITAL ANNEX

- 3213. Duties of Board.
- 3213a. Change of Name to Austin State Hospital Annex.
- 3214. Superintendent.
- 3215. Secretary to the Superintendent.
- 3216. Application for Admission.
- 3216a. Admission to Confederate Home; Confederate Veterans Given Priority; Senile Persons, Admission Of; Transfer From State Hospitals,
- 3217. Wife of Inmate.

CONFEDERATE WOMAN'S HOME

- 3218. Home Established.
- 3219. Duties and Powers of Board
- 3220. Superintendent.
- 3220a. Services for Widows in Licensed Nursing Homes.

SOLDIERS' AND SAILORS' HOME

3220-1. Repealed.

TEXAS SCHOOL FOR THE DEAF

- 3221. Powers and Duties of Board of Control.
- 3221a. Orphan Negro Children to be Accepted in Home at Austin; Removal of Orphan Negro Children from Dickson Colored Orphanage.
- 3221b. Texas Blind, Deaf and Orphan School, Name Changed To.
- 3221c. Texas School for the Deaf, Jurisdiction of State Board of Education.
- 3222. Superintendent.
- 3222a. Relocation of Site; New Facilities; Disposition and Transfer of Lands.
- 3222a-1. Repealed.

COUNTY-WIDE DAY SCHOOLS FOR THE DEAF

3222b, 3222b-1. Repealed.

ABILENE STATE HOSPITAL

3223 to 3232. Repealed.

ABILENE STATE SCHOOL

- 3232a. Repealed.
- 3232b. Abilene State School, Name Changed To.
- 3232c. Conveyance of Excess Land of Abilene State School.

AUSTIN STATE SCHOOL

3233 to 3238. Repealed.

ADDITIONAL FEEBLE-MINDED INSTITUTIONS

Art.

3238a. Institution for Feeble-Minded; Transfer of Persons To; Admitting Persons; Custody.

McKNIGHT STATE TUBERCULOSIS HOSPITAL

3238b to 3251a. Repealed.

AMERICAN LEGION MEMORIAL SANITORIUM

3252 to 3254. Repealed.

STATE TUBERCULOSIS SANATORIUM
FOR NEGROES

3254a, 3254a-1. Repealed.

SOUTH TEXAS TUBERCULOSIS SANATORIUM

3254b. Repealed.

MOODY STATE SCHOOL FOR CEREBRAL
PALSIED CHILDREN

3254c to 3254c-2. Repealed.

EAST TEXAS TUBERCULOSIS HOSPITAL

3254d, 3254d-1. Repealed.

WACO CENTER FOR YOUTH

3255. Superintendent and Officers.

3255a. Name of Home Changed.

3255b. Management, Government and Control.

3255c. Transfer of Land, Facilities and Functions;
Change of Name.

3256. Rules and Regulations.

3257. Commitment of Child.

3258. Repealed.

3259. Placing Child in Children's Boarding Home; Dismissal of Child.

COLORED GIRLS TRAINING SCHOOLS

3259a. Repealed.

3259a-1. Crockett State School for Girls.

3259b. Acquisition or Construction and Equipment of Colored Girls' Training School; Salaries.

STATE HOSPITAL FOR CRIPPLED AND
DEFORMED CHILDREN

3260. Hospital Established.

3261. Management and Control.

3262. Rules and Regulations.

3263. Donations.

STATE CANCER AND PELLAGRA HOSPITAL

3263a. Repealed.

NAVARRO COMMUNITY FOUNDATION

3263b. Unconstitutional.

MEXIA STATE SCHOOL AND HOME; AGED
SENILE PERSONS

3263c. State School and Home; Aged Senile Divisions at State Hospital.

LUFKIN STATE SCHOOL

3263d. Lufkin State School.

CORPUS CHRISTI STATE SCHOOL

3263e. Corpus Christi State School.

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MENTAL HEALTH FACILITY AT LEANDER

Art.

3263f. Mental Health Facility at Leander.

SAN ANTONIO STATE SCHOOL

3263g. San Antonio State School.

Art. 3202. Application for Admission

Application for the maintenance, care and education of all deaf, dumb and blind children shall be made by the parent or guardian of such child or children to the superintendent of the asylum under such rules as may be prescribed.

[Acts 1925, S.B. 84.]

Art. 3202-a. Price for Care

The Board for Texas State Hospitals and Special Schools, directly or through an authorized agent or agents, may make contracts fixing the price for the support, maintenance, and treatment of children maintained, supported and treated, in the State Orphans Home, the State Home for Dependent and Neglected Children, Austin State School, and the Deaf, Dumb and Blind Institute for Colored Youths, at a sum fixed by the Board for Texas State Hospitals and Special Schools, not to exceed the actual cost of supporting such child, or for such part thereof as the estate of said child or any person legally liable for such child's support may be able to pay or agree to pay, and binding the person making such contracts to payments thereunder. The costs of educating such children, however, shall not be included in arriving at such costs. Such payments by guardians shall be in accordance with the legal method controlling expenditures by guardians. The Board for Texas State Hospitals and Special Schools is authorized to demand investigation to determine whether or not a child is possessed of or entitled to property and whether or not some other person is legally liable for his support and to pay therefor. The county judge of the county from which the child is received into such institution or the county having jurisdiction over the estate of such child may from time to time, upon the request of the Board for Texas State Hospitals and Special Schools, cite the guardian of such child, or other persons legally liable for his support, to appear at some regular term of the county court having jurisdiction of such matter, then and there to show cause why the State should not be paid or have judgment for the amount due it for the support and maintenance of such child; or such guardian or other persons legally liable for the support of such child may be cited to appear at some regular term of the district court having jurisdiction of such matter, then and there to show cause why the State should not have judgment for the amount due it for the support and maintenance of such child; and, if sufficient cause be not shown, judgment may be entered against such guardian or other persons for the amount found to be due the State, which judgment may be enforced as in other cases. The certificate of the superintendent of the State institution or school wherein

such child is being or shall have been supported and maintained, as to the amount due, shall be sufficient evidence to authorize the Court to render judgment. The county or district attorney, upon request of the Board for Texas State Hospitals and Special Schools, shall appear and represent the State in all cases provided for in this Section; provided, however, that the provisions of this Act shall not apply to any child maintained, supported or treated in the Deaf, Dumb and Blind Institute for Colored Youths or Austin State School unless the person legally liable for the support of such child agrees to pay such cost as is herein provided.

[Acts 1931, 42nd Leg., p. 191, ch. 112, § 2. Amended by Acts 1945, 49th Leg. p. 50, ch. 33, § 1; Acts 1953, 53rd Leg., p. 552, ch. 201, § 1, eff. May 26, 1953.]

Art. 3202-b. Failure to Make Required Payments

In the event any payments are not made as required by the Board of Control it may provide for the discharge of any such children of said institutions or schools.

[Acts 1931, 42nd Leg., p. 191, ch. 112, § 3.]

Art. 3202-c. Repealed by Acts 1969, 61st Leg., p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts Titles 1 and 2 of the Texas Education Code.

TEXAS SCHOOL FOR THE DEAF

Arts. 3203 to 3205a. Repealed by Acts 1969, 61st Leg., p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts Titles 1 and 2 of the Texas Education Code.

TEXAS SCHOOL FOR THE BLIND

Art. 3206. Repealed by Acts 1953, 53rd Leg., p. 23, ch. 15, § 1, eff. Aug. 26, 1953

Art. 3207. Repealed by Acts 1969, 61st Leg., p. 3024, ch. 889, § 2, Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts Titles 1 and 2 of the Texas Education Code.

Arts. 3207a to 3207c. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing these articles, enacts the Human Resources Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Human Resources Code.

Section 9(a) of Acts 1979, 66th Leg., p. 679, ch. 301, provided:

"The governor shall appoint three new members to the State Commission for the Blind immediately after the effective date of this Act. In making those appointments, the governor shall designate one appointee to serve for a term expiring January 1, 1981, one to serve for a term expiring January 1, 1983, and one to serve for a term expiring January 1, 1985."

Art. 3207d. Repealed by Acts 1979, 66th Leg., p. 679, ch. 301, § 8(a), eff. May 31, 1979; Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing this article, enacts the Human Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Human Resources Code.

STATE ORPHAN HOME

Art. 3208. Duties of Superintendent

The superintendent shall keep a carefully prepared list containing the name and age of each child, as well as such other data concerning the history of said child as the Board may prescribe, and said lists shall be recorded in a well-bound book for said purpose, and subject to the inspection of all persons who may desire to examine its contents. He shall annually deliver to the proper authorities a list of all children within the scholastic age, and see that their pro rata of the public free school fund is set aside to their credit, and that they are provided with proper educational facilities. He shall promptly answer all inquires, by mail or otherwise concerning the orphans under his charge, and promptly inform the Board when an opportunity is presented to secure a good and permanent home for any child under his charge.

[Acts 1925, S.B. 84.]

Art. 3209. Industrial Manager

The Board¹ shall elect an industrial manager for said home whose duties and salary shall be prescribed by the Board, subject to legislative appropriation, not to exceed fifteen hundred dollars per annum.

[Acts 1925, S.B. 84.]

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3210. Matron

A matron of said Home shall be chosen by the superintendent, with the consent of the Board¹, whose salary shall not exceed forty-five dollars per month.

[Acts 1925, S.B. 84.]

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3211. Children Admitted

All children under the age of fourteen years, shall be admitted subject only to such restrictions as the

Board¹ may deem requisite to the welfare of said Home.

[Acts 1925, S.B. 84.]

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3212. Removal of Children

No person shall be permitted to remove a child from said home except under such lawful rules and regulations as the Board¹ may adopt. In no case shall a child be removed therefrom by any person other than the natural guardian of said child, or the duly qualified guardian of the person of such child, or the parent of said child by adoption.

[Acts 1925, S.B. 84.]

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

AUSTIN STATE HOSPITAL ANNEX

Art. 3213. Duties of Board

The State Board of Control¹ shall be governed in its regulations of the affairs of the Confederate Home by the laws relative to the Deaf, Dumb and Blind institutions of this State so far as the same may be applicable, and shall make such rules and regulations as may be necessary for the internal government, discipline and management of the home, and shall have power to enforce compliance with said rules and regulations by discharging from the home, if in its judgment it be necessary, any inmate who may violate said rules and regulations. Said Board shall make such examination from time to time as it may deem necessary, as to the qualifications and record as a soldier in the Confederate army or navy of any inmate, and discharge at once any inmate who procured admission to the home by fraud or misrepresentation. Said board shall, every three months, cause to be examined by a board of physicians consisting of the home physician and two others not connected with the home, any inmate who may be designated by the superintendent and the home physician or by any member of the Board, as to the physical condition of such inmate and if it be shown from said examination and report of said examining board of physicians that any inmate so examined has sufficiently recovered from his disabilities to be able to earn a living, such inmate shall be given an honorable discharge from the home, with transportation to the place from which he entered the home; provided, however, that such inmate be given twenty days notice of his dismissal, and that he be subject to all rules and regulations governing the home during said twenty days, or such part of that time as he may remain in the home after said notice of dismissal be given. The two physicians assisting the home physician in such examination shall be selected by the board, and shall be paid for such service two dollars and fifty

cents each for each examination so made. Said Board shall also have charge of all the property received from the John B. Hood Camp Confederate Veterans, or from any other source for the maintenance of said home.

[Acts 1925, S.B. 84.]

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3213a. Change of Name to Austin State Hospital Annex

Sec. 1. The name of the "Texas Confederate Home for Men" is hereby changed to the "Austin State Hospital Annex."

Sec. 2. The Austin State Hospital Annex, after the effective date of this Act, shall be a part of the Austin State Hospital and shall be maintained and operated by the Superintendent of the Austin State Hospital, under control and management of the Board for Texas State Hospitals and Special Schools or such Board's successor in function. The function of the Austin State Hospital Annex will be to provide support, maintenance, and treatment to persons admitted or committed thereto suffering from mental illness.

Sec. 3. All appropriations heretofore made by the Legislature for the use and benefit of the Texas Confederate Home for Men and now effective shall be available for the use and benefit of the Austin State Hospital Annex.

Sec. 4. All contracts heretofore entered into in behalf of the Texas Confederate Home for Men are hereby ratified, confirmed and validated for and in behalf of the Austin State Hospital Annex.

[Acts 1965, 59th Leg. p. 1267, ch. 581, eff. Aug. 30, 1965.]

Art. 3214. Superintendent

The Board¹ shall appoint a superintendent who shall be an ex-Confederate soldier or the son of an ex-Confederate soldier, whose duties of office shall be the supervision of the affairs of said home, keeping the accounts of same, and its general management, under the direction of the Board. He shall be under the control of said Board. He shall keep in a book prepared for that purpose, the name and age of each inmate, date of admission to the home, the company and regiment or other command or capacity in which the military service was performed, and the State from which he entered the service, and such other data concerning the history of the inmates as the Board may prescribe.

[Acts 1925, S.B. 84.]

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3215. Secretary to the Superintendent

The superintendent of said home shall be authorized to employ one secretary who shall keep the books of the institution and discharge such other duties as may be required of him by the superintendent. He shall be furnished board and lodging similar to other employes of the home.

[Acts 1925, S.B. 84.]

Art. 3216. Application for Admission

All applications for admission to said home must show on the oath of the applicant:

1. Name of applicant.
2. His age.
3. His residence (county and post-office address.)
4. The company, regiment, brigade and army in which he served.
5. That he is disabled and indigent and is not receiving a pension from any source, and is now a bona fide citizen of Texas. And further (if he did not serve in a Texas command) that he was a bona fide resident of Texas on January 1, 1895. Proof of the honorable service of applicant, as stated by himself, must be made by affidavit of two reputable persons, or by his written discharge duly authenticated with sufficient proof of identity, or such other proof in manner and form as may be entirely satisfactory to the Board.¹ The application must also be accompanied by a certificate of a regular practicing physician that the applicant is unable to support himself, giving the character of the disability, and that the applicant is not a lunatic, and is not afflicted with any contagious or infectious disease. All applications for admission to said home shall be passed upon by the Board.

[Acts 1925, S.B. 84.]

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3216a. Admission to Confederate Home; Confederate Veterans Given Priority; Senile Persons, Admission of; Transfer From State Hospitals

Sec. 1. All eligible Confederate Veterans hereafter making application for admission to the Texas Confederate Home for Men at Austin, Texas, be given priority of admission, and the State Board of Control¹ shall reserve sufficient space, at all times, for their admission and maintenance and they, together with all Confederate Veterans now maintained in said Home, and all senile persons to be transferred to said Home shall be segregated and be maintained in said Home.

Sec. 2. The Superintendent of any State Hospital is hereby authorized, upon a receipt of a written order from the State Board of Control, to transfer from said Texas Hospital to the Texas Confederate

Home for Men at Austin, Texas, any senile patient now being maintained in said hospital, or hereafter admitted thereto, and to relinquish custody of said senile patient, and custody of said patient is hereby placed in the Confederate Home for Men at Austin, Texas.

Sec. 3. The State Board of Control shall have the right to cause to be admitted to the Texas Confederate Home for Men at Austin, Texas, any senile aged person after such person has been duly adjudged insane, upon receipt of the certified transcript of such proceeding in the manner required by law.

Sec. 4. The Superintendent of the Texas Confederate Home for Men at Austin, Texas may, upon the recommendation of the chief physician employed at such institution, grant any senile patient confined therein a furlough or discharge in the same manner in which such senile patients are now released from State Hospitals.

Sec. 5. The Texas Confederate Home for Men at Austin, Texas, shall never be considered a custodial institution in so far as the laws, rules and regulations governing such institution affect Confederate Veterans, but shall be and is hereby made a custodial institution for senile patients.

Sec. 6. The preceding provisions of this Act are cumulative of existing law governing the Texas Confederate Home for Men, and it is the legislative intent that such home revert to the purposes for which it has been heretofore dedicated, when other facilities for the care of the senile aged patients, contemplated by this Act, are provided.

[Acts 1943, 48th Leg., p. 18, ch. 16.]

¹ Control and management of Texas Confederate Home for Men, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3217. Wife of Inmate

Any woman who is the wife of a Confederate soldier and who is an inmate of the Confederate Woman's Home, and whose husband is an inmate of the Confederate Home, and who became the wife of such soldier prior to his admission into the Confederate Home, may on her request be transferred from the Confederate Woman's Home to the Confederate Home and may remain as an inmate of the Confederate Home with her husband as long as her husband remains an inmate of that institution, and while such inmate she shall be entitled to the same care, support, maintenance, and privileges, and be subject to the same discipline, rules and regulations as other inmates of that institution; but the wife of any Confederate soldier so transferred to the Confederate Home shall be immediately transferred back to the Confederate Woman's Home on the death of her husband, or whenever for any reason her husband ceases to be an inmate of the Confederate Home, or whenever in the judgment of the Board of Control¹ it will be to the interest of the

individual or of the institution to make such transfer; provided, however, that when there is room in the Confederate Home and there is an overcrowded condition existing in the Confederate Woman's Home, the Board of Control may retain at or remove to said Confederate Home any widow who is entitled to the privileges conferred by this Chapter.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 5, ch. 4.]

¹ Control and management of Confederate Home for Women and Texas Confederate Home for Men, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

CONFEDERATE WOMAN'S HOME

Art. 3218. Home Established

There shall be established in or near the city of Austin, a home for the indigent wives and widows who are over sixty years of age, of disabled ex-Confederate soldiers and sailors who entered the Confederate service from Texas, or who came to the State prior to January 1, 1880, and whose disability is the proximate result of actual service in the Confederate army for at least three months, and also for women who aided the Confederacy. This institution shall be known as the Confederate Woman's Home.

[Acts 1925, S.B. 84.]

Transfer

Acts 1971, 62nd Leg., p. 1061, ch. 220, §§ 1, 2, authorized the transfer of land and improvements of the Confederate Woman's Home from the Texas Department of Mental Health and Mental Retardation to the State Building Commission for disposition.

Art. 3219. Duties and Powers of Board

The Board¹ shall make suitable rules and regulations for the admission of women to the benefits of said home and for the internal government and management of said home. The Board shall also provide such attendants and nurses as may be deemed necessary in the management of the Home, and fix their compensation. The Board shall appoint a superintendent for the Confederate Woman's Home, with the approval of the Governor.

[Acts 1925, S.B. 84.]

¹ Control and management of Confederate Home for Women, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3220. Superintendent

Said superintendent must be the widow or daughter of a Confederate soldier, and shall reside in the Home and receive free board and lodging. She may hold office for a term of two years.

[Acts 1925, S.B. 84.]

Art. 3220a. Services for Widows in Licensed Nursing Homes

Sec. 1. The Texas Department of Mental Health and Mental Retardation is hereby authorized to place in licensed nursing homes those widows of Confederate soldiers and sailors who are on the pension rolls of this state and who make application to the Department for care in the Texas Confederate Women's Home. The licensed nursing home selected to care for these persons shall be mutually agreed upon by the applicant for care and the Texas Department of Mental Health and Mental Retardation.

Sec. 2. The Department shall reimburse the licensed nursing home selected to care for these persons from its operating expenses appropriation.

[Acts 1967, 60th Leg., p. 193, ch. 104, eff. May 4, 1967.]

SOLDIERS' AND SAILORS' HOME

Art. 3220-1. ~~Repealed by Acts 1953, 53rd Leg., p. 24, ch. 16, § 1, eff. Aug. 26, 1953~~

TEXAS SCHOOL FOR THE DEAF

Art. 3221. Powers and Duties of Board of Control

Rules and Regulations

Sec. 1. The Board¹ shall make all necessary rules and regulations for the government of the Deaf, Dumb and Blind Asylum for Colored Youths and Colored Orphans² to comport as nearly as may be practicable with the rules and regulations of the asylums for like purposes in this State. Said Board shall prescribe the duties of all subordinate officers or assistants in said asylum; shall appoint and may remove all such officers or assistants, determine their duties and their compensation. The admission of all deaf, dumb and blind applicants to said asylum, their treatment, instruction and continuance therein, all questions relating to their dismissal or removal, or voluntary departure from said asylum, or employment therein, or thereabout, shall be governed by the rules and regulations of the State Asylums for white youths for the deaf, dumb and blind, and the Board of Control shall have authority to make necessary rules and regulations for the admittance, treatment, instruction and discharge of other applicants for admission to said asylum.

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

² Name changed to Texas Blind, Deaf and Orphan School, see art. 3221b.

Removal of Colored Youth to Austin Asylum

Sec. 2. The State Board of Control is hereby authorized to accept and care for, support and maintain, orphan negro children in said asylum, located at Austin, Texas. Said Board shall have authority to move any and all orphan negro children from the

Dickson Colored Orphanage located near Gilmer, Texas, to Austin, and place them in said asylum, and care for, support and maintain them, in said institution whenever they deem it advisable to do so; and until such time said Board shall be authorized to use the land and other property at Gilmer, Texas, now occupied and used by said Dickson Colored Orphanage for such purpose, and shall have all powers and authority herein conferred to control the property of said orphanage at such place, and use it for such purposes until such time as suitable provisions shall be made for caring for said orphans at the said Deaf, Dumb and Blind Asylum for Colored Youths and Colored Orphans at Austin, Texas.

Appropriation for Removal

Sec. 3. The sum of Seventy-five Hundred (\$7,500.00) Dollars is hereby appropriated out of the State Treasury to pay the expenses of caring for and transporting said negro children as provided for in this Act, and to care for, maintain and support orphan negro children as herein provided for the fiscal year ending August 31, 1929, the same to be available to the Board of Control for such purposes.

Additional Appropriation

Sec. 4. The further sum of Thirty Thousand (\$30,000.00) Dollars is hereby appropriated out of the State Treasury for the care, maintenance, support and transportation of said orphan negro children for the year ending August 31, 1930, and also the sum of Thirty Thousand (\$30,000.00) Dollars for the year ending August 31, 1931, the same to be available to the Board of Control for such purposes.

Acceptance of Donation by Dickson Colored Orphanage Incorporated

Sec. 5. The donation by the Dickson Colored Orphanage Incorporated to the State of Texas of the lands and premises, and improvements therein described in the deed conveying said property to W. H. Francis, Trustee, in trust for the State of Texas, for the establishment of an orphanage asylum for colored children; said land consisting of approximately seven hundred acres, all in solid body, situated near the Town of Gilmer in Upshur County, Texas, together with all improvements thereon, said improvements consisting of approximately twenty-nine buildings, is hereby accepted; and said trustee is hereby directed to execute and deliver the proper deed conveying said land and premises unto the State of Texas for the purpose herein specified, free from all debts, liens, or encumbrances of any character whatsoever; the instrument conveying said property shall be drawn by the Attorney General and after its execution, shall be delivered to the State Board of Control of the State of Texas to be by it filed and recorded in the office of the County Clerk of Upshur County, Texas; the said trustee shall also furnish to the Attorney General of the State of Texas an abstract of title to said property showing said property to be free from all debts,

liens or encumbrances of any character whatsoever, and it is hereby made the duty of the Attorney General to examine and approve the title to said property.

The donation by the said Dickson Colored Orphanage Incorporated to the State of Texas of all personal property owned by it and used in connection with or located at said orphanage, and consisting of several carloads of brick; approximately one thousand sacks of cement; approximately nineteen mules, four horses, twenty-five head of fairly good grade jersey cattle, a breeding sow, four pigs, a few chickens, numerous farming implements, household and kitchen furniture, cooking utensils, and food supplies, is hereby accepted and the Board of Control of this State is hereby authorized and directed to accept and receive said personal property, and to use and dispose of the same as in this Act provided.

Construction of Act

Sec. 6. Nothing in this Act shall be construed so as to require the real estate herein to be deeded to the State of Texas before the Board of Control shall have the authority to use the money herein appropriated for the care of said Negro orphans, but to the contrary, this Act shall be construed so as to give the Board of Control authority to accept the property herein mentioned at any time and in any manner so long as they do not bind the State of Texas to pay any indebtedness on said property; and this Act shall also give the Board of Control authority to care for, maintain and support said Negro orphans and to provide quarters and other things incidental to the welfare of said orphans such as the Board of Control may deem advisable.

Sale of Dickson Colored Orphanage Property Authorized

Sec. 7. As soon as all the negro children are removed from said Dickson Colored Orphanage by the Board of Control as provided for in this Act, the said Board shall be authorized, and it is hereby made its duty, to sell the said Dickson Colored Orphanage property for the best price that can be obtained therefor; said sale to be either for cash or on a credit as said Board may determine to be for the best interest of the State. The title to said real property shall be conveyed to the purchaser by deed duly executed by the members of the Board of Control, and the title to the personal property shall be passed to the purchaser by bill of sale, duly executed by said members. The proceeds from the sale of said property when collected shall be used by the said Board of Control for the purchase of additional land, the erection of additional buildings, or the support and maintenance for the said Deaf, Dumb and Blind Asylum for Colored Youths and Colored Orphans at Austin, Texas, as said Board

may determine to be for the best interest of said institution.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., 3rd C.S., p. 523, ch. 21; Acts 1930, 41st Leg., 5th C.S., p. 180, ch. 40, § 1.]

Art. 3221a. Orphan Negro Children to be Accepted in Home at Austin; Removal of Orphan Negro Children from Dickson Colored Orphanage

Authority of Board of Control

Sec. 2. The State Board of Control¹ is hereby authorized to accept and care for, support and maintain, orphan Negro children in the Deaf, Dumb, and Blind Asylum for Colored Youths and Colored Orphans,² located at Austin, Texas. Said Board shall have authority to move any and all orphan Negro children from the Dickson Colored Orphanage located near Gilmer, Texas, to Austin, and place them in said asylum, and care for, support, and maintain them, in said institution whenever they deem it advisable to do so; and until such time said Board shall be authorized to use the land and other property at Gilmer, Texas, now occupied and used by said Dickson Colored Orphanage for such purpose, and shall have all powers and authority herein conferred to control the property of said orphanage at such place, and use it for such purposes until such time as suitable provisions shall be made for caring for said orphans at the said Deaf, Dumb and Blind Asylum for Colored Youths and Colored Orphans at Austin, Texas.

Dickson Colored Orphanage to be Sold

Sec. 3. As soon as all the Negro children are removed from said Dickson Colored Orphanage by the Board of Control as provided for in this Act, the said Board shall be authorized, and it is hereby made its duty, to sell the said Dickson Colored Orphanage property for the best price that can be obtained therefor; said sale to be either for cash or on a credit as said Board may determine to be for the best interest of the State. The title to said real property shall be conveyed to the purchaser by deed duly executed by the members of the Board of Control, and the title to the personal property shall be passed to the purchaser by bill of sale, duly executed by said members. The proceeds from the sale of said property when collected shall be used by the said Board of Control for the purchase of additional land, the erection of additional buildings, or the support and maintenance for the said Deaf, Dumb and Blind Asylum for Colored Youths and Colored Orphans at Austin, Texas, as said Board may determine to be for the best interest of said institution.

[Acts 1937, 45th Leg., p. 879, ch. 434.]

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

² Name changed to Texas Blind, Deaf and Orphan School, see art. 3221b.

Art. 3221b. Texas Blind, Deaf and Orphan School, Name Changed To

The name of the Deaf, Dumb, and Blind Asylum for Colored Youths and Colored Orphans, which is located in Austin, Texas, be and the same is hereby changed and shall hereafter be known and designated as the Texas Blind, Deaf and Orphan School.

[Acts 1947, 50th Leg., p. 497, ch. 292, § 1.]

Art. 3221c. Texas School for the Deaf, Jurisdiction of State Board of Education

Sec. 1. From and after the passage of this Act, all management and administrative responsibility for the Texas Blind, Deaf and Orphan School shall be transferred from the Board for Texas State Hospitals and Special Schools to the State Board of Education.

Sec. 2. Texas Blind, and Deaf School (formerly known as Texas Blind, Deaf and Orphan School) shall hereafter be designated and known as Texas School for the Deaf and by this Act is combined and constituted, territorially and for all purposes, a part and campus of the so enlarged Texas School for the Deaf and of Texas School for the Deaf Independent School District.

Sec. 3. The State Board of Education shall have exclusive jurisdiction and control of the Texas School for the Deaf as herein or hereafter enlarged. Such jurisdiction shall extend to all physical assets, including lands, property, etc., now owned or purchased for the benefit of the former Texas Blind, and Deaf School; and appropriations, grants, funds, and gifts made for the benefit thereof shall be administered and expended by the State Board of Education.

[Acts 1963, 58th Leg., p. 208, ch. 111. Amended by Acts 1965, 59th Leg., p. 117, ch. 45, § 1, Sept. 1, 1965; Acts 1967, 60th Leg., p. 1198, ch. 534, §§ 1, 2, eff. Aug. 28, 1967.]

Art. 3222. Superintendent

The Board¹ shall appoint a superintendent of said asylum. Said superintendent shall be a man of mature years and experienced and familiar with the duties required.

[Acts 1925, S.B. 84.]

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3222a. Relocation of Site; New Facilities; Disposition and Transfer of Lands

Sec. 1. The Texas Youth Council is hereby authorized to relocate the State Blind, Deaf and Orphans School now situated on Bull Creek Road in the City of Austin, Texas, to a more suitable site.

Sec. 2. From funds appropriated in the general appropriation bill, the Texas Youth Council is directed to construct a new Blind, Deaf and Orphans School.

Sec. 3. The Texas Youth Council is authorized to enter into an inter-agency contract with the Board for State Hospitals and Special Schools for the purpose of transferring the present site of the Blind, Deaf and Orphans School to the Board for Texas State Hospitals and Special Schools for use by the Hospital Board as it so needs. The Texas Youth Council is further authorized to accept by an inter-agency contract suitable land now owned or acquired by the Hospital Board for the purpose of constructing a new Blind, Deaf and Orphans School. Should the State Hospital Board not have a suitable tract of land for such purposes, then in such event the State Hospital Board shall purchase a suitable tract of land in or near Austin, Texas to be approved by the Texas Youth Council in exchange for the present facilities at the Blind, Deaf and Orphans School. The Hospital Board is authorized to purchase such site out of any funds appropriated to them by House Bill No. 133 of the 55th Legislature;¹ provided, however, such monies shall not be appropriated or transferred from any medical treatment funds, for the purpose of this Act.

[Acts 1957, 55th Leg., p. 1164, ch. 389, eff. Aug. 23, 1963.]

¹ Acts 1957, 55th Leg., p. 870, ch. 385.

Art. 3222a-1. Repealed by Acts 1971, 62nd Leg., p. 3363, ch. 1024, art. 2, § 48, eff. Sept. 1, 1971

Acts 1971, 62nd Leg., p. 3072, ch. 1024, repealing this article, enacts Title 3 of the Texas Education Code.

COUNTY-WIDE DAY SCHOOLS FOR THE DEAF

Arts. 3222b, 3222b-1. Repealed by Acts 1971, 62nd Leg., p. 3024, ch. 994, § 17(3), eff. Aug. 30, 1971

ABILENE STATE HOSPITAL

Arts. 3223 to 3232. Repealed by Acts 1949, 51st Leg., p. 756, ch. 406, § 13

ABILENE STATE SCHOOL

Art. 3232a. Repealed by Acts 1957, 55th Leg., p. 505, ch. 243, § 103, eff. Jan. 1, 1958; Acts 1957, 55th Leg., p. 1207, ch. 401, § 7, eff. June 6, 1957

Art. 3232b. Abilene State School, Name Changed To

Sec. 1. The name of "Abilene State Hospital" created by H.B. No. 337, Chapter 406,¹ Acts of the Fifty-first Legislature, Regular Session, 1949, is hereby changed to Abilene State School. Hereafter the Abilene State School shall be operated under the provisions of the Mentally Retarded Persons Act being Senate Bill No. 221, Chapter 119,² Acts of the Fifty-fourth Legislature, Regular Session, 1955.

Sec. 2. All laws heretofore or hereafter enacted by the Legislature applicable or relating to "Abilene State Hospital" shall hereafter be applicable and relate to Abilene State School.

Sec. 3. All appropriations heretofore made and now effective or appropriations hereafter made by

the Legislature for the use and benefit of "Abilene State Hospital" shall be available for the use and benefit of Abilene State School.

Sec. 4. All contracts heretofore entered into in behalf of "Abilene State Hospital" are hereby ratified, confirmed, and validated for and in behalf of Abilene State School.

Sec. 5. The Board shall employ a superintendent for the Abilene State School who shall possess such qualifications as the Board may prescribe.

Sec. 6. Epilepsy shall not bar the admission of any person to a State institution or school within this State.

[Acts 1957, 55th Leg., p. 1207, ch. 401, eff. June 6, 1957.]

¹ Article 3232a (repealed).

² Article 3871b (repealed; see, now, art. 5547-300).

Art. 3232c. Conveyance of Excess Land of Abilene State School

Determination of Amount of Excess Land; Sale and Conveyance

Sec. 1. The Board for Texas State Hospitals and Special Schools is hereby authorized in its discretion to determine land in excess of the needs of the operation of the Abilene State School and thereafter sell and convey for cash any land which it has determined is no longer needed for the proper operation of the Abilene State School.

Notice to Highway Department and Board of Control

Sec. 2. After the Board has determined what land, if any, is in excess of the needs of the Abilene State School, it shall notify the State Highway Department and the State Board of Control that the land is to be sold, giving a description of the excess land. If the State Highway Department shall determine that any of said land is necessary for the construction or operation of any existing or proposed state highway, title of such land shall be retained in the state and the control over said land shall be transferred to the State Highway Department under the provisions of subsection 2 of Section 4 of Chapter 300, Acts of the 55th Legislature, 1957.¹ If the land is not to be used for any state highway purposes, then the State Board of Control shall determine if any of said land can be used for a necessary purpose by any state agency, and if the Board of Control has determined that the land can be so used, it shall notify such agency that the land is available, and if the state agency agrees to accept and use the land for a necessary purpose, then title to such land shall be retained in the state and the control of such land shall be transferred to the state agency.

Advertisement; Bids

Sec. 3. If the excess land, or any part of it, is not to be retained or used by the State Highway Department or any state agency after a period of twelve (12) months from the date of notification, then the Board for Texas State Hospitals and Special Schools may sell same after advertisement in a newspaper published in Taylor County, Texas, in at least two (2) issues thereof, the first such publica-

tion to be made at least thirty (30) days in advance of the sale date describing the land to be sold and calling for sealed bids thereon, the bids to be opened on the sale date by a majority of the Board either at its office in Austin, Texas, or at such other place as the Board may designate in the advertisement. The advertisement may describe in general terms the property to be sold but shall state that a description by metes and bounds may be obtained from the Board. Each bid shall be accompanied by cashier's or certified check in the amount of ten per cent (10%) of the amount bid which shall be forfeited to the state in the event the bidder is awarded the bid and fails or refuses to complete the purchase of the land upon tender of a deed thereto. The Board shall have the right to reject any and all bids but unless the Board elects to reject all bids it shall be required to accept the highest bid submitted. The proceeds from the sale of the land under this Act, less the expense of surveying, advertising and any other expense incidental or necessary to the accomplishment of the purpose of this Act, shall be deposited to the General Revenue Fund of the State of Texas.

Reservation of Royalty Interest in Oil and Minerals

Sec. 4. Sale of the above-described property shall be subject to a provision, to be contained in the deed, reserving to the State of Texas a one-half non-participating royalty interest in and to all oil, gas, and other minerals in and under said land.

Execution of Deed

Sec. 5. The chairman of the Board for Texas State Hospitals and Special Schools or a member of the central office staff, authorized by an appropriate resolution of the Hospital Board, may execute and deliver a proper deed, containing the reservation aforesaid, conveying any land sold under the provisions of this Act to the purchaser thereof, the form of such conveyance to be approved by the Attorney General.

[Acts 1961, 57th Leg., p. 708, ch. 333. Amended by Acts 1963, 58th Leg., p. 428, ch. 147, § 1, eff. Aug. 23, 1963.]

¹ Article 6674w-3, § 4, subsec. 2.

AUSTIN STATE SCHOOL

Arts. 3233 to 3238. Repealed by Acts 1955, 54th Leg., p. 438, ch. 119, § 25, eff. Sept. 6, 1955

ADDITIONAL FEEBLE-MINDED INSTITUTIONS

Art. 3238a. Institution for Feeble-Minded; Transfer of Persons To; Admitting Persons; Custody

Sec. 4. No real property, improvements, and equipment will be acquired for the sum of money herein appropriated unless there can be comfortably and properly housed therein at least 350 feeble-minded patients, and such institution is hereby dedicated for the care, hospitalization, maintenance and education of feeble-minded persons having resided in the State of Texas for a period of not less than three (3) years preceding the date of their applica-

tion for admission, and of not less than seven (7) nor more than twenty-one (21) years of age.

Sec. 5. The State Board of Control¹ is hereby authorized to transfer from any existing eleemosynary institution in Texas unto the institution contemplated by this Act all such feeble-minded person or persons coming within the ages hereinabove set out, and the Superintendents of any such institutions are hereby authorized to make transfer of such feeble-minded patients to such new institution.

Sec. 6. The Superintendent of the institution contemplated by this Act shall admit any feeble-minded person upon commitment or legal transfer in the same manner as such feeble-minded person or persons are now admitted to the Austin State School, and such Superintendent is further authorized to furlough or discharge such feeble-minded person or persons within the custody of such institution in the same manner as is now prescribed by law for the discharge or parole of any patient confined in the Austin State School.

Sec. 7. The new feeble-minded institution contemplated by this Act is made a custodial institution, and the Superintendent and other officers and employees thereof are directed to hold in custody, subject to the terms of the law, all such feeble-minded person or persons committed to them by the courts of this state.

[Acts 1943, 48th Leg., p. 718, ch. 396.]

¹ Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

McKNIGHT STATE TUBERCULOSIS HOSPITAL

Arts. 3238b to 3251a. Repealed by Acts 1943, 48th Leg., p. 75, ch. 60, § 4; Acts 1959, 56th Leg., p. 379, ch. 181, § 28, eff. Aug. 11, 1959

AMERICAN LEGION MEMORIAL SANATORIUM

Arts. 3252 to 3254. Repealed by Acts 1953, 53rd Leg., p. 26, ch. 19, § 1, eff. Aug. 26, 1953

STATE TUBERCULOSIS SANATORIUM FOR NEGROES

Arts. 3254a, 3254a-1. Repealed by Acts 1959, 56th Leg., p. 379, ch. 181, § 28, eff. Aug. 11, 1959

SOUTH TEXAS TUBERCULOSIS SANATORIUM

Art. 3254b. Repealed by Acts 1947, 50th Leg., p. 1035, ch. 447, § 3

MOODY STATE SCHOOL FOR CEREBRAL PALSIED CHILDREN

Arts. 3254c to 3254c-2. Repealed by Acts 1971, 62nd Leg., p. 3323, ch. 1024, Art. 1, § 3, eff. Sept. 1, 1971

Act 1971, 62nd Leg., p. 3072, ch. 1024, repealing these articles, enacts Title 3 of the Texas Education Code.

See, now, Education Code, § 74.051 et seq.

EAST TEXAS TUBERCULOSIS HOSPITAL

Arts. 3254d, 3254d-1. Repealed by Acts 1959, 56th Leg., p. 379, ch. 181, § 28, eff. Aug. 11, 1959

WACO CENTER FOR YOUTH

Art. 3255. Superintendent and Officers

The State Board of Control¹ shall employ as superintendent of the State Home for Dependent and Neglected Children² a person of previous experience in a similar institution. Said board shall fix the salary of the superintendent and all employes, and shall have authority to remove the superintendent for cause, and its decision in such matters shall be final. Said Board shall also appoint a physician for said Home.

[Acts 1925, S.B. 84.]

¹ Transfer of management, government and control to State Department of Public Welfare, see art. 3255b. Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

² Name changed to Waco State Home, see art. 3255a.

Art. 3255a. Name of Home Changed

That the name of the State Home for Dependent and Neglected Children which is located at Waco, Texas, be and the same is hereby changed and shall hereafter be known and designated as Waco State Home.

[Acts 1937, 45th Leg., p. 775, ch. 375, § 1.]

Art. 3255b. Management, Government and Control

Transfer of Management, Government and Control to Department of Public Welfare

Sec. 1. Effective the first day of the month after this Act becomes law, the management, government, and control of the Waco State Home, Waco, Texas, shall be and are hereby transferred from the Board of Texas State Hospitals and Special Schools to the State Department of Public Welfare and all other facilities hereafter established by the State for the care and education of dependent and neglected children shall be under the control and management of the State Department of Public Welfare.

The State Department of Public Welfare shall succeed to and be vested with all the rights, powers, duties, facilities, personnel, records, and appropriations now held and which will be appropriated for the biennium beginning September 1, 1951, by the Board for Texas State Hospitals and Special Schools for the care of dependent and neglected children now in, or who may hereafter be committed to the Waco State Home, Waco, Texas.

Transfer of Personnel

Sec. 2. The personnel employed in the Waco State Home is hereby transferred to the State Department of Public Welfare.

Appointments, Duties and Compensation of Personnel

Sec. 3. When it becomes necessary to appoint a Superintendent for the institution, the State Department of Public Welfare shall have the authority to make the appointment and upon the recommendation of the Superintendent shall appoint all key employees, as defined by the State Department of Public Welfare, and shall prescribe their duties and qualifications for employment and the Superintendent is authorized to employ the subordinate employees required at the institution. The salaries, compensations, and emoluments of the Superintendent and all employees shall be fixed by the State Department of Public Welfare within the limits of the appropriation as set by the Legislature.

Transfer of Personal Property

Sec. 4. All personal property now in use by the Board for Texas State Hospitals and Special Schools for the administration of the institution named herein is hereby transferred to the State Department of Public Welfare.

School and Training Program

Sec. 5. The State Department of Public Welfare is hereby directed to set up a school and training program for the children in the institution named in this Act so as to enable the children to become self-supporting through training and education in accordance with the capability of the individual child. Such training program may be set up within the institution or it may require maintenance and support of the children in one of the State institutions of higher learning. The moneys appropriated for the maintenance and support of the institution may be used for this purpose in accordance with rules and regulations and limitations as prescribed by the State Department of Public Welfare.

Duties and Responsibilities Not Limited

Sec. 6. Nothing in this Act shall be construed to delimit the responsibilities of the institution named herein for the care of the children entrusted to it as provided in the General Statutes creating the institution and as provided in subsequent amendments prescribing the duties and responsibilities of the institution for the care of such children.

Negotiations with United States Government; Acquisition of Lands and Other Property

Sec. 9. The State Department of Public Welfare is hereby authorized to negotiate for and to acquire from the United States Government or any agency thereof or from any source whatever by gift, purchase, or leasehold for and on behalf of the State of Texas for use in the State service and in the maintenance and expansion of the State institution for

dependent and neglected children which now exists, or may hereafter be created, any lands, buildings, and facilities within the State of Texas and any personal properties wherever located and to take title thereto for and in the name of the State of Texas.

[Acts 1951, 52nd Leg., p. 860, ch. 485.]

Art. 3255c. Transfer of Land, Facilities and Functions; Change of Name

Transfer of Waco State Home

Sec. 1. The custody, control, and management of the land, buildings, and facilities of the Waco State Home are transferred to the Texas Department of Mental Health and Mental Retardation effective September 1, 1979.

Change of Name

Sec. 2. Effective September 1, 1979, the name of the Waco State Home is changed to the Waco Center for Youth.

Purpose of Center

Sec. 3. The Waco Center for Youth shall be used as a residential treatment facility for emotionally disturbed juveniles who:

(1) have been committed to a facility of the Texas Department of Mental Health and Mental Retardation under the provisions of the Texas Mental Health Code, as amended;¹ or

(2) are under the managing conservatorship of the Texas Department of Human Resources and have been committed to the Waco Center for Youth under the provisions of the Texas Mental Health Code, as amended.

(3) No emotionally disturbed juvenile who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision under Title 3 of the Texas Family Code² will be admitted to the Waco Center for Youth.

¹ Article 5547-1 et seq.

² Family Code, § 51.01 et seq.

Educational Services

Sec. 4. The Texas Department of Mental Health and Mental Retardation will provide free, appropriate educational services for all clients who reside at the Waco Center for Youth. The cost of such services will be paid by the Texas Department of Mental Health and Mental Retardation from funds appropriated for that purpose to said facility. No client of said facility, other than those who are legal residents of the Waco Independent School District, will receive educational services from the Waco Independent School District without the prior approval of the superintendent of said school district.

Disposition of Property

Sec. 5. The Texas Youth Council and the Texas Board of Mental Health and Mental Retardation by

agreement shall provide for the transfer or retention by the Texas Youth Council of all items of state property now located at the Waco State Home, including furniture, equipment, vehicles, tools, supplies, linens, machinery, and utensils. The Texas Youth Council and the Texas Board of Mental Health and Mental Retardation shall inform the State Board of Control of the disposition made of all such property on or before September 1, 1979.

Transfer of Funds

Sec. 6. (a) From funds appropriated to the Texas Youth Council for the Waco State Home for the biennium ending August 31, 1979, the Texas Youth Council may transfer to the Texas Department of Mental Health and Mental Retardation an amount determined by agreement between the Texas Youth Council and the Texas Department of Mental Health and Mental Retardation. Any of these funds may be used by the Texas Department of Mental Health and Mental Retardation for renovation, remodeling, and alteration of buildings and facilities and purchase of equipment for the Waco Center for Youth as required to house emotionally disturbed clients or for the payment of salaries for personnel involved in the planning, development, or provision of services to emotionally disturbed clients at the facility.

(b) The Texas Department of Human Resources may transfer funds from its Fund 117, Federal Public Welfare Administrative Fund, to the Texas Department of Mental Health and Mental Retardation in an amount determined by agreement between the Texas Department of Human Resources and the Texas Department of Mental Health and Mental Retardation to be used for renovation, remodeling, and alteration of buildings and facilities and purchase of equipment for the Waco Center for Youth as required to house emotionally disturbed clients.

Department May Take Possession

Sec. 7. For the purposes of renovation, remodeling, and alteration of the buildings and facilities of the Waco State Home, the Texas Department of Mental Health and Mental Retardation may take possession of any such building or facility prior to September 1, 1979, with the prior written approval of the Texas Youth Council.

[Acts 1979, 66th Leg., p. 1360, ch. 611, eff. Aug. 27, 1979.]

Art. 3256. Rules and Regulations

The board¹ shall make necessary rules and regulations for the proper government of said Home, and shall see that the time of the children is properly distributed between the school of letters and the industrial and domestic pursuits according to what is deemed for their best interests and the facilities at hand. The superintendent shall from time to time make such recommendation to said board as may seem to the best interests of all the children committed to said home. It shall be the duty of said controlling board to give diplomas or certificates of

proficiency for grades made in any school that may be established by the board.

[Acts 1925, S.B. 84.]

¹ Transfer of management, government and control to State Department of Public Welfare, see art. 3255b. Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

Art. 3257. Commitment of Child

Whenever any child under sixteen years of age is brought before any juvenile court upon petition of any person within this State, charged with being a dependent or neglected child, the court may, if in the opinion of the judge the Home for Dependent and Neglected Children¹ is the proper place for said child, commit such child to said Home during its minority. No child who is feeble-minded, epileptic, insane or afflicted with a venereal, tubercular or other communicable disease shall be assigned to this institution until cured of such disease. No child shall be admitted to the Home until he has been examined by the physician of the Home and such physician has issued a certificate showing the exact condition in reference to said qualifications. The court committing any child to said Home shall prepare a transcript of all proceedings and attach thereto a certificate of the county health officer of such county to said transcript. If it be a girl or baby or infant committed to said Home, the judge of the court shall designate some reputable woman to convey said girl, baby or infant to said institution. The cost of conveying any child to said institution shall be paid out of the general fund of the county from which it may be committed but no compensation shall be allowed beyond actual and necessary expenses of the party conveying and the child conveyed.

[Acts 1925, S.B. 84.]

¹ Name changed to Waco Center for Youth, see arts. 3255a, 3255c.

Art. 3258. Repealed by Acts 1937, 45th Leg., p. 1328, ch. 492, § 6

Art. 3259. Placing Child in Children's Boarding Home; Dismissal of Child

Sec. 1. Children committed to the Waco State Home may be placed by the superintendent, upon the approval of the State Board of Control¹ and under the authority of an order to that effect issued by the Court which committed such child to such institution, in children's boarding homes at a reasonable rate not to exceed One Dollar (\$1) per day for each child so boarded when in the judgment of such superintendent effective administration of said Waco State Home so requires; provided that such children's boarding homes shall obtain an annual license as required by law, which license shall be issued without fee, and under such reasonable and uniform rules and regulations as the State Board of Public Welfare may prescribe for all children's

boarding homes in accordance with the laws of this State as same now exist or may hereafter be enacted. No child shall be placed in such children's boarding home unless it is deemed advantageous to the welfare of such child; and children so placed shall be deemed to have the same status as other inmates of said Waco State Home and shall continue to be wards and subject to the guardianship of said Superintendent. Children shall be given preference who, in the judgment of the superintendent, are eligible upon the basis of their respective individual problems and individual needs, and who will profit most by such placement, and whose placement will make for more effective administration of the Waco State Home's program; provided, however, that no more than twenty (20) such children from all inmates of said Waco State Home shall, at any given time, be so boarded. The superintendent of said Waco State Home shall, upon the approval of said Board, replace or remove such child from such licensed boarding homes when in his discretion he deems it advisable; or upon complaint of such child, the superintendent shall remove the child from such children's boarding home; provided that nothing herein shall abridge the visitatorial and regulatory powers of the superintendent over the person of any such child so placed in such children's boarding homes, until such child has been dismissed from said Waco State Home, and then under such provisions and limitations as hereinafter stated.

Sec. 2. No child shall be dismissed from the Waco State Home until some suitable home has been found for it, or it has become self-supporting and only then upon the written recommendations of the superintendent to the State Board of Control, or when any ward committed to said Home has become married with the consent of the Board and superintendent. Children may be placed for adoption only in homes approved by the Division of Child Welfare, State Department of Public Welfare. Upon the adoption or marriage of any such child, the visitatorial and regulatory powers of said Board of Control and superintendent shall terminate. Any child not adopted who goes out from this Home either under the custody of some adult or as self-supporting shall continue under the supervision and guidance of said Board. The Board or its representative shall visit the place where said child is living or employed, and it shall be the duty of the person having the custody of said child to answer all questions asked by such Board or representative concerning the conduct, employment, treatment, or condition of said child. If in the judgment of the Board it should be for the best interest of said child that it be returned to said Waco State Home, the Board is hereby empowered to have it returned.

[Acts 1925, S.B. 84. Amended by Acts 1939, 46th Leg., p. 429, § 1; Acts 1941, 47th Leg., p. 601, ch. 369, § 1.]

¹ Transfer of management, government and control to State Department of Mental Health and Mental Retardation, see art. 3255c. Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools (abolished), see art. 3174b and note thereunder.

COLORED GIRLS TRAINING SCHOOLS

Art. 3259a. Repealed by Acts 1965, 59th Leg., p. 330, ch. 155, § 3, eff. May 13, 1965

Art. 3259a-1. Crockett State School for Girls**Change of Name; Jurisdiction and Control of School**

Sec. 1. The school established pursuant to the provisions of Chapter 293, Acts of the 40th Legislature, Regular Session, 1927 (codified in Vernon's as Article 3259a, Vernon's Civil Statutes) shall from and after the effective date of this act be known as "Crockett State School for Girls" and shall be under the jurisdiction and control of the Texas Youth Council.

Exercise of Powers and Duties

Sec. 2. In exercising jurisdiction and control over the Crockett State School for Girls, the Texas Youth Council shall exercise all powers and duties conferred by the provisions of Chapter 281, Acts of the 55th Legislature, Regular Session, 1957 (codified in Vernon's as Article 5143d, Vernon's Civil Statutes).

Repealer

Sec. 3. The provisions of Chapter 293, Acts of the 40th Legislature, Regular Session, 1927 (codified in Vernon's as Article 3259a, Vernon's Civil Statutes) are hereby repealed.

[Acts 1965, 59th Leg., p. 330, ch. 155, eff. May 13, 1965.]

Art. 3259b. Acquisition or Construction and Equipment of Colored Girls' Training School; Salaries

Sec. 1. The State Board of Control is hereby authorized to acquire, purchase, construct or recon-
dition, and equip a school for the care, education and training of dependent and delinquent colored girls pursuant to the provisions of Senate Bill No. 239, Chapter 293 of the Acts of the 40th Legislature, Regular Session,¹ at a cost of not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00).

Sec. 3. The Board of Control shall fix the salaries of the Superintendent and all employees of said institution, which salaries shall not exceed those paid for similar services at other comparable state institutions.

[Acts 1945, 49th Leg., p. 136, ch. 92.]

¹ Article 3259a (repealed), Penal Code, art. 333a (repealed).

STATE HOSPITAL FOR CRIPPLED AND DEFORMED CHILDREN

Art. 3260. Hospital Established

There is hereby established a State Hospital for Crippled and Deformed Children. The gift to the State of Texas by the Texas Public Health Association of the Walter Colquitt Memorial Children's Hospital, also known as the children's ward of the

John Sealy Hospital on the premises of the University of Texas at Galveston, Texas, as hereby accepted by the State, and this hospital shall be the State Hospital for Crippled and Deformed Children. The term "crippled and deformed children" as used herein shall include children suffering from disease from which they may become crippled or deformed.

[Acts 1925, S.B. 84.]

Art. 3261. Management and Control

Said hospital shall be under the control and management of the Board of Regents of the University of Texas, which is hereby authorized and empowered to lease said hospital building to the city of Galveston in the same manner as the John Sealy Hospital buildings, and to require that provision be made in such hospital for the care and treatment of crippled and deformed children, who may be benefited or cured by treatment in said hospital, and for such other cases or patients as may be required in the interest of scientific study by the faculty and students of the Medical Department of the University of Texas.

Said Board of Regents may in its discretion receive in said hospital any sick or afflicted child who is not crippled or deformed, and who is not suffering from any communicable disease.

[Acts 1925, S.B. 84.]

Art. 3262. Rules and Regulations

The Board of Regents shall adopt such rules and regulations as it may deem necessary and proper for the admission, discharge, care and treatment of such children. It may require their parents or guardians to pay all or a part of the expenses of the care and treatment of patients when able to do so, otherwise it may require such payment of their home counties or cities.

[Acts 1925, S.B. 84.]

Art. 3263. Donations

Said Board of Regents is authorized to accept donations for the support of crippled or deformed patients, and for the improvement of the hospital and building.

[Acts 1925, S.B. 84.]

STATE CANCER AND PELLAGRA HOSPITAL

Art. 3263a. Repealed by Acts 1953, 53rd Leg., p. 26, ch. 18, § 1, eff. Aug. 26, 1953

NAVARRO COMMUNITY FOUNDATION

Art. 3263b. Unconstitutional

This article, Acts 1939, 49th Leg., Spec.Laws, p. 551, §§ 1-16, is void because it violates Const. Art. XII, § 1, providing that no private corporation shall be created except by general laws. Therefore, no corporation was created by this article. See *Miller v. Davis*, 136 T. 299, 150 S.W.2d 973, 136 A.L.R. 177.

MEXIA STATE SCHOOL AND HOME; AGED
SENILE PERSONS

**Art. 3263c. State School and Home; Aged Senile
Divisions at State Hospital**

Name of Institution; Transfers

Sec. 1. From and after the passage of this Act, the institution located at Mexia, Texas, should be referred to as the Mexia State School and Home. The State Board of Control is authorized to transfer from the Austin State School any feeble-minded person now being maintained in the Austin State School who is capable of profiting from the educational program at the Mexia State School and Home, and said Board is also authorized to transfer from any State Hospitals or the Austin State School to the Mexia State School and Home any aged senile persons now being maintained in such State Hospitals or the Austin State School or hereafter committed and/or admitted thereto, and custody of any such feeble-minded person or aged senile person is hereby placed in the Mexia State School and Home.

Persons Admitted

Sec. 2. The State Board of Control shall have the right to cause to be admitted to the Mexia State School and Home any aged person, after such person has been adjudged insane or feeble-minded, upon receipt of the certified transcript in the manner prescribed by law.

Furlough or Discharge; Custodial Institution

Sec. 3. The Superintendent of the Mexia State School and Home may, upon the recommendation of the chief physician employed at said institution, grant any aged senile person confined therein a furlough or discharge in the same manner by which such aged senile persons are now released from the State Hospitals or the Austin State School. Said Mexia State School and Home shall be and is hereby made a custodial institution for the care, maintenance and treatment of aged senile persons.

Use of Part of Institution for Feeble Minded Persons

Sec. 4. It is the Legislative intent that the foregoing provisions of this Act shall not apply to the operation of the school for the feeble-minded at the Mexia State School and Home, and the Board of Control is hereby authorized to continue to use a part of said institution as a school for the training of feeble-minded persons transferred to such institution from the Austin State School.

Aged Senile Divisions

Sec. 5. The State Board of Control is hereby authorized to establish aged senile divisions at the Austin State Hospital, Big Spring State Hospital, Rusk State Hospital, San Antonio State Hospital, Terrell State Hospital, and Wichita Falls State Hospital, for the care, maintenance and treatment of aged senile feeble-minded; and said Board is fur-

ther authorized to transfer to such divisions within the said Hospitals any aged senile feeble-minded person now or hereafter committed or admitted to the Austin State School and such person shall be restrained in said division pursuant to the laws now governing the operation of the Austin State School and feeble-minded proceedings.

[Acts 1949, 51st Leg., p. 846, ch. 461.]

LUFKIN STATE SCHOOL

Art. 3263d. Lufkin State School

Sec. 1. Should the Board for Texas State Hospitals and Special Schools acquire from the United States of America the property and facilities located near Lufkin, Texas, and known as the Lufkin Air Force Base, said Board shall establish and maintain an additional school for the diagnosis, special training, education, supervision, treatment, care and control of mentally retarded persons of this state. After the establishment of said school, it shall be known as the "Lufkin State School."

Sec. 2. Within the limits of appropriated funds the Board is further authorized to acquire by eminent domain, purchase or gift, additional land adjacent to the facilities so acquired from the United States Government for the purpose of enlarging said school.

Sec. 3. Upon the acceptance of said facilities from the United States Government and the completion of the necessary renovations, the Board shall appoint such personnel as is necessary to operate and maintain such school and to adequately treat such persons as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally retarded.

[Acts 1961, 57th Leg., p. 630, ch. 296, eff. June 14, 1961.]

CORPUS CHRISTI STATE SCHOOL

Art. 3263e. Corpus Christi State School

**Construction, Establishment and Maintenance;
Location**

Sec. 1. There shall be constructed, established, and maintained an additional school for the diagnosis, special training, education, supervision, treatment, care and control of mentally retarded persons of this state. Its name shall be the "Corpus Christi State School," and it shall be located on land previously offered to the Board for Texas State Hospitals and Special Schools for this purpose, which land is generally described as follows:

Beginning at the northwest corner of Block 4 of the Airport Park Addition to the City of Corpus

Christi as shown by map or plat of record in Vol. 8, Page 26, Map Records of Nueces County, Texas;

Thence in a southerly direction with the west boundary line of said Block 4, Airport Park Addition to the southwest corner of said Airport Park Addition;

Thence in a southeasterly direction with the south boundary line of said Airport Park Addition and continuing with the south boundary line of Block 5 of the Harlem Park Addition as recorded in Vol. 9, Page 57, Map Records of Nueces County, Texas, to a point in the northwest right-of-way line of Greenwood Drive;

Thence in a southwesterly direction with the northwest right-of-way line of Greenwood Drive to a point in the north right-of-way line of Horne Road;

Thence in a northwesterly direction with the proposed north right-of-way line of Horne Road to a point 42 feet east of the southeast corner of Lot 1 of the Gugenheim and Cohn Farm Lots;

Thence in a northerly direction with the east boundary line of the existing north-south runway of the former Cliff Maus Airport and its northerly extension to a point in the southeast right-of-way line of Old Brownsville Road;

Thence in a northeasterly and easterly direction with the southeast right-of-way line of Old Brownsville Road to the place of beginning.

Save and except from above-described area the following tracts:

Tract 1. An approximately one-acre tract of land at the intersection of Greenwood Drive and Horne Road occupied by City of Corpus Christi Fire Station No. 10.

Tract 2. An approximately five-acre tract of land located on Horne Road approximately 1,000 feet northwesterly of Greenwood Drive and occupied by a Texas National Guard Armory.

Tract 3. An approximately one-fourth acre tract of land located on Greenwood Drive adjacent to the most southerly corner of the Harlem Park Addition and occupied by a City of Corpus Christi gas regulator station.

Tract 4. An easement for an existing 9' x 5' reinforced concrete box storm sewer extending in an east-west direction across the above-described property approximately 1,600 feet north of Horne Road and known as the "Blake Interceptor."

The Board shall take title to the above-described land in the name of the State of Texas for the use and benefit of said school; provided, however, that the Attorney General's Department shall first approve title to the land.

Buildings; Plans and Specifications

Sec. 2. There shall be constructed upon said grounds permanent, suitable, substantial, and fire-proof buildings sufficient in all respects to care for

mentally retarded persons; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation and sewage, within the limits of legislative appropriations.

The Board for Texas State Hospitals and Special Schools shall proceed to prepare plans and specifications for said buildings; and immediately after this Act becomes effective and title to the above-described land shall have been approved by the Attorney General as being vested in the State of Texas, and upon the availability of sufficient appropriations, the Board shall contract for the erection of the necessary buildings for the proper operation of said school, as provided by law; and said Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Personnel; Admission and Care of Mentally Retarded Persons

Sec. 3. Upon the completion of the buildings and facilities, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such school and to adequately treat such persons as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally retarded.

Corpus Christi State School Independent School District

Sec. 4. Effective with the date persons are admitted to the Corpus Christi State School, such school shall become and is hereby created the Corpus Christi State School Independent School District. The territorial limits of the Independent School District created shall be co-extensive with the territorial boundaries of the Corpus Christi State School. The Board for Texas State Hospitals and Special Schools shall be ex officio trustees of the district so created.

[Acts 1963, 58th Leg., p. 182, ch. 103, eff. Aug. 23, 1963.]

MENTAL HEALTH FACILITY AT LEANDER

Art. 3263f. Mental Health Facility at Leander

Establishment

Sec. 1. On lands under its control and management located at Leander, Texas in Williamson County consisting of 755 acres, more or less, the Texas Department of Mental Health and Mental Retardation, hereinafter referred to as Department, is authorized to construct, establish and maintain a special facility for the resocialization, training, education, rehabilitation, supervision, treatment, care and

control of mentally ill and mentally retarded persons of this state.

Buildings and Improvements

Sec. 2. Buildings and improvements authorized by this Act to be constructed on said lands shall be of three types as follows:

(a) Permanent buildings to accommodate more severally involved mentally ill and mentally retarded persons.

(b) Less sophisticated summer cabin type facilities and such additional facilities as would permit participation in outdoor type recreation.

(c) Only sanitary, water and sewage facilities to accommodate active and youthful persons in an outdoor camping program.

Upon the availability of sufficient appropriations the Department shall proceed to construct and erect the necessary buildings and improvements.

Powers of Department

Sec. 3. The Department:

(a) shall have exclusive control and management of this facility,

(b) shall appoint such personnel as are necessary to operate and maintain it within the limits of legislative appropriations,

(c) may admit to such facility those mentally ill and mentally retarded persons of this state as in its

opinion will benefit therefrom for such period of time as it shall deem proper, and

(d) may contract with community mental health and mental retardation centers and with persons, private organizations and foundations concerned with mental health and mental retardation for use of the facility.

[Acts 1969, 61st Leg., p. 686, ch. 232, eff. May 21, 1969.]

SAN ANTONIO STATE SCHOOL

Art. 3263g. San Antonio State School

Sec. 1. There is hereby established the San Antonio State School for the education, care, and treatment of mentally retarded persons. The Texas Department of Mental Health and Mental Retardation may enter into agreements with the State Department of Health for use of the excess facilities of the San Antonio Chest Hospital in the operation of the school.

Sec. 2. The Texas Department of Mental Health and Mental Retardation shall appoint personnel necessary to operate and maintain the school and to adequately treat the persons admitted within the limits of legislative appropriations. The Texas Department of Mental Health and Mental Retardation shall admit persons and shall provide for their care and maintenance under the state laws, rules, and regulations governing the admission and care of mentally retarded persons.

[Acts 1975, 64th Leg., p. 2163, ch. 695, eff. June 21, 1975.]

TITLE 52

EMINENT DOMAIN

Art.

3264. Repealed.
3264a. Eminent Domain by Counties.
3264b. Repealed.
3264c. Condemnation of Historical Sites.
3264d. Texas Woman's University; Eminent Domain.
3265 to 3271. Repealed.

Art. 3264. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

Art. 3264a. Eminent Domain by Counties

The right of Eminent Domain is hereby conferred upon counties of the State of Texas for the purpose of condemning and acquiring land, right of way or easement in land, private or public, except property used for cemetery purposes, where said land, right of way or easement is necessary in the construction of jails, courthouses, hospitals, delinquent and dependent schools, poor farms, libraries or for other public purposes, where such purpose is now or may hereafter be authorized by the Constitution or Statutes of this State.

All such condemnation proceedings shall be instituted under the direction of the commissioners' court, and in the name of the county, and the assessing of damages shall be in conformity to the Statutes of the State of Texas for condemning and acquiring right of way by railroads. That no appeal from the finding and assessment of damages by the commissioners appointed for that purpose shall have the effect of causing the suspension of work by the county in connection with which the land, right of way, easement, etc., is sought to be acquired. In case of appeal, counties shall not be required to give bond, nor shall they be required to give bond for costs.

[Acts 1925, S.B. 84.]

Art. 3264b. Repealed by Acts 1971, 62nd Leg., p. 3323, ch. 1024, art. 1, § 3, eff. Sept. 1, 1971

Acts 1971, 62nd Leg., p. 3072, ch. 1024, repealing this article, enacts Title 3 of the Texas Education Code.

See, now, Education Code, § 65.33.

Art. 3264c. Condemnation of Historical Sites

Sec. 1. Whenever any land is required by the State of Texas for the purpose of preserving, restoring or marking any place of historical significance,

the Commission of Control for Texas Centennial Celebrations is authorized to purchase such land for such purpose, or failing to agree with the owner on the price therefor, such land may be condemned in the name of this State upon directions of the Commission of Control for Texas Centennial Celebrations, and proceedings shall be instituted against the owner of the land by the Attorney General.

Should the award of damages, in the opinion of the Commission of Control for Texas Centennial Celebrations, be excessive, such award shall not be paid, but the state shall pay the costs of the proceedings and no further action shall be taken.

Sec. 2. The procedure for such condemnation shall be that provided for in Article 3264, Revised Civil Statutes of Texas, 1925, as it is now, or may hereafter exist.

[Acts 1935, 44th Leg., 2nd C.S., p. 1694, ch. 433, § 1.]

Art. 3264d. Texas Woman's University; Eminent Domain

Sec. 1. The Board of Regents of the Texas State College for Women of Texas¹ is hereby vested with the power of eminent domain to acquire for the use of said College such lands as may be necessary and proper for carrying out its purposes, in the manner prescribed in Title 52, Revised Civil Statutes of Texas of 1925, as amended.

Sec. 2. The taking of such property is hereby declared to be for the use of the state. Said Board of Regents of the Texas State College for Women¹ shall not be required to deposit a bond or the amount equal to the award of damages by the Commissioners as provided in Section 2, of Article 3268. Revised Civil Statutes of Texas of 1925.

[Acts 1943, 48th Leg., p. 208, ch. 127.]

¹ Name changed to Texas Woman's University. See Education Code, § 107.01 et seq.

Arts. 3265 to 3271. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

Without reference to repeal by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, art. 3265, subd. 5, was amended by Acts 1983, 68th Leg., p. 4766, ch. 838, § 1.

For text of Acts 1983, 68th Leg., p. 4766, ch. 838, § 1, see the italicized note following Property Code, § 21.048.

TITLE 52A

ENGINEERS

Art.

3271a. Texas Engineering Practice Act.

Art. 3271a. Texas Engineering Practice Act

Title of Act

Sec. 1. This Act shall be known and may be cited as "The Texas Engineering Practice Act."

Practicing Privileges; Strict Compliance and Enforcement of Act; Use of Term "Engineer"; Professional Standards and Ethics; Graduate Engineers

Sec. 1.1. In recognition of the vital impact which the rapid advance of knowledge of the mathematical, physical and engineering sciences as applied in the practice of engineering is having upon the lives, property, economy and security of our people and the national defense, it is the intent of the Legislature, in order to protect the public health, safety and welfare, that the privilege of practicing engineering be entrusted only to those persons duly licensed, registered and practicing under the provisions of this Act and that there be strict compliance with and enforcement of all the provisions of this Act, and, in order that the state and members of the public may be able to identify those duly authorized to practice engineering in this state and fix responsibility for work done or services or acts performed in the practice of engineering, only licensed and registered persons shall practice, offer or attempt to practice engineering or call themselves or be otherwise designated as any kind of an "engineer" or in any manner make use of the term "engineer" as a professional, business or commercial identification, title, name, representation, claim or asset, and all the provisions of this Act shall be liberally construed and applied to carry out such legislative intent. In furtherance of such intent and purpose of the Legislature, the practice of engineering is hereby declared a learned profession to be practiced and regulated as such, and its practitioners in this state shall be held accountable to the state and members of the public by high professional standards in keeping with the ethics and practices of the other learned professions in this state. There is specifically reserved to graduates of all public universities recognized by the American Association of Colleges and Universities the right to disclose any college degrees received by such individual and use the word Graduate Engineer on his stationery, business cards, and personal communications of any character.

Prohibited Acts and Conduct

Sec. 1.2. From and after the effective date of this Act, unless duly licensed and registered in accordance with the provisions of this Act, no person in this state shall:

(1) Practice, continue to practice, offer or attempt to practice engineering or any branch or part thereof.

(2) Directly or indirectly, employ, use, cause to be used or make use of any of the following terms or any combinations, variations or abbreviations thereof as a professional, business or commercial identification, title, name, representation, claim, asset or means of advantage or benefit: "engineer," "professional engineer," "licensed engineer," "registered engineer," "registered professional engineer," "licensed professional engineer," "engineered."

(3) Directly or indirectly, employ, use, cause to be used or make use of any letter, abbreviation, word, symbol, slogan, sign or any combinations or variations thereof, which in any manner whatsoever tends or is likely to create any impression with the public or any member thereof that any person is qualified or authorized to practice engineering unless such person is duly licensed, registered under and practicing in accordance with the provisions of this Act.

(4) Receive any fee or compensation or the promise of any fee or compensation for performing, offering or attempting to perform any service, work, act or thing which is any part of the practice of engineering as defined by this Act.

Within the intent and meaning and for all purposes of this Act, any person, firm, partnership, association or corporation which shall do, offer or attempt to do any one or more of the acts or things set forth in numbered paragraphs (1), (2), (3) or (4) of this Section 1.2 shall be conclusively presumed and regarded as engaged in the practice of engineering.

Professional Identification

Sec. 1.3. Every person licensed and registered by the Board to engage in the practice of engineering shall in the professional use of his name on any sign, directory, listing, contract, document, pamphlet, stationery, letterhead, advertisement, signature, or any other such means of professional identification, written or printed, use one of the following legally required identifications: Engineer, Professional Engineer or P. E.

Definitions

Sec. 2. As used in this Act the term:

(1) "Board" shall mean the State Board of Registration for Professional Engineers, provided for by this Act.

(2) "Certificate of Registration" shall mean a license issued by the State of Texas granting its licensee the privilege of practicing engineering in accordance with the provisions of this Act.

(3) "Engineer," "professional engineer," "registered engineer," "registered professional engineer," or "licensed professional engineer" shall mean a person who has been duly licensed and registered by the Board to engage in the practice of engineering in this state.

(4) "Practice of engineering," or "practice of professional engineering" shall mean any service or creative work, either public or private, the performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical, or engineering sciences to such services or creative work.

(5) "Practice engineering" or "practicing engineering" shall mean performing or doing, or offering or attempting to do or perform any service, work, act or thing within the scope of the practice of engineering.

State Board of Registration for Professional Engineers—Appointment of Members—Terms

Sec. 3. A State Board of Registration for Professional Engineers is hereby created whose duty it shall be to administer the provisions of this Act. The Board shall consist of six (6) professional engineers and three (3) representatives of the general public, who shall be appointed by the Governor of the State, without regard to the race, creed, sex, religion, or national origin of the appointees and with the advice and consent of the Senate. At the expiration of the term of each member first appointed, his successor shall be appointed by the Governor of the State and he shall serve for a term of six (6) years or until his successor shall be appointed and qualified. Before entering upon the duties of his office each member of the Board shall take the Constitutional Oath of office and the same shall be filed with the Secretary of State.

Application of Sunset Act

Sec. 3a. The State Board of Registration for Professional Engineers is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1993.

Qualifications of Members of Board

Sec. 4. (a) Each professional engineer member of the Board shall be a citizen of the United States and a resident of this State for a period of 10 years

prior to appointment, and shall have been engaged in the practice of the profession of engineering for at least 10 years, two years of which may be credited for graduation from an approved engineering school. Responsible charge of engineering teaching and the teaching of engineering shall be considered as the practice of professional engineering as defined by this Act for purposes of this section and for all other purposes in regard to the administration and enforcement of this Act. A person is eligible for appointment as a public member if the person and the person's spouse:

(1) are not licensed by an occupational regulatory agency in the field of engineering;

(2) are not employed by and do not participate in the management of an agency or business entity related to the field of engineering; and

(3) do not have, other than as consumers, a financial interest in a business entity related to the field of engineering.

(b) A member or employee of the Board may not be an officer, employee, or paid consultant of a trade association in the engineering industry. A member or employee of the Board may not be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Board or act as the general counsel to the Board.

(d) The Board by majority vote may limit the participation of general public members in the evaluations of applications for licensure except in those instances in which the evaluations take place at an official meeting of the Board.

Compensation and Expenses of Board Members

Sec. 5. Each member of the Board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the Board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the General Appropriations Act. All per diem and expenses incurred hereunder shall be paid from the "Professional Engineers' Fund" as provided in this law. No money shall ever be paid for the administration of this Act from the General Funds of the State.

Removal of Members of Board—Vacancies

Sec. 6. (a) Vacancies in the membership of the Board shall be filled for the unexpired term by

appointment by the Governor as provided in this Act.

(b) It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of Section 4 of this Act for appointment to the Board;

(2) does not maintain during the service on the Board the qualifications required by Subsection (a) of Section 4 of this Act for appointment to the Board;

(3) violates a prohibition established by Subsections (b) or (c) of Section 4 of this Act; or

(4) does not attend at least one-half of the regularly scheduled meetings held in a calendar year, excluding meetings held while the person was not a member.

(c) If a ground for removal of a member from the Board exists, the Board's actions taken during the existence of the ground for removal are not invalid for that reason.

Organization and Meetings of the Board

Sec. 7. (a) The Board shall hold at least two (2) regular meetings each year. Special meetings shall be held at such time as the by-laws of the Board may provide. The Board shall elect or appoint annually from its own membership the following officers: a Chairman, a Vice-Chairman, and a Secretary. A quorum of the Board shall consist of not less than five (5) members.

(b) The Board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) The director of the Board or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of each job opening with the Board in a nonentry level position. The intraagency posting shall be made at least ten (10) days before any public posting is made.

(d) The executive head of the Board or his designee shall develop a system of annual performance evaluations of the Board's employees based on measurable job tasks. Any merit pay authorized by the executive head shall be based on the system established under this subsection.

Powers of Board; Violations of Rules and Regulations; Actions and Proceedings

Sec. 8. (a) The Board shall have the authority and power to make and enforce all rules and regulations necessary for the performance of its duties, to establish standards of conduct and ethics for engineers in keeping with the purposes and intent of this Act or to insure strict compliance with an

enforcement of this Act. The violation by any engineer of any provision of this Act or any rule or regulation of the Board shall be a sufficient reason or ground to suspend or revoke the certificate of registration of or to issue a formal or informal reprimand to such engineer. In addition to any other action, proceeding or remedy authorized by law, the Board shall have the right to institute an action in its own name against any individual person to enjoin any violation of any provision of this Act or any rule or regulation of the Board and in order for the Board to sustain such action it shall not be necessary to allege or prove, either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof. Either party to such action may appeal to the appellate court having jurisdiction of said cause. The Board shall not be required to give any appeal bond in any cause arising under this Act. The Attorney General shall represent the Board in all actions and proceedings to enforce the provisions of this Act.

(b) The Board may promulgate rules restricting competitive bidding. The Board may not promulgate rules restricting advertising by licensees except to prohibit false, misleading, or deceptive practices by licensees. The Board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the Board a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of his personal voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(c) The Board may recognize, prepare, or administer continuing education programs for persons regulated by the Board under this Act. Participation in the programs is voluntary.

(d) If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the Board statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the Board receives the committee's statements.

Defenses in Proceedings for Injunction

Sec. 8a. In any proceeding for injunction as provided in Section 8 above the defendant may assert and prove as a complete defense to such action that he was deprived of certification by the Board by action or proceedings of the Board which were

(1) arbitrary or capricious

(2) contrary to legal requirements

(3) conducted without due process of law.

Receipts and Disbursements

Sec. 9. The Secretary of the Board shall receive and account for all moneys derived under the provisions of this Act, and shall pay the same weekly to the State Treasurer who shall keep such moneys in a separate fund to be known as the "Professional Engineers' Fund". Such fund shall be paid out only by warrant of the State Comptroller upon the State Treasurer, upon itemized vouchers, approved by the Chairman and attested by the Secretary of the Board. All moneys in the "Professional Engineers' Fund" are hereby specifically appropriated for the use of the Board in the administration of this Act. The Secretary of the Board shall give a surety bond to the Governor of the State of Texas in the sum of Two Thousand Five Hundred (\$2,500.00) Dollars. The premium on said bond shall be paid out of the "Professional Engineers' Fund". The Secretary of the Board shall receive such salary as the Board shall determine in addition to the compensation and expenses provided for in this Act. The Board shall employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this fund for any purpose which in the opinion of the Board is reasonably necessary for the proper performance of its duties under this Act. Under no circumstances shall the total amount of warrants issued by the State Comptroller in payment of the expenses and compensation provided for in this Act exceed the amount of the "Professional Engineers' Fund". Provided further, that the salaries paid herein shall not be in excess of salaries paid for similar work in other departments.

Records and Reports

Sec. 10. (a) The Board shall keep a record of its proceedings and register of all applications for registration, which register shall show (a) the name, age and residence of each applicant; (b) the date of the application; (c) the place of business of such applicant; (d) his educational and other qualifications; (e) whether or not an examination was required; (f) whether the applicant was rejected; (g) whether a certificate of registration was granted; (h) the date of the action of the Board; and (i) such other information as may be deemed necessary by the Board.

The records of the Board shall be available to the public at all times and shall be prima facie evidence of the proceedings of the Board set forth therein, and a transcript thereof, duly certified by the Secretary of the Board under seal, shall be admissible in evidence with the same force and effect as if the original was produced.

(b) On or before January 1 of each year, the Board shall file with the Governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the Board in the preceding year.

(c) The State Auditor shall audit the financial transactions of the Board in each fiscal biennium.

Roster of Registered Engineers

Sec. 11. A roster showing the names and places of business of all registered professional engineers shall be prepared and published by the Board each biennium at a time determined by the Board. Copies of this roster shall be furnished without charge to any engineer licensed by the Board on the written request of the engineer, placed on file with the Secretary of State, and furnished to any person upon written request who tenders a reproduction fee set by the Board.

General Requirements for Registration

Sec. 12. The following shall be considered as minimum evidence satisfactory to the Board that the applicant is qualified for registration as a professional engineer, to-wit:

(a) Graduation from an approved course in engineering of four (4) years or more in a recognized school or college approved by the Board as a satisfactory standing, and a specific record of an additional four (4) years or more of active practice in engineering work, of a character satisfactory to the Board, indicating that the applicant is competent to be placed in responsible charge of such work; or

(b) Successfully passing a written, or written and oral, examination designed to show knowledge and skill approximating that attained through graduation from an approved four (4) years engineering course; and a specific record of at least eight (8) years of active practice in engineering work of a character satisfactory to the Board and indicating that the applicant is competent to be placed in responsible charge of such work.

(c) At any time within five (5) years after this Act becomes effective the Board may accept as evidence that the applicant is qualified for registration as a professional engineer a specific record of twelve (12) years or more of active practice in engineering work of a character satisfactory to the Board and indicating that the applicant is qualified to design, to operate, or to supervise construction of engineering work and has had responsible charge of important engineering work for at least five (5) years and provided applicant is not less than thirty-five (35) years of age, and was not practicing professional engineering at the time this Act becomes effective.

(d) After this Act shall have been in effect five (5) years, the Board shall issue certificates of registration only to those applicants who meet the requirements of Section 12, (a), or (b), or Section 21.

(e) Provided, that no person shall be eligible for registration as a professional engineer who is not of good character and reputation; and provided further, that any engineer licensed under this Act shall be eligible to hold any appointive engineering position with the State of Texas.

(f) In considering the qualifications of applicants, responsible charge of engineering teaching may be construed as responsible charge of engineering work. The satisfactory completion of each year of an approved course in engineering in a school or college approved by the Board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of active practice. Graduation in a course other than engineering from a college or university of recognized standing shall be considered as equivalent to two (2) years of active practice; provided, however, that no applicant shall receive credit for more than four (4) years of active practice because of educational qualifications. The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as foreman or superintendent shall not be deemed to be active practice in engineering work.

(g) Any person having the necessary qualifications prescribed in this Act to entitle him to registration shall be eligible for such registration though he may not be practicing at the time of making his application.

Certification of Engineer-in-Training

Sec. 12a. (a) The term "Engineer-in-Training," as used in this Section shall mean a person who complies with the requirements for education, experience and character, and has passed an examination in the fundamental engineering subjects, as provided in Sections 12 and 14 of this Act.

(b) The following shall be considered as minimum evidence that the applicant is qualified for certification as an Engineer-in-Training:

(1) A graduate of an approved engineering curriculum of four (4) years or more who has passed the Board's eight (8) hour written examination in the fundamentals of engineering shall be certified or enrolled as an Engineer-in-Training, if he is otherwise qualified; or

(2) An applicant having a high school education and a specific record of eight (8) or more years of experience or having completed an approved four (4) year curriculum in engineering technology with six (6) years of experience in engineering work of a grade and character satisfactory to the Board, who passes the Board's eight (8) hour written examination in the fundamentals of engineering shall be certified or enrolled as an Engineer-in-Training, if he is otherwise qualified.

(c) The fee for Engineer-in-Training certification or enrollment shall be established by the Board and shall accompany the application. This fee may be credited toward the fee necessary for registration.

(d) The certification or enrollment of an Engineer-in-Training shall be valid for a period of twelve (12) years.

Applications and Registration Fees

Sec. 13. Applications for registration shall be on forms prescribed and furnished by the Board, shall contain statements made under oath, showing the applicant's education and a detailed summary of his actual engineering work, and shall contain not less than five (5) references, of whom three (3) or more shall be engineers having personal knowledge of his engineering experience.

The Board shall establish reasonable and necessary fees for the administration of this Act in amounts not to exceed:

1. Registration fee	\$ 50
2. Annual renewal fee	45
3. Reciprocal registration fee	50
4. Duplicate certificate of registration	5
5. Engineer-in-training certificate	15
6. Roster of engineers	10
7. Examination fee	75

The Board shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement.

Examinations

Sec. 14. (a) When oral or written examinations are required, they shall be held at such time and place as the Board shall determine. The scope of the examinations and the methods of procedure shall be prescribed by the Board with special reference to the applicant's ability to design and supervise engineering works, which shall insure the safety of life, health, and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration in professional engineering. A candidate failing on examination may apply for re-examination at the expiration of six (6) months and will be re-examined without payment of additional fees. Re-examination may be granted at any time upon payment of a fee to be determined by the Board.

(b) Within 30 days after the day on which a licensing examination is administered under this Act, the Board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the Board shall notify examinees of the results of the examination within two weeks after the day that the Board receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the Board shall notify the examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the licensing examination administered under this Act, the Board shall furnish the person with an analysis of the person's performance on the examination.

(d) The Board may administer written examinations for record purposes as a convenience to the public and may charge an appropriate fee.

Certificates, Seals

Sec. 15. The Board shall issue a certificate of registration upon payment of registration fee as provided for in this Act, to any applicant, who, in the opinion of the Board, has satisfactorily met all the requirements of this Act. In case of a registered engineer, the certificate shall authorize the practice of professional engineering. Certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the Chairman and the Secretary of the Board under seal of the Board. The issuance of a certificate of registration by this Board shall be evidence that the person named therein is entitled to all rights and privileges of a registered professional engineer, while the said certificate remains unrevoked or unexpired.

Each registrant hereunder shall upon registration obtain a seal of the design authorized by the Board, bearing the registrant's name and the legend "Registered Professional Engineer". Plans, specifications, plats, and reports issued by a registrant shall be stamped with the said seal when filed with public authorities, during the life of the registrant's certificate, but it shall be unlawful for any one to stamp or seal any documents with said seal after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed or reissued.

Expirations and Renewals

Sec. 16. (a) It shall be the duty of the Board to notify every person registered under this Act of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate.

(b) A person may renew an unexpired license by paying to the Board before the expiration date of the license the required renewal fee.

(c) If a person's license has been expired for not longer than 90 days, the person may renew the license by paying to the Board the required renewal fee and a fee that is one-half of the application fee for the license.

(d) If a person's license has been expired for longer than 90 days but less than two years, the person may renew the license by paying to the Board all unpaid renewal fees and a fee that is equal to the application fee for the license.

(e) If a person's license has been expired for two years or longer, the person may not renew the license. The person may obtain a new license by submitting to an examination to be determined by the Board and complying with the requirements and procedures for obtaining an original license.

Expiration Dates of Certificates of Registration; Proration of Fees

Sec. 16.1. The board by rule may adopt a system under which certificates of registration expire on various dates during the year, and the dates for reinstatement shall be adjusted accordingly. For the year in which the expiration date is changed, certificate renewal fees payable on December 31 shall be prorated on a monthly basis so that each certificate holder shall pay only that portion of the certificate renewal fee which is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

Firms, Partnerships, Corporations and Joint Stock Associations

Sec. 17. A firm, or a co-partnership, or a corporation, or a joint stock association may engage in the practice of professional engineering in this State, provided such practice is carried on by only professional engineers registered in this State.

Use of Words and Terms of Identification

Sec. 18. No firm, partnership, association, corporation or other business entity shall hold itself out to the public or any member thereof as being engaged in the practice of engineering under any assumed, trade, business, partnership or corporate name or employ, use, cause to be used or make use of in any manner whatsoever any such words or terms as "engineer," "engineering," "engineering services," "engineering company," "engineering, inc.," "professional engineers," "licensed engineer," "registered engineer," "licensed professional engineer," "registered professional engineer," "engineered," or any combinations, abbreviations or variations thereof, or in combination with any other words, letters, initials, signs or symbols on, in or as a part of, directly or indirectly, any sign, directory, listing, contract, document, pamphlet, stationery, letterhead, advertisement, signature, trade name, assumed name, corporate or other business name unless such firm, partnership, association, corporation or other business entity is actually and actively engaged in the practice of engineering or offering engineering services to the public, and any and all services, work, acts or things performed or done by it which constitute any part of the practice of engineering are either personally performed or done by a registered engineer or under the responsible supervision of a registered engineer.

Public Work

Sec. 19. After the first day of January, 1938, it shall be unlawful for this State, or for any of its political subdivisions, for any county, city, or town, to engage in the construction of any public work involving professional engineering, where public health, public welfare or public safety is involved, unless the engineering plans and specifications and

estimates have been prepared by, and the engineering construction is to be executed under the direct supervision of a registered professional engineer; provided, that nothing in this Act shall be held to apply to any public work wherein the contemplated expenditure for the completed project does not exceed Three Thousand (\$3,000.00) Dollars. Provided, that this Act shall not apply to any road maintenance or betterment work undertaken by the County Commissioners' Court.

Exemptions

Sec. 20. The following persons shall be exempt from the provisions of this Act, provided that such persons are not represented or held out to the public as duly licensed and registered by the Board to engage in the practice of engineering:

(a) A person not a resident of and having no established place of business in this state, practicing or offering to practice here the profession of engineering, when such practice does not exceed in the aggregate more than sixty (60) days in any calendar year; provided, such person is legally qualified by registration to practice the said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this Act.

(b) A person not a resident of and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than sixty (60) days in any calendar year the profession of engineering, if he shall have filed with the Board an application for a certificate of registration and shall have paid the fee required by this Act. Such exemption shall continue only for such time as the Board requires for the consideration of the application for registration; provided, that such a person is legally qualified to practice said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this Act.

(c) An employee or a subordinate of a person holding a certificate of registration under this Act, or any employee of a person exempted from registration by classes (a) and (b) of this Section; provided, his practice does not include responsible charge of design or supervision.

(d) Officers and employees of the Government of the United States while engaged within this state in the practice of the profession of engineering for said Government.

(e) Nothing in this Act shall be construed to apply to persons doing the actual work of installing, operating, repairing, or servicing locomotive or stationary engines, steam boilers, Diesel engines, internal combustion engines, refrigeration compressors and systems, hoisting engines, electrical engines, air conditioning equipment and systems, or mechanical and electrical, electronic or communications equipment and apparatus; nor shall this Act be construed

to prevent any citizen from identifying himself in the name and trade of any engineers' labor organization with which he may be affiliated. Provided, however, that nothing in this Act shall be construed as permitting any person other than a licensed professional engineer affixing his signature as such to engineering plans, or specifications.

(f) A person, firm, partnership, joint stock association or private corporation, erecting, constructing, enlarging, altering or repairing, or drawing plans and specifications for: (1) any private dwelling, or apartments not exceeding eight units per building for one story buildings, or apartments not exceeding four units per building and having a maximum height of two stories, or garages or other structures pertinent to such buildings; or (2) private buildings which are to be used exclusively for farm, ranch or agricultural purposes, or used exclusively for storage of raw agricultural commodities; or (3) other buildings, except public buildings included under Section 19 of this Act, having no more than one story and containing no clear span between supporting structures greater than 24 feet on the narrow side and having a total floor area not in excess of five thousand square feet; provided that on unsupported spans greater than 24 feet on such buildings only the trusses, beams, or other roof supporting members need to be engineered or pre-engineered; provided that no representation is made or implied that engineering services have been or will be offered to the public.

(g) Any regular full time employee of a private corporation or other private business entity who is engaged solely and exclusively in performing services for such corporation and/or its affiliates; provided, such employee's services are on, or in connection with, property owned or leased by such private corporation and/or its affiliates or other private business entity, or in which such private corporation and/or its affiliates or other business entity has an interest, estate or possessory right, or whose services affect exclusively the property, products, or interests of such private corporation and/or its affiliates or other private business entity; and, provided further, that such employee does not have the final authority for the approval of, and the ultimate responsibility for, engineering designs, plans or specifications pertaining to such property or products which are to be incorporated into fixed works, systems, or facilities on the property of others or which are to be made available to the general public. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of engineering services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering engineering services to the public.

(h) Any regular full time employee of a privately owned public utility or cooperative utility and/or affiliates who is engaged solely and exclusively in performing services for such utility and/or its affli-

ates; provided, that such employee does not have the final authority for the approval of, and the ultimate responsibility for engineering designs, plans or specifications to be incorporated into fixed works, systems, or facilities on the property of others or which are to be made available to the general public. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of engineering services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering engineering services to the public.

(i) Qualified scientists engaged in scientific research and investigation of the physical or natural sciences, including the usual work and activities of meteorologists, seismologists, geologists, chemists, geochemists, physicists and geophysicists.

(j) Nothing in this Act shall be construed or applied so as to prohibit or in any way restrict any person from giving testimony or preparing exhibits or documents for the sole purpose of being placed in evidence before any administrative or judicial tribunal of competent jurisdiction.

(k) Nothing in this Act shall apply to any agricultural work being performed in carrying out soil and water conservation practices.

(l) This Act shall not be construed as applying to operating telephone companies and/or affiliates or their employees in respect to any plans, designs, specifications, or services which relate strictly to the science and art of telephony. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of engineering services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering engineering services to the public.

Reciprocity

Sec. 21. The Board may, upon application therefor, and the payment of a fee, issue a certificate of registration as a professional engineer to any person who holds a certificate of qualification or registration issued to him by proper authority of the National Council of State Boards of Engineering Examiners, or of the National Bureau of Engineering Registration, or of any state or territory or possession of the United States, or any country provided that the requirements for the registration of professional engineers under which said certificate of qualification or registration was issued do not conflict with the provisions of this Act and are of a standard not lower than that specified in Section 12 of this Act. The Board may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this State.

Revocation, Suspension, Probation, Reprimand, Re-Issuance and Refusal of Certificate

Sec. 22. The Board shall revoke, suspend, or refuse to renew a registration, shall reprimand a registrant, or may probate any suspension of any registrant who is found guilty of:

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

(b) Any gross negligence, incompetency, or misconduct in the practice of professional engineering as a registered professional engineer; or

(c) A violation of this Act or a Board rule.

Any person who may feel himself aggrieved by reason of the revocation of his certificate of registration by the Board, as hereinabove authorized, shall have the right to file suit in the district court of the county of his residence, or of the county in which the alleged offense relied upon as grounds for revocation took place, to annul or vacate the order of the Board revoking the certificate of registration.

If the Board proposes to suspend or revoke a person's certificate of registration, the person is entitled to a hearing before the Board. Proceedings for the suspension or revocation of a certificate of registration are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

The Board, for reasons it may deem sufficient, may re-issue a certificate of registration to any person whose certificate has been revoked, provided six (6) or more members of the Board vote in favor of such re-issuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the Board.

Information About Complaints

Sec. 22A. (a) The Board shall keep an information file about each complaint filed with the Board relating to a licensee.

(b) If a written complaint is filed with the Board relating to a licensee, the Board, at least as frequently as quarterly, shall notify the parties to the complaint of the status of the complaint until final disposition unless the notification would jeopardize an undercover investigation.

Consumer Information

Sec. 22B. The Board shall prepare information of consumer interest describing the regulatory functions of the Board and describing the Board's procedures by which consumer complaints are filed with and resolved by the Board. The Board shall make information available to the general public and appropriate state agencies.

Violations and Penalties

Sec. 23. On or after the first day of January, 1938, any person who shall practice, or offer to practice, the profession of engineering in this State without being registered or exempted in accordance with the provisions of this Act, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the Board or to any member thereof in obtaining a certificate of registration, or any person who shall violate any of the provisions of this Act, be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or be confined in jail for a period of not exceeding three (3) months, or both. Each day of such violation shall be a separate offense.

The Board is charged with the duty of aiding in the enforcement of the provisions of this Act, and any member of the Board may present to a prosecuting officer complaints relating to violations of any of the provisions of this Act; and the Board through its members, officers, counsel and agents may assist in the trial of any cases involving alleged violation of said statutes, subject to the control of the prosecuting officers.

The Attorney General or his assistants shall act as legal adviser of the Board and shall render such legal assistance as may be necessary in enforcing and making effective the provisions of this Act; provided that this shall not relieve the local prosecuting officers of any of their duties under the law as such.

Invalid Portions

Sec. 24. If any article, section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and such section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Repeal of Conflicting Legislation with Proviso

Sec. 25. All laws or parts of laws in conflict with the provisions of this Act shall be and the same

are hereby repealed. Provided, however, that this Act shall not be construed as repealing or amending any law affecting or regulating licensed state land surveyors; and such licensed state land surveyors in performing their duties as such shall not be subject to the provisions of this Act; nor shall this Act be construed to affect or prevent the practice of any other legally recognized profession by the members of such profession licensed by the State or under its authority.

[Acts 1937, 45th Leg., p. 816, ch. 404. Amended by Acts 1961, 57th Leg., p. 590, ch. 282, § 1; Acts 1965, 59th Leg., p. 207, ch. 85, §§ 1 to 7, 8a; Acts 1965, 59th Leg., p. 529, ch. 273, § 1, eff. Aug. 30, 1965; Acts 1973, 63rd Leg., p. 629, ch. 266, § 26, eff. June 11, 1973; Acts 1975, 64th Leg., p. 299, ch. 129, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 964, ch. 362, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1836, ch. 735, § 2.033, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 3254, ch. 857, § 1, eff. Sept. 1, 1981.]

Sections 2 and 3 of Acts 1977, 65th Leg., p. 965, ch. 362, provided:

"Sec. 2. If any section, subsection, paragraph, sentence, clause, phrase, or word is this Act, or application thereof to any person or circumstance for any reason is held invalid, such holdings shall not affect the validity of the remaining portions of this Act, and the legislature hereby declares it would have passed such remaining portions of this Act despite such invalidity of any part thereof.

"Sec. 3. All laws or parts of laws in conflict or inconsistent herewith are hereby repealed to the extent of such conflict or inconsistency only."

Sections 2 to 4 of the 1981 amendatory act provide:

"Sec. 2. (a) A person holding office as a member of the State Board of Registration for Professional Engineers on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

"(b) The governor shall appoint three public members to the board. The governor shall designate one public member for a term expiring in 1983, one for a term expiring in 1985, and one for a term expiring in 1987. The terms of office of these appointees begin on the day in 1981 on which the terms of other members of the board begin.

"Sec. 3. A rule adopted by the State Board of Registration for Professional Engineers before September 1, 1981, that conflicts with The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), as amended by this Act, is void. Within 90 days after September 1, 1981, the board shall repeal the rule.

"Sec. 4. (a) This Act takes effect September 1, 1981.

"(b) The requirements of Subsections (c) and (d), Section 7, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), as added by this Act, that the executive head of the board develop a career ladder program and a system of annual performance evaluations, shall be implemented before September 1, 1982. The requirement of Subsection (d) of Section 7 that merit pay is to be based on this system shall be implemented before September 1, 1983."

TITLE 53**ESCHEAT**

Arts. 3272 to 3289. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

Without reference to repeal by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, art. 3272a, §§ 5 and 6(a) were amended by Acts 1983, 68th Leg., p. 4157, ch. 655, §§ 1 and 2.

For text of Acts 1983, 68th Leg., p. 4157, ch. 655, §§ 1 and 2, see the italicized notes following Property Code, §§ 72.402, 72.403, and 72.501.

Without reference to repeal by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, art. 3272b, §§ 1, 2, 3, 4, 6 and 7 were amended and § 5a was added by Acts 1983, 68th Leg., p. 4159, ch. 655, §§ 3 to 9.

For text of Acts 1983, 68th Leg., p. 4159, ch. 655, §§ 3 to 9, see the italicized notes following Property Code, §§ 73.003, 73.101, 73.201, 73.205, 73.206, and 73.301.

Without reference to repeal by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, art. 3281 was amended by Acts 1983, 68th Leg., p. 5246, ch. 965, § 8.

For text of Acts 1983, 68th Leg., p. 5246, ch. 965, § 8, see the italicized note following Natural Resource Code, § 51.086.

TITLE 54

ESTATES OF DECEDENTS [REPEALED]

Arts. 3290 to 3700. Repealed by Acts 1955, 54th Leg., p. 88, ch. 55, § 434, eff. Jan. 1, 1956

See, now, Probate Code.

Arts. 3701 to 3703. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See, now, Rules of Civil Procedure, rules 333 to 335.

TITLE 55

EVIDENCE

1. WITNESSES AND EVIDENCE

- Art.**
 3704 to 3707. Repealed.
 3708. Fees of Witnesses.
 3709. Repealed.
 3710. Privileged from Arrest.
 3711, 3712. Repealed.
 3712a. Interpreters for Deaf Persons.
 3713. Repealed.
 3714. Color or Interest Does Not Disqualify.
 3715. Husband or Wife Not Disqualified.
 3715a. Clergyman-Penitent Privilege.
 3716. In Actions By or Against Executors, etc.
 3717. Witness Not Disqualified.
 3718. Printed Statutes.
 3719. Certified Copies of Acts, etc.
 3720. Copies of Records of Officers and Courts.
 3721. Record of Surveys.
 3722. Copies and Certificates from Certain Officers.
 3723. Notarial Acts and Copies Thereof.
 3724. Transcript from Comptroller's Office.
 3725. Copies of Certain Ancient Instruments.
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 3726a. Certain Documents Admitted in Suits Involving Title to Real Estate or Seeking a Declaration of Heirship.
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 3731a. Official Written Instruments, Certificates, Records, Returns and Reports; Proceedings of the State Legislature; Foreign Laws.
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 3732. Assessment or Payment of Taxes.
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 3734a. Proof of Execution of Written Instrument Offered in Evidence.
 3735. Appointment and Qualification of Executor, etc.
 3736. Repealed.
 3737. Records of Corporation.
 3737a. Records of Closed Bank as Evidence.
 3737b. Evidence of Handwriting by Comparison.
 3737c. Certified Copies of Records or Instruments Pertaining to Oil Industry.
 3737d. Repealed.
 3737d-1. Court Interpreters in Certain Judicial Districts in Counties Bordering International Boundary.
 3737e. Memorandum or Record of Act, Event or Condition; Absence of Memorandum of Record as Evidence.

- Art.**
 3737f. Personal Injury Action; Exclusion of Evidence of Settlement of Property Damage and Medical Expense Claims.
 3737g. Advance Payment to Tort Claimants; Introduction of Evidence.
 3737h. Necessity of Services and Reasonableness of Charges.

2. DEPOSITIONS

- 3738, 3739. Repealed.
 3740. Notice by Publication.
 3741 to 3745. Repealed.
 3746. Officers Authorized to Execute.
 3747. Repealed.
 3748. May Be Attached.
 3749 to 3756. Repealed.
 3757. Power of Officer Taking Depositions.
 3758 to 3769. Repealed.
 3769a. Execution of Commission Issued by Court of Foreign State.
 3769b. Contempt in Disobeying Writ.
 3769c. Repealed.

1. WITNESSES AND EVIDENCE

Arts. 3704 to 3707. Repealed by Rules of Civil Procedure (Acts 1939, 4th Leg., p. 201, § 1)

Art. 3708. Fees of Witnesses

Witnesses shall be allowed a fee of one dollar for each day they may be in attendance on the court, and six cents for every mile they may have to travel in going to and returning therefrom, which shall be paid on the certificate of the clerk, by the party summoning them; which certificate shall be given on the affidavit of the witness before the clerk. Such compensation and mileage of witnesses shall be taxed in the bill of costs as other costs.

[Acts 1925, S.B. 84.]

Art. 3709. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3710. Privileged from Arrest

Witnesses shall be privileged from arrest, except in cases of treason, felony and breach of the peace, during their attendance at court, and in going to and returning therefrom, allowing one day for each twenty-five miles from their place of abode.

[Acts 1925, S.B. 84.]

Arts. 3711, 3712. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3712a. Interpreters for Deaf Persons

(a) In all civil cases or in the taking of depositions, where a party or a witness is a deaf person, he shall have the proceedings of the trial interpreted to him in any language that he can understand, including but not limited to sign language, by an interpreter appointed by the court, whose qualifications have been approved by the State Commission for the Deaf. In this Act, "deaf person" means a person who has a hearing impairment, regardless of whether the person also has a speech impairment, that inhibits the person's comprehension of the proceedings or communication with others.

(b) In any case where an interpreter is required to be appointed by the court under this Act, the court shall not commence proceedings until the appointed interpreter is in court in a position not exceeding 10 feet from and in full view of the deaf person.

(c) The interpreter appointed under the terms of this Act shall be required to take an oath that he will make a true interpretation to the deaf person of all the proceedings of the case in a language that he understands; and that he will repeat the deaf person's answer to questions to counsel, court, or jury, in the English language, in his best skill and judgment. When a deaf person communicates through an interpreter to a person under such circumstances that the communication would be privileged and the deaf person could not be compelled to testify as to the communications, the privilege applies to the interpreter as well.

(d) Interpreters appointed under this Act shall be paid a reasonable fee determined by the court after considering the recommended fees of the State Commission for the Deaf. When travel of the interpreter is involved all the actual expenses of travel, lodging, and meals incurred by the interpreter pertaining to the case he is appointed to serve shall be paid at the same rate applicable to state employees. The fee and expenses shall be paid from the general fund of the county in which the case was instituted.

(e) On the court's motion or the motion of a party, the court may order testimony of a deaf witness and the interpretation of that testimony by the interpreter visually, electronically recorded for use in verification of the transcription of the reporter's notes. The clerk of the court shall include the recording in the appellate record if requested by a party.

[Acts 1967, 60th Leg., p. 194, ch. 105, § 1, eff. Aug. 28, 1967. Amended by Acts 1979, 66th Leg., p. 397, ch. 186, § 2, eff. May 15, 1979.]

Art. 3713. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3714. Color or Interest Does Not Disqualify

No person shall be incompetent to testify on account of color, nor because he is a party to a suit or proceeding or interested in the issue tried.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3715. Husband or Wife Not Disqualified

The husband or wife of a party to a suit or proceeding, or who is interested in the issue to be tried, shall not be incompetent to testify therein, except as to confidential communications between such husband and wife.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3715a. Clergyman-Penitent Privilege

No ordained minister, priest, rabbi or duly accredited Christian Science practitioner of an established church or religious organization shall be required to testify in any action, suit, or proceeding, concerning any information which may have been confidentially communicated to him in his professional capacity under such circumstances that to disclose the information would violate a sacred or moral trust, when the giving of such testimony is objected to by the communicant; provided, however, that the presiding judge in any trial may compel such disclosure if in his opinion the same is necessary to a proper administration of justice.

[Acts 1967, 60th Leg., p. 1005, ch. 435, § 1, eff. Aug. 28, 1967.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts

1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3716. In Actions By or Against Executors, etc.

In actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them as such, neither party shall be allowed to testify against the others as to any transaction with, or statement by, the testator, intestate or ward, unless called to testify thereto by the opposite party; and the provisions of this article shall extend to and include all actions by or against the heirs or legal representatives of a decedent arising out of any transaction with such decedent.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3717. Witness Not Disqualified

No person shall be incompetent to testify in civil cases on account of his religious opinion, or for the want of any religious belief, or by reason of having been convicted of a felony.

[Acts 1925, S.B. 84.]

Art. 3718. Printed Statutes

The printed statute books of this State, of the United States, of the District of Columbia, or of any State or territory of the United States or of any foreign government, purporting to have been printed under the authority thereof, shall be received as evidence of the acts and resolutions therein contained.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3719. Certified Copies of Acts, etc.

A certified copy under the hand and seal of the Secretary of State of this State, of any act or resolution contained in any of such printed statute books deposited in his office, or of any law or bill,

public or private, deposited in his office in accordance with law, shall be received as evidence thereof.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3720. Copies of Records of Officers and Courts

Copies of the records and filed papers of all public officers and custodians of records of minutes of boards, etc., and courts of this State, certified to under the hand, and the seal if there be one, of the lawful possessor of such records, shall be admitted as evidence in all cases where the records themselves would be admissible. Translated copies of all records in the land office certified to under the hand of the translator, and the Commissioner of the General Land Office, attested with the seal of said office, shall be prima facie evidence in all cases where the original records would be evidence.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3721. Record of Surveys

Each county surveyor shall record in a well-bound book each survey in the county for which he was elected, with the plat thereof that he may make, whether private or official, and certified copies of such record, under the official signature of the surveyor, may be used in evidence in any court of this State.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3722. Copies and Certificates from Certain Officers

The Secretary of State, Attorney General, Land Commissioner, Comptroller, Treasurer, Adjutant General, Commissioner of Agriculture, Commissioner of Insurance, Banking Commissioner, and State Librarian shall furnish any person applying for the same with a copy of any paper, document or record in their offices, and with certificates under seal certifying to any fact contained in the papers, documents or records of their offices; and the same shall be received in evidence in all cases in which the originals would be evidence.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3723. Notarial Acts and Copies Thereof

All declarations and protests made and acknowledgments taken by notaries public, and certified copies of their records and official papers, shall be received as evidence of the facts therein stated in any court of this State.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3724. Transcript from Comptroller's Office

In suits by the State against any officer or agent thereof, on account of any delinquency or failure to pay to the State any money, a transcript from the papers, books, records and proceedings of the office of the Comptroller purporting to contain a true statement of accounts between the State and such party, authenticated under the seal of said office, shall be admitted as prima facie evidence; and the court trying the cause may thereupon render judgment accordingly. All copies of bonds, contracts or other papers relating to, or connected with, any account between the State and an individual, sued as aforesaid, when certified by the Comptroller to be true copies of the originals on file in said office, and authenticated under the seal of said office, may be annexed to such transcript and shall be entitled to the same degree of credit that would be due to

the original papers if produced and proved in court; but, when such suit is brought upon a bond or other written instrument, and the defendant shall by plea under oath deny the execution of such instrument, the court shall require the production and proof thereof.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3725. Copies of Certain Ancient Instruments

Copies of all conveyances and other instruments of writing between private individuals, which were filed in the office of any alcalde or judge in Texas previous to the first Monday in February, 1837, shall be admissible in evidence, and shall have the same force and effect as the originals thereof; provided, such copies are certified under the hand and official seal of the officer with whom the originals are now deposited.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3726. Recorded Instruments Admitted Without Proof

Every instrument of writing which is permitted or required by law to be recorded in the office of the Clerk of the County Court, and which has been, or hereafter may be, so recorded, after being proved or acknowledged in the manner provided by the laws of this State in force at the time of its registration, or at the time it was proved or acknowledged; or every instrument which has been, or hereafter may be actually recorded for a period of ten (10) years in the book used by said Clerk for the recording of such instruments, whether proved or acknowledged in such manner or not, shall be admitted as evidence in any suit in this State, without the necessity of proving its execution; provided, no claim adverse or inconsistent to the one evidenced by such instrument shall have been asserted during that ten (10) years; provided, that the party to give such instrument in evidence shall file the same among the papers of the suit in which he proposes

to use it, at least three (3) days before the commencement of the trial of such suit, and give notice of such filing to the opposite party or his attorney of record; and unless such opposite party, or some other person for him, shall, within three (3) days before the trial of the cause, file an affidavit stating that he believes such instrument of writing to be forged. And whenever any party to a suit shall file among the papers of the cause an affidavit stating that any instrument of writing, recorded as aforesaid, has been lost, or that he cannot procure the original, a certified copy of the record of any such instrument shall be admitted in evidence in like manner as the original could be. And after such instrument shall have been actually recorded as herein provided for a period of ten (10) years, it shall be no objection to the admission of same, or a certified copy thereof, as evidence, that the certificate of the officer who took such proof or acknowledgment, is not in form or substance such as required by the laws of this State; and said instrument shall be given the same effect as if it were not so defective. If the land to which the instrument pertains is situated within the county in which the suit is pending, the party desiring to offer in evidence recorded instruments, may do so, without producing the originals thereof and without accounting for his failure to produce such originals, by filing a list of such instruments at least ten (10) days before the trial, giving the volume and the page wherein such instruments are recorded; and unless an affidavit is filed by the opposite party at least three (3) days before trial, stating that he believes such instruments of writing to be forged, then the party filing such lists of instruments shall be entitled to read the same from the record. A copy of a list of such instruments shall be filed with the Clerk of the County Court at least three (3) days before the trial of a case and said County Clerk shall on the day of the trial deliver, or cause to be delivered, to the Court in which the case is pending, all of the records requested, and said Clerk shall not charge for the use of said records.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 198, ch. 73 § 1; Acts 1939, 46th Leg., p. 325, § 1; Acts 1941, 47th Leg., p. 476, ch. 299, § 1.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3726a. Certain Documents Admitted in Suits Involving Title to Real Estate or Seeking a Declaration of Heirship

Sec. 1. (a) The following documents, when offered in a suit which involves the title to real estate

or which seeks a declaration of heirship under Section 48, Texas Probate Code, are admissible in evidence if they concern the family history, genealogy, marital status, or heirship of a decedent:

(1) a final judgment of a court of record of this state;

(2) an affidavit or other instrument which, for five or more years, has been filed or recorded in the office of a district or county clerk located in the county in which the suit is pending or in which the land involved, in whole or part, is situated;

(3) a final judgment of a court of record of another state which is subject to recordation in this state and (A) has been on file for 15 or more years in the official records of the court rendering it, or (B) has been filed or recorded for 15 or more years in the office of a department or agency of this state or of a district or county clerk of this state located in a county other than that in which the suit is pending or in which the land involved, in whole or part, is situated;

(4) an affidavit or other instrument which, for 15 or more years, has been filed or recorded in the office of a department or agency of this state or of a district or county clerk of this state located in a county other than that in which the suit is pending or in which the land involved, in whole or part, is situated.

(b) A document described in Subsections (a)(3) or (a)(4) of this section is not admissible unless, for 30 or more days before trial, it has been on file among the papers of the suit in which it is offered.

Sec. 2. (a) A statement concerning family history, genealogy, marital status, or heirship of a decedent, when contained in a document described in Subsection (a), Section 1 of this Article which is admitted in evidence, is prima facie true. Nevertheless, the statement may be rebutted, and the true facts shown, by any person other than a person who is estopped to deny the statement under a statute or the common law of this state.

(b) A properly certified and authenticated copy of a document described in Subsection (a), Section 1 of this Article is equally admissible with the original.

[Acts 1957, 55th Leg., p. 266, ch. 125, § 1. Amended by Acts 1965, 59th Leg., p. 994, ch. 480, § 1.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3726b. Defects Not Affecting Admissibility in Evidence of Certain Instruments

Every instrument of writing which is permitted or required by law to be recorded in the office of the clerk of the County Court, and which has been, or hereafter may be, so recorded, after being proved or acknowledged in the manner provided by the laws of this state in force at the time of its registration, or at the time it was proved or acknowledged, or every instrument which has been, or hereafter may be, actually recorded for a period of 10 years in the book used by said clerk for the recording of such instruments, whether executed, proved or acknowledged in such manner or not, shall be admitted as evidence in any suit in this State without the necessity of proving its execution, provided, no claim adverse or inconsistent to the one evidenced by such instrument shall have been asserted during that 10 years; provided, that the party to give such instrument in evidence shall file the same among the papers of the suit in which he proposes to use it at least three days before the commencement of the trial of such suit, and give notice of such filing to the opposite party, or his attorney of record; and unless such opposite party, or some other person for him, shall, within three days before the trial of the cause, file an affidavit stating that he believes such instrument of writing to be forged. Whenever any party to a suit shall file among the papers of the cause an affidavit stating that any instrument of writing, recorded as aforesaid, has been lost, or that he cannot procure the original, a certified copy of the record of any such instrument shall be admitted in evidence in like manner as the original could be. And after such instrument shall have been actually recorded as herein provided for a period of 10 years, it shall be no objection to the admission of same, or a certified copy thereof, as evidence that it has not been signed by the proper officer of any corporation; or that the corporate seal of the corporation has not been impressed on such instrument; or that the record does not show such corporate seal; or that the record does not show authority therefor by the Board of Directors and stockholders (or either of them) of a corporation; or that such instrument was executed and delivered by a corporation which had been dissolved or whose charter had expired, or whose corporate franchise had been canceled, withdrawn or forfeited; or that the executor, administrator, guardian, assignee, receiver, Master in Chancery, agent, or trustee or other agency mentioned in such instrument, signed or acknowledged the same individually instead of in his representative or official capacity; or that such instrument is executed by a trustee without record of Judicial or other ascertainment of the authority of such trustee or of the verity of the facts therein recited; or that the officer taking the acknowledgment of such instrument having an official seal did not affix the same to the certificate of acknowledgment; or that the notarial seal is not shown of record; or that the wording of the consideration

may or might create an implied lien in favor of grantor, (By this is not meant an express vendor's lien retained); and said instrument shall be given the same effect as if it were not so defective; provided that this Act shall be cumulative of all other laws on this subject; and provided that if any portion of this Act be declared unconstitutional the remaining portion shall not be affected thereby and shall remain in full force and effect.

[Acts 1929, 41st Leg., p. 390, ch. 179, § 1.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3727. Old Record Books Declared Valid

All volumes constituting a portion of the records of any county organized prior to January 1, 1882, wherein are recorded deeds, mortgages or trust deeds, or other muniments of title to real estate situated in such county, which volumes and records are now and have been constantly among the archives of such county, as records thereof, shall be in all respects lawful and valid records of such counties respectively, for all purposes whatsoever relating to titles to real estate, as effectively as if such books and records were originally records of such counties, respectively, and as fully and completely as if such counties had been duly organized at the dates of the filing for record of the instruments recorded therein, as shown therein. Certified copies of the instruments recorded in said volumes, made in accordance with law, shall have the force and effect that certified copies of original records have in organized counties, and same may be used for all purposes lawful for certified copies of original records in ordinary cases in organized counties.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3728. Copies of Transcribed Records

Where a county has been or may be created out of the territory of any organized county, and the records of deeds and other instruments required or permitted by law to be recorded, relating to lands or other property in such new county, have been transcribed and placed on record in such new county, in

accordance with law, certified copies of such transcribed records in the new county may be admitted in evidence with like effect as certified copies of the original records.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3729. Certain Abstracts

All abstracts of land titles, or land abstract books to lands in this State, compiled from the records of any county in this State, prior to the year 1890, which said records were partially or wholly destroyed or lost from any cause during the months of May, 1874, March, 1876, and January, 1889, shall be competent prima facie evidence of the truth of the data or memoranda therein contained and compiled prior to the year 1890, and shall be admissible in evidence in the courts of this State; provided, that the compiler or compilers of such abstracts of land titles or land title abstract books, shall have made heretofore, or before offered in evidence, affidavit to the effect that said abstracts of land titles, or land title abstract books, were compiled by him from the records of the county prior to their destruction or loss, and that they contain a true and correct statement of the matters and things to which they relate. Any testimony is admissible which tends to discredit or substantiate the reliability of such abstract of land titles or land title abstract books, or tends to show the compiler thereof to have been incompetent or unreliable, or competent and reliable. A copy of such abstract shall be filed in the papers of the cause in which it is sought to be used, and notice given to the opposite party at least five days before the trial, and the same defense may be made as if copies of the original record had been filed; provided, that the party offering such abstracts of land titles, or land title abstract books, in evidence, shall himself, or by his agent or attorney, have made affidavit that the original instrument to which the said data or memorandum relates is not then on record; and that he has made diligent search and inquiry for the same in places and from persons where and in whose possession it would most probably be found, and has been unable to find the same; that, to his best knowledge and belief, the same is lost or destroyed; and provided, further, that the owner of said abstracts of land titles, or of land title abstract books, shall have filed with the county commissioners court his application in writing (which may be granted or refused, in the discretion of said court, and if refused, this article shall not become a force as to

said application so refused) for an order of said court admitting to record in said court the contract of the said owner in writing, wherein the said owner shall bind himself, his heirs and assigns, as follows: That said owner, his heirs or assigns, will, whenever requested in writing, setting forth the data required by any party to any suit interested in introducing said abstracts of land titles, or land title abstract books, produce the same without charge on the day demanded for introducing in evidence, and upon the trial of any cause in this State; provided, that if said owner, his heirs or assigns, are required to produce said abstracts of land titles, or land title abstract books, in courts of any other county than that to the lands of which said abstract of land titles, or land title abstract books pertain, they shall be, by the party at whose instance such production is required, reasonably compensated in advance for the time and expense of the said owner, his heirs or assigns. And the said owner in said contract shall bind himself, his heirs and assigns, to answer in full damages to any party damaged by the failure or default of the said owner, his heirs or assigns, without good cause, to produce said abstracts of land titles or land title abstract books, as herein provided. Said contract shall further stipulate that no charge shall ever be made by said owner, his heirs or assigns, in excess of one dollar for each instrument or remove in any title, in the compilation of a complete abstract or title to the lands in the county to which said abstracts of land titles, or land title abstract books, pertain, and that said owner, his heirs and assigns, will, upon request and payment of the fees therefor by any person, either make, compile and certify, or cause to be made, compiled or certified, within a reasonable time, a complete abstract of title to any land to which said abstracts of land titles, or land title abstract books, pertain. The provisions of this article shall not apply if it can be shown by competent evidence that any such deeds were improperly recorded. Whenever any person, company or corporation has heretofore complied with the law which is amended hereby, in order to make an abstract evidence, the said person, company or corporation shall not be required to do anything more or further under this article in order to have the benefits thereof.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3730. Certified Copy of Instrument Sued On

If suit be brought on any instrument or note in writing filed in any suit brought thereupon in any

other court of this State, a certified copy of such instrument or note in writing, under the hand and seal of the clerk of the court in which the original may be filed, shall be admitted as evidence in like manner as such original might be; but if the defendant shall plead, and file an affidavit that such original instrument or note in writing has not been executed by him, or by his authority, the clerk of the court having the custody of such original shall, on being summoned as a witness, attend with the same on trial of the cause.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3731. Certified Copies from Heads of Departments

Certified copies, under the hands and official seals of the heads of departments, of all notes, bonds, mortgages, bills, accounts, or other documents, properly on file in any department of this State, shall be received in evidence on an equal footing with the originals, in all suits now pending, or which may be hereafter instituted, in this State, where the originals of such notes, bonds, mortgages, bills, accounts or other documents would be evidence.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3731a. Official Written Instruments, Certificates, Records, Returns and Reports; Proceedings of the State Legislature; Foreign Laws

Domestic Records

Sec. 1. Any written instrument, certificate, record, part of record, return, report, or part of report, made by an officer of this State or of any governmental subdivision thereof, or by his deputy, or person or employee under his supervision, in the performance of the functions of his office and employment, shall be, so far as relevant, admitted in the courts of this State as evidence of the matter stated therein, subject to the provisions in Section 3.

Proceedings of the State Legislature

Sec. 1a. All available written or electronic records of the proceedings of the state legislature which are required by the rules of the respective houses to be preserved may be attested by the presiding officer of each house or by a deputy designated by him for such purpose. The attested records or copies or duplications thereof shall be, so far as relevant, admitted in the courts of this state as evidence of the matters stated therein, subject to the provisions of Section 3 of this Act, without the necessity of the presence in the court of the presiding officer or deputy designated to attest, preserve, or display the records, copies, or duplications.

Federal, Out of State, and Foreign Records

Sec. 2. Any written instrument which is permitted or required by law to be made, filed, kept or recorded (including but not limited to certificate, written statement, contract, deed, conveyance, lease, concession, covenant, grant, record, return, report or recorded event) by an officer or clerk of the United States or of another state or nation or of any governmental subdivision of any of the foregoing, or by his deputy or employee; or by any Notary Public of a foreign country in a protocol or similar book in the performance of the functions of his office, shall, so far as relevant, be admitted in the courts of this State as evidence of the matter stated therein, subject to the provisions in Section 3.

Foreign Laws

Sec. 2a. Any constitutional, statutory, written law, proclamation, decree, statutory or administrative rule or regulation, or rule of law of any foreign country as of a particular date or dates, shall, so far as relevant, be admitted in the courts of this State as evidence of the matters contained therein, subject to the provisions of Section 3. It is hereby declared that the word "writing" in Section 3 shall be interpreted to include the items contained in this Section.

Notice to Adverse Party

Sec. 3. Such writing shall be admissible only if the party offering it has delivered a copy thereof, or so much of it as may relate to the controversy, to the adverse party a reasonable time before trial, unless in the opinion of the trial court the adverse party has not been unfairly surprised by the failure to deliver such copy.

Authentication of Copy

Sec. 4. Such writings or electronic records may be evidenced by an official publication thereof or by a copy or electronic duplication attested by the officer having the legal custody of the record, or by his deputy. Except in the case of a copy of an official writing or official electronic recording from a public office of this State or a subdivision thereof, the attestation shall be accompanied with a certificate that the attesting officer has the legal custody

of such writing. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States, or by any officer of a United States military government, stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office. In the case of the matters in Section 2a, the substance, contents, and/or wording of any of such matters may also be evidenced by certification, as to existence on a particular date or dates by the governmental head of such country or his secretary, or such country's attorney (such as attorney general) or assistant attorney or chief legal head, or the president, leader or head of its or one of its law-making bodies or the secretary thereof; or judge or any justice of any appellate court of such country and if none, judge or any justice of one or any one of its highest judicial tribunals. All such attested and certified instruments and the contents of the certificate and the title of the person making same, shall be evidence of the matters, statements, representations and title contained therein.

Proof of Lack of Record

Sec. 5. A written statement signed by an officer having the custody of an official record, or by his deputy, that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry.

Other Proof

Sec. 6. This rule does not prevent the proof of official records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

[Acts 1951, 52nd Leg., p. 830, ch. 471. Amended by Acts 1953, 53rd Leg., p. 756, ch. 304, eff. June 5, 1953; Acts 1961, 57th Leg., p. 685, ch. 321, § 1; Acts 1975, 64th Leg., p. 666, ch. 280, § 1, eff. Sept. 1, 1975.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3731b. Photographic or Photostatic Copies of Business and Official Records; Admissibility

Sec. 1. Where any public officer of this state, the United States or another state or nation or of any political subdivision of any of the foregoing or his deputy or employee in the performance of the function of his office has kept or recorded any memorandum, document, entry or report and has caused the same to be copied or reproduced by any photographic, photostatic, microfilm or other process which accurately reproduces or forms a durable medium for so reproducing the original, such reproduction shall be admissible in evidence under the provisions of Section 3 of this Article.

Sec. 2. Where any business, as that term is defined in Chapter 321 of the General Laws of Texas 1951,¹ in the regular course of business has kept any memorandum of or made any record of an act, event or condition, and has caused the same to be copied or reproduced by any photographic, photostatic, microfilm or other process which accurately reproduces or forms a durable medium for so reproducing the original, such reproduction shall be admissible in evidence under the provisions of Section 3 of this Article.

Sec. 3. Such photograph, photostat, microfilm or other reproduction shall be, so far as relevant, admitted in any judicial or administrative proceeding in this state as evidence of the matters stated therein, in any instance in which the original memorandum, record, document, entry or report would be admitted under the provisions of Chapter 321 or Chapter 471 of the General Laws of Texas 1951.² In the case of public records the reproduction may be proved to be correct by following the procedure set forth in Chapter 471 of the General Laws of Texas 1951, as amended. In the case of business records the reproduction may be proved to be correct by the testimony of the entrant, custodian or other qualified witness.

Sec. 4. The existence or non-existence of the original shall not affect the admissibility of the reproduction. An enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under the direction of the court. The introduction of a reproduced record, enlargement or facsimile does not preclude admission of the original.

[Acts 1957, 55th Leg., p. 1257, ch. 418.]

¹ Article 3737e.

² Article 3737a.

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts

1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3731c. Photographic or Photostatic Copies of Written Instruments; Use in Judicial or Administrative Proceedings

Any copy or reproduction of a writing or written instrument, by photographic, photostatic, microfilm or other processes which accurately reproduces or forms a durable medium for reproducing the originals of any such writing or written instrument, can be used and its use shall be permitted in any judicial or administrative proceeding or trial, including the taking of depositions, where the party using the same, at the time of its offer in evidence either produces the original or reasonably accounts for its absence, or where there is no bona fide dispute as to its being an accurate reproduction of the original. This Act shall be cumulative of any other statutory or common law relating to the subject hereof.

[Acts 1959, 56th Leg., p. 867, ch. 393, § 1.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3732. Assessment or Payment of Taxes

Whenever in any cause it may be material to prove the assessment of any property for taxes, or the payment of any taxes, the certificate of the Comptroller of such assessment from the rolls deposited in his office, or that the payment of such taxes is shown by the records of his office, shall be admissible in evidence to prove the same.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3733. Rate of Interest Presumed

The rate of interest in any other State, territory or country is presumed to be the same as that established by law in this State, and may be recovered accordingly without allegation or proof thereof, unless the rate of interest in such other country be alleged and proved.

[Acts 1925, S.B. 84.]

Art. 3734. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3734a. Proof of Execution of Written Instrument Offered in Evidence

In the trial of any civil or criminal case, where an attested or witnessed instrument or writing is offered in evidence and said instrument is not required by law to be attested or witnessed, the execution of same may be proved in the same manner as if it were not attested or witnessed.

[Acts 1933, 43rd Leg., p. 279, ch. 109.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3735. Appointment and Qualification of Executor, etc.

Whenever it may be necessary to make proof of the appointment and qualification of an executor, administrator or guardian, the letters issued to them in the manner provided by law, or a certificate of the proper clerk under his official seal that such letters have been issued, shall be sufficient evidence of the appointment and qualification of such executor, administrator or guardian.

[Acts 1925, S.B. 84.]

Art. 3736. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3737. Records of Corporation

The records of any company incorporated under the provisions of any statute of this State, or copies thereof duly authenticated by the signature of the president and secretary of such company, under the corporate seal thereof, shall be competent evidence in any action or proceedings to which such corporation may be a party.

[Acts 1925, S.B. 84.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3737a. Records of Closed Bank as Evidence

Sec. 1. Whenever an insolvent state bank shall come into the hands of the Banking Commissioner

of Texas for liquidation, all books, records, documents and papers of such failed bank received by the Commissioner and held by him in the course of the liquidation, or certified copies thereof, under the hand and official seal of the Commissioner, shall be received in evidence in all cases without proof of the correctness of the same and without other proof, except the certificate of the Commissioner that same were received from the custody of the failed bank, or found among its effects.

Sec. 2. That such original books, records, documents and papers, or certified copies thereof, or any part thereof, when received in evidence shall be prima facie evidence of the facts disclosed thereby. [Acts 1927, 40th Leg., p. 290, ch. 203.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3737b. Evidence of Handwriting by Comparison

In the trial of any civil case, it shall be competent to give evidence of handwriting by comparison, made by experts or by the jury. The standard of comparison offered in evidence must be proved to the satisfaction of the judge to be genuine before allowing same to be compared with the handwriting in dispute.

[Acts 1933, 43rd Leg., p. 234, ch. 106.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3737c. Certified Copies of Records or Instruments Pertaining to Oil Industry

Certified copies of well logs, and records, plugging records, oil and gas production records or reports and all other instruments pertaining to the drilling, completion, operation, abandonment, or plugging of oil and/or gas wells, in this State, required by Statute or by rules heretofore or hereafter adopted by the Railroad Commission of Texas, to be filed with the Railroad Commission of Texas, and which have been heretofore or may be hereafter filed with said Railroad Commission of Texas, shall be admissible in evidence. Such certificate to

any such certified copies may be made by any member of the Railroad Commission of Texas, or by the Secretary of said Commission.

[Acts 1937, 45th Leg., p. 1118, ch. 449, § 1.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3737d. Repealed by Acts 1955, 54th Leg., p. 860, ch. 323, § 3, eff. May 24, 1955

Art. 3737d-1. Court Interpreters in Certain Judicial Districts in Counties Bordering International Boundary

Sec. 1. In any county, which is a part of two (2) or more Judicial Districts and in which there are two (2) or more District Courts, having regular terms, one (1) county of said district bordering on the International Boundary between the United States and the Republic of Mexico, or in any county bordering on the International Boundary of the United States and the Republic of Mexico, which said county forms a part of a Judicial District composed of four (4) counties, or in any county bordering on the International Boundary of the United States and the Republic of Mexico, and which county has three (3) or more District Courts or Judicial Districts wholly within said county, or in any county bordering on the Gulf of Mexico, and which said county has four (4) or more District Courts or Judicial Districts of which two (2) or more are wholly within said county, the Commissioners Court of said county, upon request of the District Judge, or District Judges, after determination by said Judges of the need therefor, shall appoint such court interpreters on a full or part-time basis as may be necessary to properly carry out the function of said courts; that such interpreters shall be well versed in and competent to speak the Spanish language, as well as the English language; and shall each receive a salary as fixed by the Commissioners Court of said county, but not to exceed Four Thousand, Eight Hundred Dollars (\$4,800) per year, payable in equal monthly payments, out of the General Fund of such county.

Sec. 2. The Commissioners Court shall appoint such interpreter or interpreters as shall be designated by the District Judges requesting such appointment.

[Acts 1955, 54th Leg., p. 860, ch. 323. Amended by Acts 1959, 56th Leg., p. 133, ch. 79, § 1.]

Art. 3737e. Memorandum or Record of Act, Event or Condition; Absence of Memorandum or Record as Evidence

Competence of Record as Evidence

Sec. 1. A memorandum or record of an act, event or condition shall, insofar as relevant, be competent evidence of the occurrence of the act or event or the existence of the condition if the judge finds that:

- (a) It was made in the regular course of business;
- (b) It was the regular course of that business for an employee or representative of such business with personal knowledge of such act, event or condition to make such memorandum or record or to transmit information thereof to be included in such memorandum or record;
- (c) It was made at or near the time of the act, event or condition or reasonably soon thereafter.

Proof of Identity and Mode of Preparation; Lack of Personal Knowledge

Sec. 2. The identity and mode of preparation of the memorandum or record in accordance with the provisions of paragraph one (1) may be proved by the testimony of the entrant, custodian or other qualified witness even though he may not have personal knowledge as to the various items or contents of such memorandum or record. Such lack of personal knowledge may be shown to affect the weight and credibility of the memorandum or record but shall not affect its admissibility.

Absence of Record

Sec. 3. Evidence to the effect that the records of a business do not contain any memorandum or record of an alleged act, event or condition shall be competent to prove the non-occurrence of the act or event or the non-existence of the condition in that business if the judge finds that it was the regular course of that business to make such memoranda or records of all such acts, events or conditions at the time or within reasonable time thereafter and to preserve them.

Business Defined

Sec. 4. "Business" as used in this Act includes any and every kind of regular organized activity whether conducted for profit or not.

Records or Photo Copies; Admissibility; Affidavit; Filing

Sec. 5. Any record or set of records or photographically reproduced copies of such records, which would be admissible pursuant to the provisions of Sections 1 through 4 shall be admissible in evidence in any court in this state upon the affidavit of the person who would otherwise provide the prerequisites of Sections 1 through 4 above, that such records attached to such affidavit were in fact

so kept as required by Sections 1 through 4 above, provided further, that such record or records along with such affidavit are filed with the clerk of the court for inclusion with the papers in the cause in which the record or records are sought to be used as evidence at least fourteen (14) days prior to the day upon which trial of said cause commences, and provided the other parties to said cause are given prompt notice by the party filing same of the filing of such record or records and affidavit, which notice shall identify the name and employer, if any, of the person making the affidavit and such records shall be made available to the counsel for other parties to the action or litigation for inspection and copying. The expense for copying shall be borne by the party, parties or persons who desire copies and not by the party or parties who files the records and serves notice of said filing, in compliance with this Act. Notice shall be deemed to have been promptly given if it is served in the manner contemplated by Rule 21a, Texas Rules of Civil Procedure, fourteen (14) days prior to commencement of trial in said cause.

Hospital X-Ray Pictures; Admissibility; Affidavit; Filing

Sec. 6. X-rays which are made in any hospital in the United States of America, which are made as a regular part of the business of that hospital, which are made in accordance with good radiology techniques, by a person competent to make X-rays, which are made under the supervision of the Department of Radiology of such hospital, which have photographed thereon the name and, if applicable, the hospital number assigned the person X-rayed, along with the date of such X-ray and, if the person's name is not known, then the words "Name Unknown" and the number assigned said person, shall be admitted into evidence in the trial of any cause in this state if they are accompanied by the affidavit of the head of the Radiology Department of said hospital or one of his partners, which affidavit shall affirmatively state that the conditions of this section have been met, and if the Radiology Department has been changed, then such affidavit may be made by the person who was the head of the Radiology Department of said hospital or one of his partners at the time said X-rays were made, provided such X-rays are accompanied by such affidavit and shall be filed with the clerk of the court for inclusion with the papers in the cause in which the X-rays are sought to be used as evidence at least fourteen (14) days prior to the day upon which trial of said cause commences, and provided the other parties to said cause are given prompt notice by the party filing same of the filing of such X-rays and affidavit, which notice shall identify the name and employer, if any, of the person making the affidavit and which notice shall be deemed to have been promptly given if it is served in the manner contemplated by Rule 21a, Texas Rules of Civil Procedure, fourteen (14) days prior to commencement of trial in said cause; the clerk of the court

shall permit any party to said cause to remove the X-rays from his possession for the purposes of examination, provided a receipt is presented therefor and said X-rays shall be returned to the clerk of said court at least seven (7) days prior to the day upon which trial of said cause commences.

Medical Records; Form of Affidavit

Sec. 7. A form for the affidavit of such person as shall make such affidavit as is permitted in Section 5 above shall be sufficient if it follows this form, though this form shall not be exclusive, and an affidavit which substantially complies with the provisions of this Act shall suffice, to-wit:

No. _____
John Doe (Name of Plaintiff)
v.
John Roe (Name of Defendant)
IN THE _____ COURT IN AND FOR _____ COUNTY, TEXAS

AFFIDAVIT

Before me, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

My name is _____, I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the medical records librarian of _____ Hospital and as such I am the custodian of the records of the said _____ Hospital. Attached hereto are _____ pages of records from the _____ Hospital. These said _____ pages of records are kept by the _____ Hospital in the regular course of business, and it was the regular course of business in the _____ Hospital for an employee or representative, or a doctor permitted to practice in the _____ department or division, of the _____ Hospital, with personal knowledge of the act, event or condition recorded to make the memorandum or record or to transmit information thereof to be included in such memorandum or record; and the memorandum or record was made at or near the time of the act, event or condition recorded or reasonably soon thereafter. The records attached hereto are exact duplicates of the original, and it is a rule of the _____ Hospital to not permit the originals to leave the hospital.

Affiant

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 19____.

Notary Public in and for _____ County, Texas.

X-Rays; Form of Affidavit

Sec. 8. A form for the affidavit of such person as shall make such affidavit as is permitted in

Section 6 above shall be sufficient if it follows this form, though this form shall not be exclusive, and an affidavit which substantially complies with the provisions of this Act, shall suffice, to-wit:

No. _____
John Doe (Name of Plaintiff)
v.
John Roe (Name of Defendant)
IN THE _____ COURT IN AND FOR _____ COUNTY, TEXAS

AFFIDAVIT

Before me, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

My name is _____, I am over 21 years of age, competent to make this affidavit, and personally acquainted with the facts herein stated:

I am the _____ of the Radiology Department of the _____ Hospital. Attached hereto are _____ pages of X-rays.

These X-rays were made by the _____ Hospital in accordance with good radiology techniques, they were made as a regular part of the business of the _____ Hospital, they were made by a competent person, a technician or radiologist, under my supervision and control. Photographed on each X-ray is the name, number and date for each X-ray.

Affiant

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 19____.

Notary Public in and for _____ County, Texas
[Acts 1951, 52nd Leg., p. 345, ch. 321. Amended by Acts 1969, 61st Leg., p. 1076, ch. 353, § 1, eff. May 27, 1969; Acts 1973, 63rd Leg., pp. 276, 277, ch. 128, §§ 1, 2, eff. Aug. 27, 1973.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3737f. Personal Injury Action; Exclusion of Evidence of Settlement of Property Damage and Medical Expense Claims

In a lawsuit being tried before a jury for damages for personal injuries which resulted from an occurrence which is also the basis for a claim for property damage and/or payment of medical expense, no evidence, is admissible which informs the jury that

the property damage claim or medical expense has been paid or settled.

[Acts 1969, 61st Leg., p. 1639, ch. 511, § 1, eff. June 10, 1969.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3737g. Advance Payment to Tort Claimants; Introduction of Evidence

Purpose of Act

Sec. 1. The purpose of this Act is to promote the making of advance payments for economic loss to claimants without permitting the introduction of evidence of advance payments on the issue of liability or damages during subsequent litigation, but permitting the allowance of advance payments as a credit against any sum judicially established as a claimant's total damages. The making of periodic payments to claimants for medical expenses, wages lost, and property damaged, often without taking any form of release, will avoid delays in and promote payments for economic loss to persons in need.

"Advance Payment" Defined

Sec. 2. In this Act, "advance payment" includes but is not limited to, any partial payment or payments made by any person, corporation, or insurer to another which is predicated on possible tort liability for medical, surgical, hospital, or rehabilitation services, facilities, or equipment; loss of earnings; out-of-pocket expenses; bodily injury; death; or property damage, loss, or destruction.

Inadmissibility of Evidence of Advance Payment at Trial

Sec. 3. In any civil action in which a party or someone on his behalf, such as his insurer, has made an advance payment prior to trial, any evidence of or concerning the advance payment shall be inadmissible at the trial on liability or damages in any action brought by the claimant, his survivor, or his personal representative to recover damages for personal injuries or related damages, for wrongful death of another, or for property damage or destruction.

Admissibility of Evidence of Advance Payment after Verdict or Decision; Right to Jury Trial Undenied

Sec. 4. If an action results in a jury verdict or decision of the court for damages in favor of a party, the party against whom the verdict or decision is entered may introduce evidence of advance payments after the verdict or decision and before

final judgment, and the court shall then reduce the amount awarded to the claimant by the amount of the advance payment proved to have been made prior to trial. Such advance payments shall not be permitted as a reduction of the amount awarded unless there is evidence at the trial on liability that the party to whom the advance payments were made suffered loss as described in Section 2 herein, equal to or exceeding the amount of such advance payments. Nothing in this Act shall be construed to deny to any party his constitutional right to trial by jury on the amount of the credit at a time subsequent to the trial on liability and damages.

Application of Act

Sec. 5. This Act applies to any action filed after the effective date of this Act, regardless of the site of the accident, location of property, or residence of the parties.

Statute of Limitations Tolled

Sec. 6. The making of an advance payment tolls the running of the statute of limitations until the last payment is made unless the person making the advance payment notifies the recipient in writing at the time of each payment that the applicable statute of limitations is not tolled.

[Acts 1975, 64th Leg., p. 962, ch. 364, eff. June 19, 1975.]

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Art. 3737h. Necessity of Services and Reasonableness of Charges

Sec. 1. (a) In a civil action other than an action on sworn account, the amount charged for services by a person or institution, when supported by affidavit that the charges reflected in the affidavit were reasonable at the time and place that the services were rendered and that the services were necessary, is sufficient evidence to support a finding of fact by judge or jury that the services were necessary or that the amount charged was reasonable, or both. The affidavit shall be taken before an officer authorized to administer oaths, shall be made by a person who rendered the services or who is in charge of records that show the services rendered and the charges made, and shall include an itemized statement of the services and the charges.

(b) As a condition precedent to applicability of Subsection (a) of this Section 1, the party asserting such applicability, or such party's attorney of record, shall file the affidavit provided for in said Subsection (a) with the clerk of the court and shall serve a copy thereof on each other party to the

cause, or such other party's attorney of record, at least 14 days prior to the day on which presentation of evidence at trial of the cause commences. As a condition precedent to controverting a claim covered by an affidavit so filed and served, any party intending to controvert all or part of any such claim shall, within 10 days after receipt of such party's copy of such affidavit, or with leave of court first had and obtained at any time prior to commencement of evidence at trial of the cause, file a counter-affidavit with the clerk of the court and serve a copy thereof on each other party to the cause, or such other party's attorney of record. The counter-affidavit shall give reasonable notice of the basis upon which the party filing it intends at trial to controvert all or part of the claim covered by the initial affidavit. The counter-affidavit shall be taken before a person authorized to administer oaths and may be made upon information and belief by the party filing it, or such party's attorney of record. When a counter-affidavit is so filed and served, then Subsection (a) of this Section 1 shall thereafter have no force or effect at the trial of the cause.

Sec. 2. This Act does not apply to civil actions in which judgment was rendered prior to the effective date of this Act, nor to attorney fees charged in the trial of the cause or preparation thereof.

[Acts 1979, 66th Leg., p. 1778, ch. 721, eff. Aug. 27, 1979.]

2. DEPOSITIONS

Arts. 3738, 3739. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3740. Notice by Publication

In all civil suits where it shall be shown to the court, by affidavit filed therein, that either party is beyond the jurisdiction of the court, or that he cannot be found, or has died since the commencement of the suit and such death has been suggested at a prior term of the court, so that the notice and copy of interrogatories cannot be served upon him for the purpose of taking depositions, and such party has no attorney of record upon whom they can be served, or if he be deceased and all the persons entitled to claim by or through such deceased defendant have not made themselves parties to the suit, and are unknown, the party wishing to take depositions may file his interrogatories in the court where said suit is pending, and the clerk of such court or justice of the peace shall thereupon cause a notice to be published in some newspaper in the county where the suit is pending, if there be a newspaper published in said county, but if not, then in the nearest county where a newspaper is published, once each week for two (2) consecutive weeks, stating the number of the suit, the names of the original parties, in what court the suit is pending, name and residence of the witness to whom the interrogatories are propounded, and that a commission will issue on or after the fourteenth day after

such publication to take the deposition of such witness; at the expiration of which time such clerk or justice shall, on the application of the party filing such interrogatories, his agent or attorney, issue a commission as in other cases.

[Acts 1925, S.B. 84. Amended by Acts 1939, 46th Leg., p. 327, § 1.]

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Vernon's Texas Rules of Civil Procedure, Rule 190.

Arts. 3741 to 3745. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3746. Officers Authorized to Execute

The commission shall be addressed to the following officers, either of whom may execute and return the same:

1. If the witness be alleged to reside or be within the State, to any clerk of the District Court, any judge or clerk of the County Court, or any notary public of the proper county.

2. If the witness be alleged to reside or be without the State, and within the United States, to any clerk of a Court of Record having a seal, any notary public, or any commissioner of deeds duly appointed under the laws of this State within some other State or territory.

3. If the witness is alleged to reside or be without the United States, to any notary public or any minister, commissioner or charge d'affairs of the United States resident in, and accredited to, the country where the deposition may be taken, or any consul-general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul or consular agent of the United States resident in such country.

4. If the witness is alleged to be a member of the Armed Forces of the United States or of the Auxiliaries thereof or a civilian employed by or accompanying any such Forces or Auxiliaries, without the territorial confines of the forty-eight states and the District of Columbia of the United States of America, such commission may be addressed to any commissioned officer in the Armed Forces of the United States of America, in the Auxiliaries thereto, or to any commissioned officer in the Armed Force Reserve of the United States of America or any Auxiliary thereto. When any deposition appears on its face to have been taken in compliance with the provisions of this Section and when such deposition, or any part thereof, is offered in evidence, it shall be presumed, in the absence of pleading and proof to the contrary, that the person taking such deposition as a commissioned officer was such on the date on which the deposition was taken and that the witness whose deposition was taken was one of

those with respect to whom such action is hereby authorized.

[Acts 1925, S.B. 84; Acts 1945, 49th Leg., p. 221, ch. 164, § 1.]

Art. 3747. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3748. May Be Attached

If the witness, after being duly summoned, shall fail to appear, or, having appeared, shall refuse to answer the interrogatories, such officer shall have power to issue an attachment against such witness and to fine and imprison him in like manner as the district and county courts are empowered to do in like cases.

[Acts 1925, S.B. 84.]

Arts. 3749 to 3756. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3757. Power of Officer Taking Depositions

Said officer shall have the same power and authority to enforce the attendance of the witness, and to compel him to testify, as in cases of written interrogatories.

[Acts 1925, S.B. 84.]

Arts. 3758 to 3769. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3769a. Execution of Commission Issued by Court of Foreign State

Whenever any mandate, writ or commission is issued out of any court of record in any other state,

territory, district or foreign jurisdiction, and it is required to take the testimony of a witness or witnesses in this state, either on written interrogatories or by oral deposition, the witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in this State.

[Acts 1929, 41st Leg., p. 553, ch. 268, § 1.]

Art. 3769b. Contempt in Disobeying Writ

Whenever any commission for the taking of the deposition of any witness or party to any civil suit pending in any of the courts of Texas shall have been regularly and legally issued and placed in the hands of a person legally designated and qualified to take depositions under the laws of this state such officer shall have authority to issue any writ authorized by law to compel the attendance of a witness in court, and upon disobedience of such writ by any such witness he may be punished as for contempt either by the court out of which such commission issued, or by the Judge of any District Court of the County in which such witness resides.

[Acts 1929, 41st Leg., p. 553, ch. 268, § 1-a.]

Art. 3769c. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

TITLE 56

EXECUTION

Art.

- 3770 to 3772. Repealed.
- 3773. Dormant Judgment.
- 3774. Repealed.
- 3775. On Death of Plaintiff.
- 3776 to 3784. Repealed.
- 3785. Indorsements by Officer.
- 3786. Execution on Property of Surety.
- 3787. On Death, etc., of Officers.
- 3788 to 3791. Repealed.
- 3792. Property Exempt.
- 3793 to 3797. Repealed.
- 3798. Shares of Stock Sold.
- 3799. Duty of Officer.
- 3799a. Liability of Officer Executing Writ; Recovery of Seized Property.
- 3800. Expense of Keeping Property.
- 3801 to 3804. Repealed.
- 3805. Sales Made Elsewhere.
- 3806. Sale of City Lots.
- 3807. Sale of Rural Property.
- 3808, 3809. Repealed.
- 3810 to 3815. Repealed.
- 3816. Conveyance to Purchaser.
- 3817. Conveyance After Death of Purchaser.
- 3818. Purchaser Deemed Innocent.
- 3819. Penalty for Unlawful Sale.
- 3820. Officer Shall Not Purchase.
- 3821 to 3823. Repealed.
- 3824. Money to be Paid Over.
- 3825. Failure to Levy or Sell.
- 3826. Failure to Return Execution.
- 3827. Surplus to be Paid to Defendant.
- 3827a. Collection of Judgments by Court Proceedings.
- 3828. Repealed.
- 3829. Death of Defendant.
- 3830. Death of the Plaintiff.
- 3831. Repealed.

Arts. 3770 to 3772. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3773. Dormant Judgment

If no execution is issued within ten years after the rendition of a judgment in any court of record, the judgment shall become dormant and no execution shall issue thereon unless such judgment be revived. If the first execution has issued within the ten years, the judgment shall not become dormant, unless ten years shall have elapsed between the issuance of executions thereon, and execution may issue at any time within ten years after the issuance of the preceding execution.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 369, ch. 144.]

Art. 3774. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3775. On Death of Plaintiff

Where a sole plaintiff, or one of several plaintiffs, shall die after judgment, execution shall issue on such judgment in the name of the legal representative of such deceased sole plaintiff, or in the name of the surviving plaintiffs, and the legal representative of the deceased plaintiff, as the case may require, upon an affidavit of such death being filed with the clerk, together with the certificate of the appointment of such representative under the hand and seal of the clerk of the court wherein such appointment was made; provided that if there be no administration upon the estate of such deceased sole plaintiff or plaintiffs, and none necessary as shown by an affidavit filed with the clerk of the court in which judgment was obtained, execution shall issue in the name of all the plaintiffs, both living and deceased, as shown in the judgment, and all money or moneys collected thereunder by the officer levying such execution, and paid unto the registry of the court, out of which such execution issued shall be partitioned among and paid to parties entitled to the same, and in the proportions to which they are entitled to the same under proper order of the presiding judge of said court.

[Acts 1925, S.B. 84.]

Arts. 3776 to 3784. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3785. Indorsements by Officer

The officer receiving the execution shall indorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received; and, on failure to do so, or in case of false indorsement, he and his sureties shall be liable on motion in the court from whence the execution is issued, three days' notice being given, to a judgment in favor of the plaintiff in execution for twenty per cent on the amount of the execution, together with such damages as the plaintiff in execution may have sustained by such failure or such false indorsement.

[Acts 1925, S.B. 84.]

Repealed in part, Rules of Civil Procedure, Rule 636.

Art. 3786. Execution on Property of Surety

If it appear upon the face of an execution, or by the indorsement of the clerk, that of those against whom it is issued any one is surety for another, the levy of the execution shall first be made upon the property of the principal subject to execution and situate in the county in which the judgment is rendered. If property of the principal cannot be found which will, in the opinion of the officer, be sufficient to make the amount of the execution, the levy shall be made on so much property of the principal as may be found, and upon so much of the property of the surety as may be necessary to make the amount of the execution.

[Acts 1925, S.B. 84.]

Art. 3787. On Death, etc., of Officers

If the officer receiving an execution die or go out of office before the return of any execution, his successor, or other officer authorized to discharge the duties of the office in such case, shall proceed therein in the same manner that such officer should have done.

[Acts 1925, S.B. 84.]

Arts. 3788 to 3791. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**Art. 3792. Property Exempt**

Property which the judgment debtor has sold, mortgaged or conveyed in trust shall not be seized in execution, if the purchaser, mortgagee or trustee shall point out other property of the debtor in the county sufficient to satisfy the execution.

[Acts 1925, S.B. 84.]

Arts. 3793 to 3797. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**Art. 3798. Shares of Stock Sold**

Shares of stock in any joint stock or incorporated company may be sold on execution against the person owning such stock.

[Acts 1925, S.B. 84.]

Art. 3799. Duty of Officer

The officer shall keep securely all personal property levied on by him for which no delivery bond has been given. If any injury or loss should result by his negligence to any party interested, he and his sureties shall be liable to pay the value of the property so lost or the amount of the injury sustained, and ten per cent thereon, to be recovered by the party injured on motion, three days notice being given in the court from which the execution issued.

[Acts 1925, S.B. 84.]

Art. 3799a. Liability of Officer Executing Writ; Recovery of Seized Property**Immunity of Officers Executing Writs**

Sec. 1. Except as provided by Article 3799, Revised Civil Statutes of Texas, 1925, an officer is not liable for damages resulting from the execution of a writ issued by a Texas court if the officer in good faith executes the writ as provided by law and by the Texas Rules of Civil Procedure and uses reasonable diligence in performing his official duties.

No Indemnification

Sec. 2. An officer shall execute a writ issued by a Texas court without requiring that bond be posted for indemnification of the officer.

Recovery of Seized Property

Sec. 3. (a) Unless property has been sold at an execution sale as provided by law and by the Texas Rules of Civil Procedure, a person is entitled to recover his property that has been seized through execution of a writ issued by a court if the judgment upon which the execution is issued is later reversed or set aside.

(b) If the property has been sold, a person who would otherwise be entitled to recover the property is entitled to recover from the judgment creditor the market value of the property sold at the time of the sale.

[Acts 1981, 67th Leg., p. 2659, ch. 714, eff. Aug. 31, 1981.]

Art. 3800. Expense of Keeping Property

The officer shall be authorized to retain out of the proceeds of personal property sold upon execution all reasonable expenses incurred by him in making the levy and keeping the property.

[Acts 1925, S.B. 84.]

Arts. 3801 to 3804. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**Art. 3805. Sales Made Elsewhere**

Where by law the public sales of lands in any county are directed to be made at any other place than the courthouse door, the sales herein provided to be made at the courthouse door shall be made at the place designated by such law.

[Acts 1925, S.B. 84.]

Art. 3806. Sale of City Lots

If real property situated in any town or city, taken in execution, consist of several lots, tracts or parcels, each shall be offered separately, unless the same be not susceptible of a separate sale by reason of the character of the improvements thereon.

[Acts 1925, S.B. 84.]

Art. 3807. Sale of Rural Property

When lands not situated in any town or city or taken in execution, the defendant in such writ in whom the legal or equitable title to such land may be vested, shall have the right to present to the officer holding such execution, at any time before the sale so as not to delay the same being made as advertised, a plat of said land as actually surveyed, in lots of not less than fifty acres, by the county surveyor of the county wherein said premises are situated. The plat shall be accompanied by the field notes of each lot as numbered, with the certificate of the county surveyor that the same are correct, and the defendant shall have the right to designate the order in which the lots shall be sold. When a sufficient number of such lots are sold to satisfy the amount due on the execution, the sale shall cease. All of the expenses attending the survey and sale of said land in lots shall be paid by the defendant, and shall in no case constitute any additional cost in the case.

[Acts 1925, S.B. 84.]

Arts. 3809, 3809. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3810. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

Without reference to repeal by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, art. 3810 was amended by Acts 1983, 68th Leg., p. 5056, ch. 915, § 1.

For text of Acts 1983, 68th Leg., p. 5056, ch. 915, § 1, see the italicized note following Property Code, § 51.002.

Arts. 3811 to 3815. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3816. Conveyance to Purchaser

When a sale has been made and the terms thereof complied with, the officer shall execute and deliver to the purchaser a conveyance of all the right, title, interest and claim which the defendant in execution had in and to the property sold.

[Acts 1925, S.B. 84.]

Art. 3817. Conveyance After Death of Purchaser

If the purchaser, having complied with the terms of the sale, shall die before a conveyance was executed to him, the officer shall nevertheless convey the property to the purchaser, and the conveyance shall have the same effect as if it had been executed in the lifetime of the purchaser.

[Acts 1925, S.B. 84.]

Art. 3818. Purchaser Deemed Innocent

A purchaser at a sale under execution shall be deemed to be an innocent purchaser without notice

in all cases where he would be deemed to be such had the sale been made voluntarily by the defendant in person.

[Acts 1925, S.B. 84.]

Art. 3819. Penalty for Unlawful Sale

Any officer who shall sell any property without giving the previous notice herein directed, or who shall sell the same otherwise than in the manner prescribed herein, shall forfeit and pay to the party injured not less than ten nor more than two hundred dollars in addition to such other damages as the party may have sustained, to be recovered on motion, five days notice thereof being given such officer and his sureties.

[Acts 1925, S.B. 84.]

Art. 3820. Officer Shall Not Purchase

If any officer or his deputy making sale of property on execution, shall, directly or indirectly, purchase the same, the sale shall be void.

[Acts 1925, S.B. 84.]

Arts. 3821 to 3823. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3824. Money to be Paid Over

When an officer has collected money on execution, he shall pay the same to the party entitled thereto at the earliest opportunity. If an officer fails or refuses to pay money collected under an execution when demanded by the person entitled to receive the same, he shall be liable to pay to such person the amount so collected, with damages at the rate of five per cent per month thereon, besides interest and costs, which may be recovered of him and his sureties by the party entitled to receive the same on motion before the court from which said execution issued, five days previous notice thereof being given to said officer and his sureties.

[Acts 1925, S.B. 84.]

Art. 3825. Failure to Levy or Sell

Should an officer fail or refuse to levy upon or sell any property subject to execution, when the same might have been done, he and his sureties shall be liable to the party entitled to receive the money collected on such execution for the full amount of the debt, interest and costs, to be recovered on motion before the court from which said execution issued, five days previous notice thereof being given to said officer and his sureties.

[Acts 1925, S.B. 84.]

Art. 3826. Failure to Return Execution

Should an officer neglect or refuse to return any execution as required by law, or should he make a false return thereon, he and his sureties shall be liable to the party entitled to receive the money collected on such execution for the full amount of

the debt, interest and costs to be recovered as provided in the preceding article.

[Acts 1925, S.B. 84.]

Art. 3827. Surplus to be Paid to Defendant

If, on the sale of property, more money is received than is sufficient to pay the amount of the execution or executions in the hands of the officer, the surplus shall be immediately paid over to the defendant, his agent or attorney.

[Acts 1925, S.B. 84.]

Art. 3827a. Collection of Judgments by Court Proceedings

(a) A judgment creditor whose judgment debtor is the owner of property, including present or future rights to property, which cannot readily be attached or levied on by ordinary legal process and is not exempt from attachment, execution, and every type of seizure for the satisfaction of liabilities, is entitled to aid from a court of appropriate jurisdiction by injunction or otherwise in reaching the property to satisfy the judgment.

(b) The court may order the property of the judgment debtor referred to in Subsection (a) of this section, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor to be turned over to any designated sheriff or constable for execution or otherwise applied toward the satisfaction of the judgment. The court may enforce the order by proceedings for contempt or otherwise in case of refusal or disobedience.

(c) The court may appoint a receiver of the property of the judgment debtor referred to in Subsec-

tion (a) of this section, with the power and authority to take possession of and sell the nonexempt property and to pay the proceeds to the judgment creditor to the extent required to satisfy the judgment.

(d) These proceedings may be brought by the judgment creditor in the same suit in which the judgment is rendered or in a new and independent suit.

(e) In a proceeding under this section, a judgment creditor is entitled to recover reasonable costs, including attorney's fees.

[Acts 1979, 66th Leg., p. 1555, ch. 671, § 1, eff. June 13, 1979.]

Art. 3828. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3829. Death of Defendant

The death of the defendant after the execution is issued shall operate as a supersedeas thereof; but the lien, when one has been acquired by a levy, shall be recognized and enforced by the county court in the payment of the debts of the deceased.

[Acts 1925, S.B. 84.]

Art. 3830. Death of the Plaintiff

An execution shall not be abated by the death of the plaintiff therein after the execution has been issued, but shall be executed and returned in the same manner as if the plaintiff was still living.

[Acts 1925, S.B. 84.]

Art. 3831. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

TITLE 57

EXEMPTIONS

Art.
3832 to 3859. Repealed

Arts. 3832, 3832a. Repealed by Acts 1973, 63rd
Leg., p. 1629, ch. 588, § 4 eff. Jan. 1,
1974

Arts. 3833 to 3859. Repealed by Acts 1983, 68th
Leg., p. 3729, ch. 576, § 6, eff. Jan. 1,
1984

Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the
Property Code.

For disposition of the subject matter of the repealed articles, see
Disposition Table preceding the Property Code.

Without reference to repeal by Acts 1983, 68th Leg., p. 3729, ch.
576, § 6, art. 3833, subsec. (a) was amended and subsec. (c) was
added by Acts 1983, 68th Leg., p. 5309, ch. 976, §§ 1 and 2,
conditioned on a 1983 constitutional amendment which was subse-
quently adopted.

For text of Acts 1983, 68th Leg., p. 5309, ch. 976, §§ 1 and 2, see
the italicized note following Property Code § 41.001.

TITLE 58

EXPRESS COMPANIES

Art.

- 3860. Declared Common Carriers.
- 3861. Regulation.
- 3862. Penalty for Overcharge.
- 3863. Powers of Commission.
- 3864. General Office.
- 3865. To Give Notice, etc.
- 3866. Penalty.

Art. 3860. Declared Common Carriers

Each person, firm or corporation which shall do the business of an express company, upon railroads or otherwise, in this State, by the carrying of any kind of property, money, papers, packages or other things, are hereby declared to be common carriers, and shall receive, safely carry and promptly deliver at the express office nearest destination every such article as may be tendered to them, and in the carriage of which they are engaged. No such company shall be compelled to carry any gunpowder, dynamite, kerosene, naphtha, gasoline, matches or other dangerous or inflammable oils, acids or materials, except under such regulations as may be prescribed by the Railroad Commission. No person, firm or corporation so engaged shall demand or receive for such services other than reasonable compensation.

[Acts 1925, S.B. 84.]

Art. 3861. Regulation

The Railroad Commission of Texas shall have power, and it shall be its duty, to fix and establish reasonable and just rates of charges for each class or kind of property, money, papers, packages and other things, to be received and charged for by each express company, and, which, by the contract of carriage, are to be transported by such express company between points wholly within this State. Such rates shall be made to apply to all such companies, and may be changed or modified by said Commission from time to time in such manner as may become necessary. Said Commission shall have the same power to make and prescribe such rules and regulations for the government and control of such express companies as is, or may be, conferred upon said Commission for the regulation of railroads.

[Acts 1925, S.B. 84.]

Art. 3862. Penalty for Overcharge

Every express company doing business in this State which shall demand or receive a greater compensation than that which may be prescribed and fixed by said Commission for the transportation within this State of any class or kind of property,

money, papers, packages or things, shall be deemed guilty of extortion, and shall forfeit and pay to the State of Texas a sum not to exceed five hundred dollars for each offense. If it shall appear that such violation was not wilful, said company shall have ten days to refund such overcharges or damages, in which case the penalty shall not be incurred. The said Commission shall have authority and it shall be its duty to sue for the same in such manner as may be prescribed by law for like suits against railroad companies.

[Acts 1925, S.B. 84.]

Art. 3863. Powers of Commission

The said Commission shall have authority, and it shall be its duty to call upon such express companies for reports, and investigate their books in the same manner as may be prescribed by law for the regulation of railroad companies, and the said Commission shall have power and authority to institute suits, sue out such writs and process as may be applicable and authorized for the regulation of railroad companies. All laws, rules and regulations made and prescribed for the government and control of railroads, when applicable, shall be of equal force and effect as to express companies.

[Acts 1925, S.B. 84.]

Art. 3864. General Office

Every incorporated express company doing business in this State shall keep a general office in this State at some place on the line of its transportation, in which it shall keep its charter, books, papers, accounts and contracts, or copies thereof, showing the value of its property of all kinds, its receipts and disbursements on account of business done in this State, and its indebtedness. It shall make a full annual statement of all such matters as shown by its books to the Railroad Commission of Texas, and such additional statements as may be required by such Commission, which statements shall be certified to be correct and sworn to by the president and secretary, or general manager in Texas of such company. Such company shall permit any member of the Railroad Commission of Texas or its authorized agent to examine at any time, any and all books, papers and contracts in its said office.

[Acts 1925, S.B. 84.]

Art. 3865. To Give Notice, etc.

Every express company doing business in this State shall give notice in writing to the Railroad Commission of the name, and official designation, of

the person or persons, officer or officers charged with the management of its general office in this State, the location of its general office in this State, and shall from time to time give like notice in writing of any change in location of such general office, and of the person or persons, officer or officers in charge thereof.

[Acts 1925, S.B. 84.]

Art. 3866. Penalty

Failure to comply with any provision of this title shall subject the offending company and any offi-

cer, agent, or employe thereof, so offending, to a penalty of not less than one hundred nor more than five hundred dollars, to be recovered by suit therefor. The Railroad Commission shall notify the Attorney General of any violation of any provision of this title which shall come to its knowledge. In addition to said penalty, a failure to comply with any provision of this title shall be sufficient cause to cancel the permit of any express company so offending.

[Acts 1925, S.B. 84.]

TITLE 59

FEEBLE MINDED PERSONS—PROCEEDINGS IN CASE OF

Art.

3867 to 3871. Repealed.

3871a. Return to Home County of Persons Released From State Schools for Feeble-Minded.

3871b. Repealed.

3871c. State School for Mentally Retarded.

3871d. Additional State School for Mentally Retarded in Gulf Coast Area.

3871e. Additional State School for Mentally Retarded West of One Hundredth Meridian.

3871f. Additional State Schools for Mentally Retarded.

3871g. Additional State School for Mentally Retarded Persons.

Abolition

Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.

Arts. 3867 to 3871. Repealed by Acts 1955, 54th Leg., p. 438, ch. 119, § 25

Art. 3871a. Return to Home County of Persons Released From State Schools for Feeble-Minded

Upon determination of a State school for the feeble-minded or mentally retarded that a person who has been committed to its care and custody is no longer in need of special training, special education, treatment, care or control, it shall be the duty of the superintendent to notify the county judge of the county from which such person was committed. It shall be the duty of the county judge, upon receipt of such notification, to provide for the transportation and return of such person to the county from which such person was committed, or to the county where the parents live.

[Acts 1955, 54th Leg., p. 53, ch. 39, § 1.]

Art. 3871b. Repealed by Acts 1977, 65th Leg., p. 797, ch. 294, § 69, eff. Jan. 1, 1978

See, now, the Mentally Retarded Persons Act, classified as art. 5547-300.

Art. 3871c. State School for Mentally Retarded

Establishment

Sec. 1. There shall be constructed, established, and maintained an additional school for the diagnosis, special training, education, supervision, treatment, care or control of mentally retarded persons of this State. It shall be known as the State School; that after the said State School has been located, then the name of the city near which it is located shall be added before the words "State School" which shall be its name.

The Board for Texas State Hospitals and Special Schools shall select a site for said school, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants, and the same shall contain sufficient land and have utilities readily available. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said school; provided, however, that the Attorney General's Department shall first approve the title to the land so selected by the Board.

Buildings

Sec. 2. There shall be constructed upon said grounds so selected permanent, suitable, substantial, and fireproof buildings sufficient in all respects to care for mentally retarded persons; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation, and sewage.

The Board for Texas State Hospitals and Special Schools shall proceed to prepare plans and specifications for said buildings; and immediately after this Act becomes effective and title to the land designated as the site for said school shall have been approved by the Attorney General as being vested in the State of Texas, and upon the availability of sufficient appropriation, the Board shall contract for the erection of the necessary buildings for the proper operation of said school, as provided by law; and said Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Personnel; Patients

Sec. 3. Upon the completion of the buildings and facilities, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such school and

to adequately treat such persons as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally retarded.

[Acts 1957, 55th Leg., p. 1202, ch. 399.]

Art. 3871d. Additional State School for Mentally Retarded in Gulf Coast Area

Establishment

Sec. 1. There shall be constructed, established, and maintained an additional school for the diagnosis, special training, education, supervision, treatment, care or control of mentally retarded persons of this State in the Gulf Coast area. It shall be known as the State School; that after the said State School has been located, then the name of the city near which it is located shall be added before the words "State School" which shall be its name.

The Board for Texas State Hospitals and Special Schools shall select, and acquire by gift or purchase, within the limits of legislative appropriations, a site for said school, and the Board, in selecting such site shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants, and the same shall contain sufficient land and have utilities readily available. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said school; provided, however, that the Attorney General's Department shall first approve the title to the land so selected by the Board.

Buildings

Sec. 2. There shall be constructed upon said grounds so selected, permanent, suitable, substantial, and fireproof buildings sufficient in all respects to care for mentally retarded persons; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation and sewage, within the limits of legislative appropriations.

The plans and specifications for said buildings shall be prepared in the usual manner as provided by law; and immediately after this Act becomes effective and title to the land designated as the site for said school shall have been approved by the Attorney General as being vested in the State of Texas, and upon the availability of sufficient appropriation, the Board shall contract for the erection of the necessary buildings for the proper operation of said school, as provided by law; and said Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Personnel; Patients

Sec. 3. Upon the completion of the buildings and facilities, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such school and to adequately treat such persons as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally retarded.

[Acts 1961, 57th Leg., p. 606, ch. 288.]

Art. 3871e. Additional State School for Mentally Retarded West of One Hundredth Meridian

Establishment

Sec. 1. There shall be constructed, established, and maintained an additional school for the diagnosis, special training, education, supervision, treatment, care or control of mentally retarded persons of this state. It shall be known as the State School; that after the said State School has been located, then the name of the city near which it is located shall be added before the words "State School" which shall be its name. The school shall be located at some point west of the one hundredth meridian, or within any county through which the one hundredth meridian passes.

The Board for Texas State Hospitals and Special Schools shall select and acquire by gift or purchase, within the limits of legislative appropriations, a site for said school, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants, and the same shall contain sufficient land and have utilities readily available. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said school; provided, however, that the Attorney General's Department shall first approve the title to the land so selected by the Board.

Buildings

Sec. 2. There shall be constructed upon said grounds so selected permanent, suitable, substantial, and fireproof buildings sufficient in all respects to care for mentally retarded persons; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation and sewage, within the limits of legislative appropriations.

The Board for Texas State Hospitals and Special Schools shall proceed to prepare plans and specifications for said buildings; and immediately after this Act becomes effective and title to the land designated as the site for said school shall have been approved by the Attorney General as being vested in

the State of Texas, and upon the availability of sufficient appropriations, the Board shall contract for the erection of the necessary buildings for the proper operation of said school, as provided by law; and said Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Personnel; Patients

Sec. 3. Upon the completion of the buildings and facilities, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such school and to adequately treat such persons as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally retarded.

[Acts 1963, 58th Leg., p. 607, ch. 220.]

Art. 3871f. Additional State Schools for Mentally Retarded

Construction, Establishment and Maintenance; Sites

Sec. 1. There may be constructed, established and maintained additional schools for the diagnosis, special training, education, supervision, treatment, care or control of mentally retarded persons of this state. They shall be known as state schools, and after each state school has been located, then the name of the city at or near which it is located shall be added before the words "State School," which shall be the name in each case.

The Board for Texas State Hospitals and Special Schools shall select and acquire by gift or purchase, within the limits of legislative appropriations, sites for the schools, and the Board, in selecting each site, shall make the selection with a view to its accessibility and convenience to the greatest number of inhabitants. Each site shall have sufficient land and have utilities readily available. The Board shall take title to the land selected for each school in the name of the State of Texas for the use and benefit of the school; provided, however, that the Attorney General's Department shall first approve the title to the land selected by the Board.

Buildings

Sec. 2. There shall be constructed upon each site selected permanent, suitable, substantial and fireproof buildings sufficient in all respects to care for mentally retarded persons. The buildings shall be provided with modern improvements for furnishing water, heat, ventilation and sewage, within the limits of legislative appropriations.

The Board for Texas State Hospitals and Special Schools shall proceed to prepare plans and specifications for buildings at each state school. After title

for the land for a school shall have been approved by the Attorney General as being vested in the State of Texas, and upon the availability of sufficient appropriations, the Board shall contract for the erection of necessary buildings for the proper operation of the school, as provided by law; and the Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Personnel; Patients

Sec. 3. Upon the completion of the buildings and facilities for a school, the Board for Texas State Hospitals and Special Schools shall appoint personnel necessary to operate and maintain the school and to adequately treat persons admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided in the General Laws of the State of Texas governing institutions for the care of the mentally retarded.

[Acts 1965, 59th Leg., p. 440, ch. 224.]

Art. 3871g. Additional State School for Mentally Retarded Persons

Sec. 1. (a) There shall be constructed, established, and maintained an additional school for the diagnosis, special training, education, supervision, treatment, care, or control of mentally retarded persons of this state. The school shall be located by the Board of Mental Health and Mental Retardation after a survey has been made showing where the school is most needed. After the site for the school has been determined, the name of the city near which it is located shall be added before the words "State School" and shall constitute the name of the facility.

(b) The Texas Board of Mental Health and Mental Retardation shall select and acquire by gift or purchase, within the limits of legislative appropriations, a site for the school, and the board, in selecting the site, shall make the selection with a view to its accessibility and convenience to the greatest number of inhabitants. Each site shall have sufficient land and shall have utilities readily available. The board shall take title to the land selected for the school in the name of the State of Texas for the use and benefit of the school; provided, however, that the Attorney General's Department shall first approve the title to the land selected by the board.

Sec. 2. (a) There shall be constructed on the grounds selected permanent, suitable, substantial, and fireproof buildings sufficient in all respects to care for mentally retarded persons. The buildings are to be provided with modern improvements for furnishing water, heat, ventilation and sewage, within the limits of legislative appropriations.

(b) The Texas Board of Mental Health and Mental Retardation shall proceed to prepare plans and specifications for the buildings; and immediately after this Act becomes effective and title to the land designated as the site for the school shall have been approved by the attorney general as being vested in the State of Texas, and upon the availability of sufficient appropriations, the board shall contract for the erection of the necessary buildings for the proper operation of the school, as provided by law; and the board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Sec. 3. On the completion of the buildings and facilities, the board shall appoint personnel necessary to operate and maintain the school and to adequately treat persons admitted, within the limits of legislative appropriations. The board shall admit persons and shall provide for their care and maintenance under the same laws, rules, and regulations as govern the admission and care of mentally retarded persons provided for in the general laws of the State of Texas governing institutions for the care of the mentally retarded.

[Acts 1971, 62nd Leg., p. 2610, ch. 857, eff. Aug. 30, 1971.]

TITLE 60

FEEDING STUFF

Art. 3872 to 3881e. Repealed.

Arts. 3872 to 3880, 3880-A, 3881, 3881a to 3881d. Repealed by Acts 1957, 55th Leg., p. 35, ch. 23, § 17

Art. 3881e. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

TITLE 61

FEES OF OFFICE

Chapter	Article	Art.	
1.	General provisions	3882	
2.	Enumeration.....	3913	
CHAPTER ONE. GENERAL PROVISIONS			
Art.			
3882.	To Take Out Commission.		
3883.	Maximum Fees.		
3883a, 3883b.	Repealed.		
3883c.	County Judge, Sheriff, District Attorney, Assessor, and Other Officers in Counties of 250,000 to 325,000 Population.		
3883c-1.	County Judge, County Attorney, County Clerk, Sheriff, Assessor, and Collector in Counties of 18,528 to 18,535.		
3883c-2, 3883c-3.	Repealed.		
3883d.	Sheriff, Tax Assessor-Collector, County Clerk, County Judge and Other Officers in Counties of 48,530 to 48,930.		
3883e.	Tax Assessor-Collector in Counties of 70,000 to 80,000 and With \$40,000,000 Assessed Valuation.		
3883f.	Tax Assessor-Collector in Counties of 18,500 to 18,900 and with \$14,000,000 to \$15,500,000 Assessed Valuation.		
3883f-1.	Repealed.		
3883f-2.	Tax Assessor-Collector in Counties of Not Less Than 600,000 nor More Than 900,000 Population.		
3883g.	County Judge, Sheriff, and Certain Other Officers in Counties of 145,000 to 250,000.		
3883h.	Maximum Compensation on Fee Basis of Certain Officers; Counties of Less Than 20,000.		
3883i.	Maximum and Minimum Salaries; Certain Precinct, County and District Officials in Certain Counties.		
3883i-1.	Compensation of Officers of Counties of 375,000 to 650,000.		
3883i-2.	Compensation of Judges; Counties of Not Less Than 1,200,000.		
3883i-3.	Compensation of Judges of Probate Court; Counties of Not Less Than 700,000.		
3884.	Repealed.		
3885.	District Attorneys of Districts of Two or More Counties.		
3886.	District and County Attorneys of Large Counties.		
3886a.	Assistants and Other Appointments by District and County Attorneys in Counties of 125,001 to 150,000.		
3886b.	Appointment and Salaries of Assistant County Attorneys in Counties of Over 125,000 Having No District or Criminal District Attorney.		
3886b-1.	Salaries and Expenses of County Attorneys and Judges of County Courts at Law in Counties of 97,000 to 99,000.		
3886b-2.	Assistant County Attorneys in Counties of 400,000 to 450,000.		
		3886b-3.	Salaries of Assistant County Attorneys in Counties of 74,000 to 75,800.
		3886c.	Assistant Criminal District Attorneys and Other Appointees in Counties of Over 355,000.
		3886d.	Investigators and Stenographers for District Attorneys in Counties of Less Than 30,000.
		3886e.	Court Reporter; Salary.
		3886f.	Compensation of District Attorneys.
		3886g.	Seventy-Second District; Supplemental Salary.
		3886h.	Compensation of District Attorneys, Assistants, Investigators, Secretaries and Office Personnel in 34th District.
		3886i.	District Attorneys in Counties of 600,000 to 700,000; Salary.
		3886j.	District Attorneys and Criminal District Attorneys in Counties of 600,000 to 700,000.
		3886k.	District Attorneys and Criminal District Attorneys in Counties of Not Less Than 1,200,000; Compensation; Private Practice.
		3887.	County Attorney.
		3887a.	Compensation of County Attorneys in Counties of 48,540 to 48,800.
		3887a-1.	County Attorneys in Counties of 83,000 to 84,000; Private Practice.
		3887a-2.	Compensation of County Attorneys in Counties of 300,000 to 500,000.
		3887a-3.	Repealed.
		3887b.	Counties of 650,000 or More; Salary; Assistants.
		3888 to 3888b.	Repealed.
		3889.	Census to Govern.
		3890.	State or County Not Liable.
		3891.	Disposition of Fees; Increase of Compensation of Officers.
		3892.	Failure to Collect Maximum.
		3893.	District Clerks.
		3894.	Repealed.
		3895.	Ex-officio Services.
		3896.	To Keep Accounts.
		3897.	Sworn Statement.
		3898.	Fiscal Year.
		3899.	Expense Account.
		3899a.	Repealed.
		3899b.	Offices, Office Supplies, Furniture and Automobiles; Aid for District Attorneys.
		3899b-1.	Repealed.
		3899c, 3900.	Repealed.
		3901.	Collector and Assessor.
		3901-1.	Maximum Fees of Assessor-Collector in Counties of 13,350 to 13,440 Population.
		3902.	Deputies, Assistants or Clerks; Appointment; Compensation and Salaries; Increase.
		3902a to 3902f.	Repealed.
		3902f-1.	Increase of Compensation of Deputies, Clerks and Assistants by Commissioners Court.
		3902f-2.	Counties of 11,400 to 11,500; Compensation of Deputies, Clerks and Assistants.

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- 3902f-3. Counties of 29,300 to 31,000; Compensation of Deputies, Assistants, Clerks or Stenographers.
- 3902f-4. Repealed.
- 3902f-5. Deputies, Assistants and Clerks of District, County or Precinct Officers; Increase in Compensation.
- 3902f-6, 3902f-7. Repealed.
- 3902g. Deputy Sheriffs in Counties Over 48,000.
- 3902h. Deputy Assessor-Collector of Taxes in Counties of 140,000 to 220,000.
- 3902h-1. Deputy Assessor-Collector of Taxes in Counties with Assessed Valuation of \$20,000,000 to \$25,000,000.
- 3902h-2. Chief Deputy Assessor and Collector in Counties Over 150,000.
- 3902i. Counties of 35,000 to 40,000; First Assistant or Chief Deputy to County Clerk.
- 3902j. Deputies, Assistants and Clerks of County or Precinct Officers; Increase of Compensation.
- 3903. Special Deputy District Clerk.
- 3903a. Special Deputy District Clerks in Counties Over 355,000.
- 3903b. Special Deputy in Counties of More Than 132,000 and Less Than 150,000, Salary.
- 3903c. Assistant to County Judge in Counties of 48,600 to 49,000; Salary.
- 3903d. Assistant to County Judge in Certain Counties Over 90,000; Secretary in Lieu of Stenographer.
- 3903e. Seasonal Help for District Clerk; Counties of 30,400 to 31,150.
- 3903f. Repealed.
- 3904. No Fee Allowed.
- 3905. Fee for Acknowledgment.
- 3906. Repealed.
- 3907. Fee Book.
- 3908. To Itemize Costs.
- 3909. Extortion.
- 3910. Fees Posted.
- 3911, 3912. Repealed.
- 3912a. County Judge as Budget Officer in Counties of 300,000 to 355,000; Compensation of Officers; Preparation.
- 3912a-1. County Judge as Budget Officer in Counties of 7,050 to 7,075; Compensation.
- 3912b. Unconstitutional.
- 3912c. Compensation of County Judge in Counties of 195,000 to 200,000; Stenographer; Salary.
- 3912c-1. Repealed.
- 3912d. Compensation of Officers in Counties of 355,000 or Over.
- 3912e. Method of Compensation of District and Certain Designated County and Precinct Officers.
- 3912e-1. Compensation of Designated Officers in Counties of 225,000 to 500,000.
- 3912e-2. Compensation of Certain District, County and Precinct Officers in Counties of 355,000; Appointment of Assistants to District Attorneys.
- 3912e-3. Salary of County Judge in Counties of 12,227 to 12,230.
- 3912e-4. District, County and Precinct Officers in Counties of Over 500,000, Payment of Assistants and Expenses of Conduct of Offices.

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- 3912e-4a. District and County Officers in Counties of Over 500,000; Compensation; Assistants to County Treasurer and District Attorneys.
- 3912e-4b. Application of Art. 3912e-4a Extended.
- 3912e-4c. District, County and Precinct Officers in Counties of 600,000 or More.
- 3912e-4d. Counties of 500,000 or More; District, County and Precinct Officers, Deputies and Employees.
- 3912e-5. Additional Salary to County Judge in Counties of 105,000 to 125,000 as Member of Juvenile Board.
- 3912e-5a. Repealed.
- 3912e-5b. Additional Compensation for Lubbock County Judge as Member of Juvenile Board.
- 3912e-5c. Additional Compensation for Bexar County Judge as Member of Juvenile Board.
- 3912e-5d. Additional Compensation for Tarrant County Judge as Member of Juvenile Board.
- 3912e-5e. Additional Compensation for Brazoria County Judge as Member of Juvenile Board.
- 3912e-6. Salaries of Officers in Counties of 100,000 to 190,000 to be Computed at Maximum Allowable Under Laws Existing August 24, 1935.
- 3912e-7. Salaries of Certain Officers in Counties of 100,000 to 190,000.
- 3912e-8. Counties Over 190,000; Salaries of County Attorneys; Assistants; Stenographers.
- 3912e-9. Salaries of Certain Officers in Counties of 300,000 to 500,000.
- 3912e-10. Repealed.
- 3912e-11. Counties of 300,000 to 500,000, Salaries of Certain Officers In.
- 3912e-12. Counties of Less Than 20,000; Salary Basis; Fixing of Salaries.
- 3912e-13. Counties of 300,000 to 500,000; Appointment and Compensation of Deputies, Assistants and Employees.
- 3912e-14. Counties of Over 350,000; Assistants of District Attorneys and Criminal District Attorneys.
- 3912e-15. Counties of 301,000 to 398,000; Compensation of Employees, Deputies and Assistants.
- 3912e-16. County Officers in Counties of 90,000 to 145,000; County Attorneys in Counties of 145,000 to 250,000.
- 3912e-17. Counties of 4,615 to 4,640; Compensation of District Officials.
- 3912e-18. Counties of 12,500 to 12,600 or, 13,300 to 13,350 or 9,940 to 10,100; Compensation of District Officials.
- 3912e-19. Counties of 14,600 to 14,625; Compensation of District Officials.
- 3912e-20. Counties of 4,500 to 4,600; Compensation of District Officials.
- 3912e-21. Counties of 24,600 to 24,700; Compensation of Officials and Employees.
- 3912e-22. Counties of 128,400 to 130,000; Compensation of Officials.
- 3912e-23. Repealed.
- 3912e-24. Counties of 190,000 to 205,000; Deputies, Administrative Assistants, and Clerks of Officers.
- 3912e-25. District and County Clerks in all Counties; Automobile Expense Allowance.
- 3912e-26 to 3912e-28. Repealed.
- 3912f-1. Salaries of Sheriffs and Deputies in Counties of 27,235 to 27,300; Appointment of Deputies.

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 3912f-2. Salary of Chief Deputy in Office of Sheriff, Tax Collector and Assessor in Counties of 6,000 to 6,200 Population.
 3912f-3. Salaries of Sheriffs and Deputies in Counties of 25,600 to 25,889 in Which There are No District Attorneys.
 3912f-4. Salaries of Sheriffs and Deputies in Counties of 43,900 to 44,000 Population.
 3912f-5, 3912f-6. Repealed.
 3912f-7. Longevity Pay for Deputy Sheriffs in Counties of Not Less Than 150,000.
 3912g. Increase of Compensation of Precinct, County and District Officers and Employees.
 3912h. Salaries in Counties of 398,000 or More.
 3912i. Maximum Salaries of Justices of the Peace and Constables; Precinct Officers; Certain Counties.
 3912j. Repealed.
 3912k. County and Precinct Officials and Employees Who Are Paid Wholly From County Funds; Compensation, Expenses and Allowances.
 3912l. Secretarial Personnel of District, County or Precinct Officers.
 3912m. Withholding Compensation of County Officers Who Elect Not to be Paid.

Repealer

Acts 1971, 62nd Leg., p. 2019, ch. 622, providing for the setting of compensation, expenses and allowances for certain county and precinct officials and employees by the commissioners court effective January 1, 1972, provides in section 8 thereof that to the extent any local, special, or general law, including Acts of the 1971 Legislature, prescribes such compensation, expenses and allowances for any official or employee covered by this Act, that law is repealed. See article 3912k.

Art. 3882. To Take Out Commission

No official who fails or refuses to take out a commission shall be entitled to collect or receive either from the State or from individuals any money as fees of office or compensation for official services. Neither the Comptroller, commissioners court, county auditor nor any other person shall approve or pay any claim or account in favor of any such officer who has so failed or refused. The Secretary of State shall from time to time, as such commissions are issued by him, furnish a list thereof to each commissioners court, each county auditor and to the Comptroller, with the name of the county in which such officers reside. Each State, district, county and precinct officer is required to apply for and receive his commission.

[Acts 1925, S.B. 84.]

Art. 3883. Maximum Fees

Except as otherwise provided in this Act, the annual fees that may be retained by precinct, coun-

ty and district officers mentioned in this Article shall be as follows:

1. In counties containing twenty five (25,000) thousand or less inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Twenty-four Hundred (\$2400.00) Dollars each; Justice of the Peace and Constable, Twelve Hundred (\$1200.00) Dollars each.

2. In counties containing as many as twenty-five thousand and one (25,001) and not more than thirty-seven thousand, five hundred (37,500) inhabitants, and in which there is no city containing twenty-five thousand (25,000) inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Twenty-seven Hundred and Fifty Dollars (\$2750) each; Justice of the Peace and Constable, Fifteen Hundred Dollars (\$1500) each; provided, however, that in all counties with a taxable valuation for county purposes of not less than Fifty-one Million, One Hundred Thousand Dollars (\$51,100,000) nor more than Fifty-one Million, Four Hundred Thousand Dollars (\$51,400,000), and in all counties with a taxable valuation for county purposes of not less than Twenty-seven Million, Nine Hundred and Fifty Thousand Dollars (\$27,950,000) nor more than Twenty-seven Million, Nine Hundred and Sixty Thousand Dollars (\$27,960,000), according to the tax rolls as prepared by the Tax Assessor-Collector of the respective counties for the current year 1938, the county Commissioners Courts in such counties shall have the power to set and establish annually the maximum amount of the fees collected by the Justices of the Peace and Constables which shall be retained by such officers as compensation for their services; provided, however, that the maximum amount so set and established by the county Commissioners Courts as the amount to be retained by such officers shall in no event exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum, and provided further, that the compensation for such officers as provided for herein shall be due and payable the first of each month, and the pro rata compensation or fees to be retained for any quarter of the fiscal year shall in no event exceed Nine Hundred Dollars (\$900) and such Nine Hundred Dollars (\$900) shall be paid only out of fees collected by such officers during the quarter to which such Nine Hundred Dollars (\$900) limit applies, and in the event the county Commissioners Courts of such counties shall set and establish the maximum amount of fees to be retained by such officers at an amount less than Three Thousand, Six Hundred Dollars (\$3,600) then the same provisions, conditions, and limitations as set out above shall be applicable and shall be applied to any and all such lesser payments as may be provided by the county Commissioners Courts of such counties.

2-a. In counties containing less than thirty-five thousand (35,000) inhabitants and with a tax valuation, according to the last approved tax roll, in excess of Seventy-eight Million Dollars (\$78,000,000) the District or Criminal District Attorney shall receive an annual fee not to exceed Four Thousand, Two Hundred and Fifty Dollars (\$4,250) out of the fees of office except as provided in Article 3891 for the retention of excess fees of office for counties of like population and in no event shall the maximum salary received exceed Four Thousand, Five Hundred Dollars (\$4,500).

3. In counties containing as many as thirty-seven thousand, five hundred and one (37,501) and not more than sixty thousand (60,000) inhabitants, or containing a city of over twenty-five thousand (25,000) inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Thirty-five Hundred Dollars (\$3500) each; Justice of the Peace and Constable, Twenty-four Hundred Dollars (\$2400) each.

4. In counties containing sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Four Thousand (\$4000.00) Dollars each; Justice of the Peace and Constable, Twenty-one Hundred (\$2100.00) Dollars each.

5. In counties containing as many as one hundred thousand and one (100,001) and not more than one hundred and fifty thousand (150,000) inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Forty-five Hundred (\$4500.00) Dollars each; Justice of the Peace and Constable, Twenty-five Hundred (\$2500.00) Dollars each.

6. In counties containing as many as one hundred and fifty thousand and one (150,001) or more inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Fifty-five Hundred (\$5500.00) Dollars each; Justice of the Peace and Constable, Three Thousand (\$3000.00) Dollars each.

6a. Provided that in counties in this State having assessed tax valuation of more than Ninety Million Dollars (\$90,000,000), according to the tax rolls for the last preceding calendar year and having a population of less than thirty thousand (30,000) inhabitants according to the last preceding Federal Census, the Justices of Peace and Constables in such counties may receive and retain maximum fees of Three Thousand Dollars (\$3,000) per year. Such Justices of the Peace and Constables shall also receive and

retain one-third of excess fees as said term is defined in Article 3891, Revised Civil Statutes, 1925, as amended by Chapter 220, Acts of the Regular Session of the Forty-third Legislature, until such one-third amounts to Six Hundred Dollars (\$600).

7. Provided that in any county in this State having a population of not less than fifty-one thousand, seven hundred and seventy-nine (51,779) nor more than fifty-two thousand, seven hundred and seventy-nine (52,779), according to the last preceding Federal Census of the United States, Justices of the Peace and Constables shall have and receive as fees of office Twenty-seven Hundred and Fifty Dollars (\$2750) each per annum. Provided that such Justices of the Peace and Constables shall also receive excess fees in addition thereto by retaining one-third of such excess fees until such one-third of such excess fees, together with the said amount of Twenty-seven Hundred and Fifty Dollars (\$2750), equals the sum of Three Thousand Dollars (\$3,000).

8. Provided that in any county in this State having a population of not less than seventy-seven thousand, seven hundred and fifty (77,750) nor more than eighty-eight thousand, seven hundred and fifty (88,750), according to the last preceding Federal Census of the United States, Justices of the Peace and Constables shall have and receive as fees of office Twenty-seven Hundred and Fifty Dollars (\$2750) each per annum. Provided that such Justices of the Peace and Constables shall also receive excess fees in addition thereto by retaining one-third of such excess fees until such one-third of such excess fees, together with the said amount of Twenty-seven Hundred and Fifty Dollars (\$2750), equals the sum of Three Thousand Dollars (\$3,000).

Provided, however, in any county in this State having a population less than thirty-five thousand (35,000) inhabitants, and which has a tax valuation exceeding forty million (\$40,000,000.00) Dollars, according to the last tax roll, approved as required by law, the officers herein enumerated shall receive the maximum set forth in Section 3 of Article 3883 as herein amended, and shall also receive excess fees as provided in counties containing a population of between thirty-seven thousand five hundred and one (37,501) and less than sixty thousand (60,000) inhabitants, as provided in Article 3891 as herein amended.

Provided, however, in any county in this State having a population less than twenty thousand (20,000) inhabitants, and which has a tax valuation of not less than Seventeen Million (\$17,000,000.00) Dollars and not exceeding Twenty-five Million (\$25,000,000.00) Dollars according to the last approved tax roll, and with a total area of not less than nine hundred fifty (950) square miles and not exceeding nine hundred eighty (980) square miles, the officers herein enumerated shall receive the maximum set forth in Section 3 Article 3883 as herein amended, and shall also receive excess fees as provided in counties containing a population of between thirty-

seven thousand five hundred and one (37,501) and less than sixty thousand (60,000) inhabitants, as provided in Article 3891 as herein amended.

Compensation herein fixed for Sheriff of any county shall be exclusive of any reward or rewards received for the apprehension of criminals or fugitives from justice, and rewards received for the recovery of stolen property. The maximum fixed for the compensation of each District or Criminal District Attorney shall be inclusive of the salary allowed by the Constitution. However, the maximum herein fixed for District or Criminal District Attorneys applies only to those District or Criminal District Attorneys receiving their compensation under the provisions of Articles 1024 and 1025 of the Code of Criminal Procedure, 1925, and shall not apply to District Attorneys in judicial districts composed of two or more counties whose compensation is otherwise provided.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20, § 11; Acts 1931, 42nd Leg., p. 822, ch. 340, § 1; Acts 1933, 43rd Leg., p. 734, ch. 220, § 1; Acts 1934, 43rd Leg., 2nd C.S., p. 123, ch. 59, § 1; Acts 1935, 44th Leg., p. 483, ch. 197, § 1; Acts 1935, 44th Leg., p. 707, ch. 303, § 1; Acts 1935, 44th Leg., p. 724, ch. 315, § 1; Acts 1937, 45th Leg., p. 574, ch. 284, § 1; Acts 1937, 45th Leg., p. 798, ch. 391, §§ 1, 2; Acts 1939, 46th Leg., Spec.Laws, p. 735, §§ 1, 2; Acts 1939, 46th Leg., Spec. Laws, p. 737, § 1; Acts 1945, 49th Leg., p. 541, ch. 327, § 1.]

Repeal

Article 3883, as amended, is repealed in so far as the provisions thereof are applicable to the officers named in article 3883h. See article 3883h, § 6, post.

Art. 3883a. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9

Art. 3883b. Repealed by Acts 1937, 45th Leg., p. 602, ch. 302, § 1

Art. 3883c. County Judge, Sheriff, District Attorney, Assessor, and Other Officers in Counties of 250,000 to 325,000 Population

Compensation; Payment of Fees

Sec. 1. The County Judge, Sheriff, District Attorney, or Criminal District Attorney, as the case may be, County Clerk, District Clerk, and the Assessor and Collector of Taxes; in any county having a population of more than two hundred fifty thousand (250,000) inhabitants, and less than three hundred twenty-five thousand (325,000) inhabitants, according to the last preceding, or future Federal Census, shall receive a salary of Seven Thousand Four Hundred (\$7,400.00) Dollars per annum from the Officer's Salary Fund, or General Fund, as the case may be; and the Seven Thousand Four Hundred (\$7,400.00) Dollars salary shall include the compensation to the County Judge allowed in Senate Bill 186, 45th Legislature, Regular Session, Acts 1937;¹

the compensation herein fixed for the Sheriff shall be exclusive of any reward received for the apprehension of criminal fugitives from justice, and reward received from the recovery of stolen property; and the per capita payments made by the State to the Counties in lieu of felony fees formerly paid to the officers shall be apportioned by the Commissioners' Courts as follows: after paying the fees to precinct officers rendering service in felony cases, pay to the District Clerk and the Sheriff the same amount each officer earned in felony fees during the year 1935, and the remaining balance shall be paid to the District Attorney or Criminal District Attorney, as the case may be; and in all such Counties the County Auditor shall receive a salary of Six Thousand (\$6,000.00) Dollars per annum, to be paid from the General Fund of the County, and the County Commissioners in such Counties shall receive a salary of Forty-eight Hundred (\$4,800.00) Dollars annually, payable monthly from the Road and Bridge Fund of such County.

Sworn Statement; Failure to File; Proceedings to Collect Unreported Fees

Sec. 2. In all counties having a population in excess of two hundred fifty thousand (250,000) inhabitants, and less than three hundred twenty-five thousand (325,000) inhabitants, each District, County, and Precinct Officer, except the County Treasurer and County Commissioners, at the close of each fiscal year (December 31) shall make to the District Court of such County a sworn statement in triplicate, on forms designed and approved by the County Auditor, a copy of which statement shall be forwarded to the State Auditor by the Clerk of the District Court of said County within fifteen (15) days after the same has been filed in his office, and one copy shall be filed with the County Auditor. Said report shall show the amount of fees, commissions, and compensations collected by him during the fiscal year and their disposal. Said report shall show the names of Deputies and Assistants employed by him during the year, the time served, and the amount paid or to be paid each. Said report shall be filed not later than January 15th following the close of the fiscal year. For failure to file said report said officer shall be subject to removal from office. The County Auditor shall audit such report, also any and all books authorized by Section "N" or any other Section of this Act daily, monthly, or annually that he shall deem necessary and shall file his report with the Commissioners' Court and file with the District or Criminal District Attorney a detailed report of all fees, commissions, and compensation collected by said Officers and not reported by them; also list of cases filed since January 1, 1936, in which any County or District Clerk or Justice of the Peace has not taken adequate security for costs or required a pauper's oath.

It shall be the duty of the District or Criminal District Attorney to institute proceedings for the collection of such fees, commissions, and compensations collected by such Officer and not reported, all

of which are declared to be the property of the county and shall be deposited in the General Fund.

Repeal of Conflicting Laws

Sec. 3. It is hereby declared to be the intention of the Legislature that the provisions of this Section control in all things as to the Counties affected hereby, and any and all laws in conflict herewith, are hereby expressly repealed to the extent of each conflict.

[Acts 1937, 45th Leg., p. 1274, ch. 476.]

¹ Article 5142b.

Art. 3883c-1. County Judge, County Attorney, County Clerk, Sheriff, Assessor, and Collector in Counties of 18,528 to 18,535

In all counties in this State having a population of not less than eighteen thousand five hundred twenty-eight (18,528) and not more than eighteen thousand five hundred thirty-five (18,535) according to the last preceding Federal Census, the County Judge, the County Attorney, County Clerk, County Sheriff, Tax Assessor and Tax Collector shall receive maximum fees of Two Thousand Seven Hundred Fifty (\$2,750.00) Dollars each per year; the Justice of Peace and Constable One Thousand Five Hundred (\$1,500.00) Dollars each per year.

[Acts 1939, 46th Leg., Spec.Laws, p. 734, § 1.]

Arts. 3883c-2, 3883c-3. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3883d. Sheriff, Tax Assessor-Collector, County Clerk, County Judge and Other Officers in Counties of 48,530 to 48,930

Sec. 1. From and after January 1, 1940, being the effective date of this Act in all counties in this State having a population of not less than forty-eight thousand, five hundred and thirty (48,530) and not more than forty-eight thousand, nine hundred and thirty (48,930), according to the last preceding Federal Census, the Commissioners Court shall have the power and authority to fix the salaries of the sheriff, the tax assessor-collector, the county clerk, the county judge, the district clerk, and the county attorney; provided, however, that the salary of the sheriff shall not be fixed in excess of the sum of Four Thousand, Two Hundred and Fifty Dollars (\$4,250) per annum, nor less than the sum of Three Thousand, Six Hundred Dollars (\$3,600) per annum; the salary of the tax assessor-collector shall not be fixed in excess of the sum of Four Thousand Dollars (\$4,000) per annum, nor less than the sum of Three Thousand, Six Hundred Dollars (\$3,600) per annum; the salary of the county clerk shall not be fixed in excess of the sum of Four Thousand Dollars (\$4,000) per annum, nor less than the sum of Three Thousand, Three Hundred Dollars (\$3,300) per annum; the salary of the county judge shall not

be fixed in excess of the sum of Three Thousand, Two Hundred Dollars (\$3,200) per annum, nor less than the sum of Two Thousand, Seven Hundred Dollars (\$2,700) per annum; the salary of the district clerk shall not be fixed in excess of the sum of Three Thousand, Three Hundred Dollars (\$3,300) per annum, nor less than the sum of Two Thousand, Seven Hundred Dollars (\$2,700) per annum; the salary of the county attorney shall not be fixed in excess of the sum of Three Thousand Dollars (\$3,000) per annum, nor less than the sum of Two Thousand, Seven Hundred Dollars (\$2,700) per annum.

Sec. 2. All such salaries shall be paid in twelve (12) equal installments per year, and paid from funds now provided by law for payment of such officials.

[Acts 1939, 46th Leg., Spec.Laws, p. 739.]

Art. 3883e. Tax Assessor-Collector in Counties of 70,000 to 80,000 and With \$40,000,000 Assessed Valuation

Sec. 1. In all counties in the State with a population of more than seventy thousand (70,000) and not more than eighty thousand (80,000) according to the last preceding Federal Census, or any future Federal Census, and with an assessed valuation of not less than Forty Million Dollars (\$40,000,000), the Tax Assessor-Collector shall receive a salary of Fifty-five Hundred Dollars (\$5500), payable in equal monthly payments.

Sec. 2. It is hereby declared to be the intention of the Legislature that the provisions of this Act shall control in all things as to the counties affected hereby, and any and all laws in conflict herewith are hereby repealed to the extent and only to the extent of such conflict.

[Acts 1941, 47th Leg., p. 361, ch. 200.]

Art. 3883f. Tax Assessor-Collector in Counties of 18,500 to 18,900 and With \$14,000,000 to \$15,500,000 Assessed Valuation

In all counties of this State having a population of more than eighteen thousand, five hundred (18,500) and not more than eighteen thousand, nine hundred (18,900) inhabitants, according to the last preceding Federal Census, and having an assessed valuation on property for ad valorem tax purposes of more than Fourteen Million Dollars (\$14,000,000) and not over Fifteen Million, Five Hundred Thousand Dollars (\$15,500,000), the Commissioners Court of such counties may fix the salary of the County Tax Assessor-Collector at any amount not to exceed the sum of Four Thousand, Eight Hundred Dollars (\$4,800) per annum to be paid in twelve (12) equal monthly installments.

[Acts 1947, 50th Leg., p. 467, ch. 263, § 1.]

Art. 3883f-1. Repealed by Acts 1967, 60th Leg., p. 841, ch. 352, § 2, eff. Aug. 28, 1967

See, now, art. 3883f-2.

Art. 3883f-2. Tax Assessor-Collector in Counties of Not Less Than 600,000 nor More Than 900,000 Population

Sec. 1. The total compensation of any county assessor-collector of taxes of any county having a population of not less than 600,000 and not more than 900,000 according to the last preceding Federal Census shall not exceed \$18,000, inclusive of salary, fees, and other compensation received as assessor-collector of taxes.

Sec. 2. Chapter 248, Acts of the 57th Legislature, Regular Session, 1961, is repealed.

[Acts 1967, 60th Leg., p. 841, ch. 352, eff. Aug. 28, 1967.]

Art. 3883g. County Judge, Sheriff, and Certain Other Officers in Counties of 145,000 to 250,000

Sec. 1. The provisions of this Act shall apply to and control in each county in this State having a population of not less than one hundred and forty-five thousand (145,000) and not more than two hundred and fifty thousand (250,000) inhabitants, according to the last preceding Federal census.

Sec. 2. The County Judge, Sheriff, District Attorney, or Criminal District Attorney, as the case may be, District Clerk, County Clerk, and Assessor and Collector of Taxes shall receive a salary of not less than Seven Thousand, Four Hundred Dollars (\$7,400) per annum from the Officers Salary Fund, in such counties.

Sec. 3. The Commissioners Court is hereby authorized, when in its judgment the financial condition of the county and the needs of the Deputies, Assistants and Clerks of any District, County or Precinct Officer justify the increase, to enter an order increasing the compensation of such Deputy, Assistant or Clerk in an additional amount not to exceed twenty per cent (20%) of the sum allowed under the law for the fiscal year of 1946.

Sec. 4. The Commissioners Courts of each county affected by this Act shall amend the budget to provide sufficient funds to pay additional compensation.

Sec. 5. This Act is not intended and shall not be considered or construed as repealing any law or laws now on the Statute books except those in conflict herewith, and to the extent of the conflict only, but in other respects shall be construed as being cumulative law.

[Acts 1947, 50th Leg., p. 1064, ch. 455.]

Art. 3883h. Maximum Compensation on Fee Basis of Certain Officers; Counties of Less Than 20,000

Counties to Which Applicable; Authority of Commissioners Courts; Sheriffs Excepted

Sec. 1. In all counties in this State having a population of less than twenty thousand (20,000)

inhabitants according to the last preceding Federal Census and in which counties the Commissioners Courts have determined that the county officials shall be compensated on a fee basis, with the exception of the sheriffs whom Section 61, of Article XVI of the Constitution of Texas requires shall be compensated on a salary basis, the Commissioners Courts are authorized to fix the maximum compensation of the county and district officials compensated on a fee basis at any reasonable sum so long as the maximum compensation allowed any county official named in this Act shall not exceed the sum of Six Thousand, Seven Hundred and Fifty Dollars (\$6,750) per annum.

Ex-Officio Services

Sec. 2. The Commissioners Courts are hereby debarred from allowing compensation for ex-officio services to the officials named in this Act who are compensated on a fee basis when the compensation, commissions and fees which they are allowed to retain shall reach the maximum sum provided for in Section 1 of this Act. In cases where the compensation, commissions and fees which the officers compensated on a fee basis are allowed to retain shall not reach the maximum provided for in this Act, the Commissioners Courts may allow ex-officio compensation when in their judgment such compensation is necessary, providing such compensation for ex-officio services allowed shall not increase the compensation of the officials beyond the maximum compensation allowed to be retained under Section 1 of this Act. However, county judges serving as members of the Juvenile Board, county judges acting as ex-officio county superintendents and county assessors and collectors of taxes serving as designated agents of the Motor Vehicle Division of the State Highway Department shall be entitled to retain the compensation provided by law for these services in addition to the maximum prescribed in Section 1 of this Act.

County Commissioners

Sec. 3. Since the County Commissioners do not collect any fees or commissions for the officials' services performed by them, the Commissioners Courts are hereby authorized to set their compensation at any reasonable sum so long as the maximum compensation allowed any County Commissioner does not exceed the sum of Six Thousand, Seven Hundred and Fifty Dollars (\$6,750) per annum. The compensation of the County Commissioners may be paid in accordance with the provisions of Section 2 of House Bill No. 84, Acts of the Forty-ninth Legislature, Regular Session, 1945 (Article 2350(1), Vernon's Civil Statutes).

Sheriffs' Salaries, Duty to Fix

Sec. 4. In all counties in this State having a population of less than twenty thousand (20,000) inhabitants according to the last preceding Federal Census where the Commissioners Courts have elect-

ed to pay all the county officials on a fee basis, with the exception of the sheriffs whom Section 61 of Article XVI of the Constitution of Texas requires to be paid on a salary basis, the Commissioners Courts shall fix the salaries of sheriffs in such counties at any reasonable sum so long as the maximum salary paid any sheriff does not exceed the sum of Six Thousand, Seven Hundred and Fifty Dollars (\$6,750) per annum. The salary of each sheriff shall be paid out of the General Fund of such county.

Application of Article to Certain Officers

Sec. 5. The provisions of this Act shall be applicable to District Clerks, County Clerks, County Judges, Judges of the County Courts at Law, Judges of the County Criminal Courts, Judges of the County Probate Courts, Judges of the County Domestic Relations Courts, County Treasurers, Criminal District Attorneys, Inspectors of Hides and Animals, Sheriffs, Assessor-Collectors of Taxes, County Attorneys, County Commissioners, Sheriffs who also perform the duties of Assessor-Collectors of Taxes, County Clerks who also perform the duties of District Clerks, and County Commissioners who act as Road Commissioners.

Repealer

Sec. 6. Articles 3883 and 3891, Revised Civil Statutes of Texas, 1925, as amended, are hereby expressly repealed in so far as their provisions are applicable to the officers named in this Act, and all other laws pertaining to the compensation of the county officials governed by the provisions of this Act are hereby expressly repealed with the exception of those laws which provide for extra compensation of county judges who serve as members of the Juvenile Boards, county judges who also serve as ex-officio county superintendents and for assessors and collectors of taxes who also serve as designated agents for the Motor Vehicle Division of the State Highway Department. The provisions of this Act shall not be construed as repealing any valid Road and Bridge Law of any county in this State.

Financial Condition of County to be Considered

Sec. 7. In arriving at the compensation to be paid the officials governed by the provisions of this Act, the Commissioners Courts shall consider the financial condition of their respective counties and the duties and needs of their officials, but in no event shall any Commissioners Court set the compensation of any official at any figure in excess of the maximum compensation prescribed for the officials of that county by this Act.

Commissioners Courts, Fixing Salaries Of; Restrictions

Sec. 8. In setting the compensation of the officials named in the provisions of this Act, the Commissioners Courts shall not set their own salaries at

a figure higher than the compensation of the highest paid official within their respective counties.

[Acts 1955, 54th Leg., p. 1134, ch. 426.]

Art. 3883i. Maximum and Minimum Salaries; Certain Precinct, County and District Officials in Certain Counties

Counties of Less Than 20,000

Sec. 1. That in each county in the State of Texas having the population of less than twenty thousand (20,000) inhabitants according to the last preceding federal census where all county and district officials are compensated on a salary basis, the Commissioners Courts shall fix the salaries of the officials named in this Act at not more than Six Thousand, Seven Hundred and Fifty Dollars (\$6,750) per annum; provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act.

(a) Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Counties of 19,500 to 19,700

Sec. 1½. Provided, however, that in addition to the maximum compensation provided in Section 1, that in all counties having a population of not less than nineteen thousand, five hundred (19,500) and not more than nineteen thousand, seven hundred (19,700) according to the last preceding federal census, and where all such county officials are compensated on a salary basis, the Commissioners Courts are authorized to increase the compensation allowed in Section 1 above in an additional amount not to exceed Two Thousand, Six Hundred Dollars (\$2,600) per annum, provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act.

Secs. 1A, 1B. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Counties of 11,200 to 11,400 or 14,100 to 14,500

Sec. 1C. In any county having a population of not less than 11,200 nor more than 11,400, or not less than 14,100 nor more than 14,500, according to the last preceding Federal Census, the Commissioners Court may fix the salaries of county and district officials named in this Act in an amount not to exceed \$12,500 a year. The provisions of Section 18 of this Act do not apply to salaries set under this section.

Counties of 17,450 to 17,600

Sec. 1D. In any county having a population of not less than 17,450 nor more than 17,600 according to the last preceding Federal Census, the commissioners court may fix the salaries of officials named in Sections 6 and 7a of this Act at not more than \$12,000 a year. The provisions of Section 18 of this Act do not apply to salaries set under this section.

Counties of 18,300 to 18,600

Sec. 1E. In each county of the State of Texas having a population of not less than 18,300 nor more than 18,600, according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of the officials named in this Act at a sum of not more than Fifteen Thousand Dollars (\$15,000) per annum, all salaries to be paid in twelve (12) equal monthly installments; providing that no salary covered by this Act shall be set at a lower figure than that actually paid on the effective date of this section. Section 18 of this Act does not apply to salaries set under this section.

Counties of 4,500 to 4,600

Sec. 1F. In any county having a population of not less than 4,500 nor more than 4,600 according to the last preceding federal census, and paying county officials on a salary basis, the Commissioners Court may set the compensation of persons listed in this Act in an amount not to exceed \$9,600 a year; however, no salary may be set at a figure lower than that actually paid on the effective date of this amendment. The provisions of Section 18 of this Act do not apply to salaries set under this section.

Counties of 20,000 to 46,000

Sec. 2. In each county in the State of Texas having a population of at least twenty thousand (20,000) and not more than forty-six thousand (46,000) inhabitants according to the last preceding Federal Census, the Commissioners Courts shall fix the salaries of the county and district officials named in this Act at not more than Eight Thousand, Five Hundred Dollars (\$8,500) per annum; provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act.

Counties of 6,550 to 6,650

Sec. 2A. In any county having a population of not less than 6,550 nor more than 6,650 inhabitants according to the last preceding federal census, the commissioners court may fix the salaries of county and district officials named in this Act in an amount not to exceed \$12,000 a year; provided, that no salary shall be set at a figure lower than that actually paid on the effective date of this amendment.

Counties of 61,000 to 65,000

Sec. 2B. In any county which has a population of not less than sixty-one thousand (61,000) nor more than sixty-five thousand (65,000), according to the last preceding federal census, the Commissioners Courts shall fix the salaries of the county and district officials named in this Act at not more than Twelve Thousand Dollars (\$12,000) per annum.

Secs. 2C, 2D. [Blank].

Counties of 25,050 to 25,200

Sec. 2E. In any county having a population of not less than 25,050 nor more than 25,200 according to the last preceding federal census, the commissioners court may fix the salaries of officials named in Sections 6 and 7a of this Act at not more than \$12,000 a year. The provisions of Section 18 of this Act do not apply to salaries set under this section.

Counties of 40,000 to 40,500

Sec. 2F. In any county having a population of not less than 40,000 nor more than 40,500, according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of the county and district officials named in this Act at not more than Fifteen Thousand Dollars (\$15,000) per annum. Section 18 of this Act does not apply to salaries set under this section.

Counties of 37,700 to 38,000

Sec. 2G. In any county having a population of not less than 37,700 nor more than 38,000, according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of the county and district officials named in this Act at not more than Fifteen Thousand Dollars (\$15,000) per annum. Section 18 of this Act does not apply to salaries set under this section.

Counties of 4,605 to 4,615

Sec. 2H. In any county having a population of not less than 4,605 nor more than 4,615, according to the last preceding Federal Census, the Commissioners Court may fix the salaries of county and district officials named in this Act in an amount not to exceed \$12,000 per year.

Counties of 46,001 to 98,000

Sec. 3. In each county in the State of Texas having a population of at least forty-six thousand and one (46,001) and not more than ninety-eight thousand (98,000) inhabitants according to the last preceding Federal Census, the Commissioners Courts shall fix the salaries of the county and district officials named in this Act at not more than Ten Thousand Dollars (\$10,000) per annum; provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act.

Counties of 99,400 to 110,000

Sec. 3A. In each county in the state having a population of at least ninety-nine thousand, four hundred (99,400) and not more than one hundred ten thousand (110,000) inhabitants according to the last preceding federal census, the Commissioners Court shall fix the salaries of the officials named in this Act at not more than Sixteen Thousand Dollars (\$16,000) per annum. Notwithstanding the provisions of Sections 15 and 18 of this Act, the Commissioners Court of such a county may not exercise the authority vested in it by virtue of this Act except at

a regular meeting of the Court and after thirty (30) days notice published in a newspaper of general circulation in the county at least four times, one time a week.

Counties of 140,000 to 144,000

Sec. 3B. In each county in the state having a population of at least one hundred forty thousand (140,000) and not more than one hundred forty-four thousand (144,000) inhabitants according to the last preceding federal census, the Commissioners Court shall fix the salaries of the officials named in this Act at not more than Sixteen Thousand Dollars (\$16,000) per annum. Notwithstanding the provisions of Sections 15 and 18 of this Act, the Commissioners Court of such a county may not exercise the authority vested in it by virtue of this Act except at a regular meeting of the Court and after thirty (30) days notice published in a newspaper of general circulation in the county at least four times, one time a week.

Counties of 98,001 to 195,000

Sec. 4. In each county in the State of Texas having a population of at least ninety-eight thousand and one (98,001) and not more than one hundred and ninety-five thousand (195,000) inhabitants according to the last preceding federal census, the Commissioners Court shall fix the salaries of the county and district officials named in this Act at not more than Eleven Thousand Dollars (\$11,000) per annum; provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act.

**Counties of 170,000 to 205,000, or 210,000 to 240,000,
or 280,000 to 400,000**

(a) In each county of the State of Texas governed by Section 4 hereof and having a population of at least one hundred seventy thousand (170,000) and less than two hundred five thousand (205,000), or having a population of at least two hundred ten thousand (210,000) and less than two hundred forty thousand (240,000), or having a population of at least two hundred eighty thousand (280,000) and less than four hundred thousand (400,000), according to the last preceding federal census where all county and district officials are compensated on a salary basis, the Commissioners Court shall fix the salaries of the officials named in this Act at a sum of not more than Seventeen Thousand, Five Hundred Dollars (\$17,500) per annum; providing that no salary covered by this Act shall be set at a lower figure than that actually paid on the effective date of this Act and further providing this Subsection shall be cumulative of all other laws pertaining to the compensation of county officials.

Counties of 190,000 to 205,000

(b) In each county of the State of Texas governed by Section 4 and Subsection 4(a) hereof and having a population of at least one hundred ninety thou-

sand (190,000) but less than two hundred five thousand (205,000) according to the last preceding federal census where the County Judge is compensated on a salary basis, the Commissioners Court shall fix the yearly salary of the County Judge at a sum not less than 90 percent of the total salary, including supplements, paid any District Judge sitting in Galveston County; providing that no salary covered by this Act shall be set at a lower figure than that actually paid on the effective date of this Act and further providing that this subsection shall be cumulative of all other laws pertaining to the compensation of County Judges.

Counties of 240,000 to 280,000 or 400,000 to 800,000

Sec. 5. In each county in the State of Texas having a population of at least two hundred forty thousand (240,000) inhabitants and less than two hundred eighty thousand (280,000) inhabitants or at least four hundred thousand (400,000) inhabitants and less than eight hundred thousand (800,000) inhabitants, according to the last preceding Federal Census, the Commissioners Courts shall fix the salaries of the county and district officials named in this Act at not more than Eighteen Thousand, Five Hundred Dollars (\$18,500) per annum; provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act.

Officials to Which Statute Applies

Sec. 6. The provisions of Sections 1, 2, 3, 4 and 5 of this Act shall be applicable to judges of the county courts at law, judges of the county criminal courts, judges of the county probate courts, judges of the county domestic relations court, and criminal district attorneys.

**County Commissioners; Restrictions on Fixing
Maximum of Salaries For**

Sec. 7. In setting the compensation of the officials governed by Sections 1, 2, 3, 4, 5 and 6 of this Act, the County Commissioners shall not fix their own salaries at any higher rate by percentage than the highest percentage raise fixed for any other official or officials prescribed for the officials of their respective counties by this Act.

Veterans County Service Officers; Salaries

Sec. 7a. The salaries of Veterans County Service Officers shall be fixed by the Commissioners Court of each county in the following manner:

(a) In each county in the State of Texas having a population of less than twenty thousand (20,000) inhabitants according to the last preceding Federal Census, not more than Five Thousand, Seven Hundred and Fifty Dollars (\$5,750) per annum;

(b) In each county in the State of Texas having a population of at least twenty thousand (20,000) and not more than forty-six thousand (46,000) inhabitants according to the last preceding Federal Census,

not more than Seven Thousand Dollars (\$7,000) per annum;

(c) In each county in the State of Texas having a population of at least forty-six thousand and one (46,001) and not more than ninety-eight thousand (98,000) inhabitants according to the last preceding Federal Census, not more than Seven Thousand, Five Hundred Dollars (\$7,500) per annum;

(d) In each county in the State of Texas having a population of at least ninety-eight thousand and one (98,001) and not more than one hundred and ninety-five thousand (195,000) inhabitants according to the last preceding Federal Census, not more than Eight Thousand Dollars (\$8,000) per annum;

(e) In each county in the State of Texas having a population of at least one hundred ninety-five thousand and one (195,001) inhabitants and less than six hundred thousand (600,000) inhabitants according to the last preceding Federal Census, not more than Eight Thousand, Five Hundred Dollars (\$8,500) per annum;

(f) In each county in the State of Texas having a population of six hundred thousand (600,000) or more inhabitants according to the last preceding Federal Census, not more than Nine Thousand Dollars (\$9,000) per annum.

Counties of 1,200,000 to 2,000,000

Sec. 8(a). In all counties of this State having a population of not less than one million, two hundred thousand (1,200,000) inhabitants and not more than two million (2,000,000) inhabitants, according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of county officials as follows:

The Commissioners Court of each county to which this Subsection (a) applies may fix the salary of each of the Judges of the Probate Courts, Judges of the County Courts at Law, and Judges of the County Criminal Courts at Law at an amount not to exceed One Thousand Dollars (\$1,000) less per annum than the total annual salary received by Judges of the District Courts in such counties, which shall be paid in twelve (12) equal monthly installments.

Counties of 1,700,000 or More

(b) In all counties of this state having a population of one million, seven hundred thousand (1,700,000) or more inhabitants, according to the last preceding Federal Census, the Commissioners Court of such counties shall fix the salaries of county officials in the following manner:

The salary of the county commissioners shall be not more than Nineteen Thousand, Eight Hundred Dollars (\$19,800.00); sheriff, not more than Twenty-seven Thousand, Six Hundred Dollars (\$27,600); county clerk and district clerk, not more than Twenty-four Thousand, Six Hundred Dollars (\$24,600); county treasurer, not more than Nineteen Thou-

sand, Five Hundred Dollars (\$19,500); tax assessor and collector, not more than Thirty Thousand Dollars (\$30,000); each of such salaries shall be payable in equal monthly installments; provided, however, that the total salary received by the tax assessor and collector, including all additional fees and compensation, shall not exceed Thirty Thousand Dollars (\$30,000) per annum in the aggregate; justices of the peace and the constables at not more than Sixteen Thousand Dollars (\$16,000) per annum, to be paid in equal monthly installments; provided, however, that the justices of the peace and constables whose precincts lie wholly or in part in cities having a population of six hundred thousand (600,000) or more, according to the last preceding Federal Census, shall receive not more than Twenty-one Thousand, Six Hundred Dollars (\$21,600) per annum. The provisions of Section 18 of this Act do not apply to salaries set under this subsection.

Counties of 900,000 to 1,000,000

(c) In all counties of this state having a population of not less than 900,000 nor more than 1,000,000 according to the last preceding Federal Census, the Commissioners Court shall fix the annual salaries of county courts at law judges in an amount not less than \$25,000 annually and not to exceed nine-tenths of the total annual salary, including supplements, paid any district judge sitting in the county. Salaries fixed by this Section shall be payable in equal monthly installments. Nothing in Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 3912k, Vernon's Texas Civil Statutes), applies to judges of the county courts at law.

Bexar County Criminal District Attorney

(d) The Criminal District Attorney of Bexar County may be paid a salary in an amount not to exceed the total salary paid from state and county funds to any one of the judges of the district courts of Bexar County directed by the legislature to give preference to criminal cases, including any compensation paid to any one of the district judges of a criminal district court in Bexar County with reference to juvenile board matters. Provided however, in no event may the salary of the Criminal District Attorney of Bexar County be less than \$25,800 per year.

When this bill becomes effective, such District Attorney shall be prohibited from any private practice of law without regard to whether or not he receives any compensation therefor.

Sec. 8a. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Counties of 600,000 or More; Justices of Peace and Constables

Sec. 9. In all counties of this State having a population of six hundred thousand (600,000) or more inhabitants according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of the Justices of the Peace and the

Constables at not to exceed Ten Thousand Dollars (\$10,000) per annum, to be paid in equal monthly installments; provided, however, that the Justices of the Peace and Constables whose precincts lie wholly or in part in cities having a population of four hundred and thirty thousand (430,000) or more, according to the last preceding Federal Census, shall receive not less than Eight Thousand, Two Hundred Dollars (\$8,200) per annum.

Counties of 600,000 or More; Judges of District Courts

Sec. 10. In all counties of this State having a population of six hundred thousand (600,000) or more inhabitants according to the last preceding Federal Census, the Commissioners Courts of such counties shall pay to the Judges of the several District Courts in such counties a supplemental annual salary out of county funds in equal monthly installments for all judicial and administrative services performed by them; provided, however, that the aggregate annual salary of District Judges in such counties from both State and county funds shall not exceed the salary provided by law for the Justices of the Courts of Civil Appeals in this State. Any District Judge of the State who may be assigned to sit for the Judge of any District Court in such counties under the provisions of Article 200-A, Revised Civil Statutes, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds in an amount to be set by the Commissioners Court not to exceed the difference between the pay of such visiting Judge from all sources and that pay received from all sources by District Judges in the counties affected by the provisions of this Act, such amount to be paid by the county upon approval of the presiding Judge in which said Court is located.

Repeal of Certain Laws

Sec. 11. All other salary and compensation laws applicable to the compensation of the officials named in this Act are hereby repealed with the exception of those laws which provide for extra compensation for county judges who serve as members of the juvenile boards and for county judges who also serve as ex-officio county superintendents, and providing further that this Act shall not repeal any statute which allows the assessors and collectors of taxes additional or supplemental salaries for services performed in the administration of the Certificate of Title Act. Further, the provisions of this Act are not to be construed as repealing any valid road and bridge law of any county in this State.

Source of Salary Payments

Sec. 12. The salaries of the officials named in this Act shall be paid out of the Officers' Salary Fund and/or General Fund of their respective coun-

ties with the exception that the salaries of county commissioners and county judges may be paid in accordance with the provisions of Section 2 of House Bill No. 84, Acts of the Forty-ninth Legislature, Regular Session, 1945 (Article 2350(1) of Vernon's Civil Statutes).

Financial Condition of County to be Considered

Sec. 13. In arriving at the compensation to be paid the officials governed by the provisions of this Act the Commissioners Courts shall consider the financial condition of their respective counties and the duties and needs of their officials, but in no event shall any Commissioners Court set the salary of any official at a figure in excess of the maximum compensation prescribed for the officials of that county by this Act.

Fees and Commissions Earned; Payment Into County Treasury

Sec. 14. All of the fees and commissions earned and collected by the officials named in this Act shall be paid into the County Treasury in accordance with the provisions of Section 61 of Article XVI of the Constitution of Texas.

Exercise of Authority by Commissioners Courts; Meetings; Notice

Sec. 15. The Commissioners Court shall not exercise the authority vested in said Court by virtue of this Act, except at regular meeting of said Court and after ten (10) days notice published in a paper of general circulation in the county to be affected thereby of the intended salaries to be raised and the amount of such proposed raise.

Sec. 16. [Severability clause].

Sec. 17. [Emergency clause].

Increase in Maximum Compensation

Sec. 18. The Commissioners Court in each county in the State is hereby authorized to increase the maximum compensation of each officer enumerated in House Bill No. 374, as amended, in an additional amount not to exceed twenty per cent (20%) of the maximum sum authorized by House Bill No. 374, as amended; provided that the compensation of no official governed by the provisions of House Bill No. 374,¹ as amended, shall be set at a figure lower than that actually paid on the effective date of this Act; and provided, further, that no increased compensation shall be authorized pursuant to this Act until and unless a public hearing shall be had by the Commissioners Court, at a regular meeting of such Court, upon the question of any proposed increase, following publication of notice of such public hearing at least two (2) times, one time a week, in a

newspaper of general circulation in such county, prior to such public hearing.

[Acts 1955, 54th Leg., p. 1137, c. 427. Amended by Acts 1957, 55th Leg., p. 1309, ch. 440, § 1; Acts 1959, 56th Leg., 1st C.S., p. 17, ch. 4, § 1; Acts 1959, 56th Leg., p. 861, ch. 387, § 1; Acts 1959, 56th Leg., 2nd C.S., p. 167, ch. 43, § 1; Acts 1961, 57th Leg., p. 900, ch. 398, § 1; Acts 1961, 57th Leg., p. 1177, ch. 532, § 1; Acts 1962, 57th Leg., 3rd C.S., p. 71, ch. 26, § 4; Acts 1965, 59th Leg., p. 578, ch. 293, § 1; Acts 1965, 59th Leg., pp. 999, 1000, ch. 487, § 1, eff. June 16, 1965; Acts 1965, 59th Leg., p. 1644, ch. 708, § 1; Acts 1965, 59th Leg., p. 1569, ch. 680, § 1; Acts 1965, 59th Leg., p. 1627, ch. 697, § 1; Acts 1967, 60th Leg., p. 906, ch. 397, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 497, ch. 163, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 1799, ch. 602, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 1804, ch. 608, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 2134, ch. 738, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 2457, ch. 824, § 1, eff. June 16, 1969; Acts 1969, 61st Leg., p. 2460, ch. 825, § 1, eff. June 16, 1969; Acts 1971, 62nd Leg., p. 813, ch. 85, § 1, eff. April 28, 1971; Acts 1971, 62nd Leg., p. 831, ch. 95, § 1, eff. April 28, 1971; Acts 1971, 62nd Leg., p. 926, ch. 140, § 1, eff. May 10, 1971; Acts 1971, 62nd Leg., p. 990, ch. 177, § 1, eff. May 13, 1971; Acts 1971, 62nd Leg., p. 1163, ch. 268, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1238, ch. 303, § 1, eff. May 24, 1971; Acts 1971, 62nd Leg., p. 1610, ch. 443, § 1, eff. May 26, 1971; Acts 1971, 62nd Leg., p. 1852, ch. 542, § 139 to 141, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 1901, ch. 567, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1901, ch. 567, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1933, ch. 585, § 1, eff. June 1, 1971; Acts 1971, 62nd Leg., p. 1945, ch. 588, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 2395, ch. 749, § 1, eff. June 8, 1971; Acts 1971, 62nd Leg., p. 2619, ch. 859, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 3065, ch. 1020, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 3364, ch. 1026, § 1, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 1292, ch. 482, § 1, eff. Aug. 27, 1973; Acts 1973, 63rd Leg., p. 1345, ch. 510, § 1, eff. June 14, 1973; Acts 1975, 64th Leg., p. 2353, ch. 722, § 1, eff. June 21, 1975; Acts 1977, 65th Leg., p. 187, ch. 93, § 1, eff. May 2, 1977; Acts 1981, 67th Leg., p. 581, ch. 237, §§ 84 to 101, eff. Sept. 1, 1981.]

¹ Acts 1955, 54th Leg., p. 1137, ch. 427, classified as this article.

Repealer

Acts 1971, 62nd Leg., p. 2019, ch. 622, providing for the setting of compensation, expenses and allowances for certain county and precinct officials and employees by the commissioners courts effective January 1, 1972, provides in section 8 thereof that to the extent any local, special, or general law, including Acts of the 1971 Legislature, prescribes such compensation, expenses and allowances for any official or employee covered by this Act, that law is repealed. See article 3912k.

1970 Census. The following 1971 acts, amending various sections of this article, each provided:

"As used in this Act, 'the last preceding Federal Census' means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes."

Acts 1971, 62nd Leg., p. 831, ch. 95, § 2.

Acts 1971, 62nd Leg., p. 990, ch. 177, § 2.
Acts 1971, 62nd Leg., p. 1238, ch. 303, § 2.
Acts 1971, 62nd Leg., p. 1610, ch. 443, § 2.
Acts 1971, 62nd Leg., p. 1901, ch. 567, § 2.
Acts 1971, 62nd Leg., p. 1945, ch. 588, § 3.
Acts 1971, 62nd Leg., p. 2395, ch. 749, § 2.
Acts 1971, 62nd Leg., p. 2620, ch. 859, § 2.
Acts 1971, 62nd Leg., p. 3066, ch. 1020, § 2.
Acts 1971, 62nd Leg., p. 3364, ch. 1026, § 2.

Art. 3883i-1. Compensation of Officers of Counties of 375,000 to 650,000

In all counties having a population of not less than three hundred and seventy-five thousand (375,000) nor more than six hundred and fifty thousand (650,000) according to the last preceding Federal Census, the commissioners court shall fix the salaries of the county officers as follows: The salary of the county judge shall be not less than Nineteen Thousand, Eight Hundred Dollars (\$19,800) per annum; the county commissioners, not less than Nineteen Thousand, One Hundred and Twenty Dollars (\$19,120) per annum; the district attorney, not less than Twenty-two Thousand, Nine Hundred Dollars (\$22,900) per annum; the sheriff, not less than Nineteen Thousand, Seven Hundred and Fifty Dollars (\$19,750) per annum; the tax assessor and collector, not less than Twenty-one Thousand and Ten Dollars (\$21,010) per annum; the probate judge and judges of county courts at law and county criminal courts, not less than Twenty Thousand, Eight Hundred Dollars (\$20,800) per annum; the county clerk and the district clerk, not less than Nineteen Thousand, Seven Hundred and Fifty Dollars (\$19,750) per annum; and the county treasurer, not less than Sixteen Thousand, Six Hundred Dollars (\$16,600) per annum. Salaries fixed by this Section shall be payable in equal monthly installments. Justices of the peace and constables of Precincts One and Two of such county shall receive not less than Fourteen Thousand, Five Hundred Dollars (\$14,500) per annum, to be paid in equal monthly installments. The county judge in such counties shall be allowed, in addition to all other compensation fixed in this Section, the sum of Two Thousand, Five Hundred Dollars (\$2,500) per annum for serving as a member of the County Juvenile Board. This additional compensation shall be paid in twelve (12) equal monthly installments out of the general fund of such county and shall be in addition to all other salary or other compensation now paid to such county judge.

[Acts 1965, 59th Leg., p. 1627, ch. 697, § 2. Amended by Acts 1969, 61st Leg., p. 2457, ch. 824, § 2, eff. June 16, 1969.]

Art. 3883i-2. Compensation of Judges; Counties of Not Less Than 1,200,000

Sec. 1. In all counties of this State having a population of not less than one million, two hundred thousand (1,200,000) inhabitants, according to the last preceding Federal census, the Commissioners Court shall fix the salary of each of the Judges of the County Courts at Law, Judges of the County Criminal Courts at Law, and the Judge of the Coun-

ty Criminal Court of Appeals at not less than One Thousand Dollars (\$1,000) less per annum than the total annual salary, including supplements, received by Judges of the District Courts in such counties, which shall be paid in twelve (12) equal monthly installments. The salary of each of the Judges of the Probate Courts shall be fixed by the Commissioners Courts at not less than the total annual salary, including supplements, received by the Judges of the District Courts in such counties, which shall be paid in twelve (12) equal monthly installments.

Sec. 2. In all counties of this State having a population of not less than two million (2,000,000) inhabitants, according to the last preceding Federal census, the Commissioners Court shall fix the salary of the County Judge at not less than One Thousand Dollars (\$1,000) more per annum than the total annual salary received by Judges of the County Courts at Law and Judges of the County Criminal Courts at Law in such counties, which shall be paid in twelve (12) equal monthly installments. The salary of each of the Judges of the Probate Courts shall be fixed by the Commissioners Court at not less than the total annual salary, including supplements, received by the Judges of the District Courts in such counties, which shall be paid in twelve (12) equal monthly installments.

[Acts 1971, 62nd Leg., p. 2803, ch. 906, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1111, ch. 410, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 535, ch. 250, § 1, eff. May 24, 1979; Acts 1979, 66th Leg., p. 1639, ch. 686, § 4, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 585, ch. 237, § 102, eff. Sept. 1, 1981.]

Art. 3883i-3. Compensation of Judges of Probate Court; Counties of Not Less Than 700,000

In all counties of this state having a population of not less than 700,000 inhabitants, according to the last preceding federal census, the salary of each of the judges of the probate courts shall be fixed by the commissioners court at not less than the total annual salary, including supplements, received by the judges of the district courts in such counties, which shall be paid in 12 equal monthly installments.

[Acts 1979, 66th Leg., p. 1640, ch. 686, § 5, eff. Aug. 27, 1979.]

Art. 3884. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 225, ch. 92, § 1; Acts 1931, 42nd Leg., p. 364, ch. 214, § 1

Art. 3885. District Attorneys of Districts of Two or More Counties

See Code of Criminal Procedure, art. 1021.

Art. 3886. District and County Attorneys of Large Counties

In any county having a population in excess of one hundred fifty thousand (150,000) and less than three hundred fifty-five thousand (355,000) inhabit-

ants, the District Attorney, or Criminal District Attorney may appoint not exceeding eight Assistant District Attorneys, two of whom shall receive a salary not to exceed Four Thousand Two Hundred Fifty (\$4,250.00) Dollars per annum each; two of whom shall receive a salary not to exceed Thirty-six Hundred (\$3,600.00) Dollars per annum each; four of whom shall receive a salary not to exceed Three Thousand (\$3,000.00) Dollars per annum each. He may appoint two stenographers, one of whom shall receive a salary not to exceed Eighteen Hundred (\$1,800.00) Dollars per annum, and one of whom shall receive a salary not to exceed Fifteen Hundred (\$1,500.00) Dollars per annum. He may appoint two investigators, who shall receive a salary not to exceed Twenty-four Hundred (\$2,400.00) Dollars per annum. He may appoint one court reporter who shall receive a salary not to exceed Twenty-four Hundred (\$2,400.00) Dollars per annum. In addition to the above, each County Attorney in said counties shall be authorized to appoint not exceeding seven Assistant County Attorneys two of whom shall receive a salary not to exceed Thirty-six Hundred (\$3,600.00) Dollars per annum each; two of whom shall receive a salary not to exceed Three Thousand (\$3000.00) Dollars per annum each; three of whom shall receive a salary not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum each. He may appoint one investigator, who shall receive a salary, not to exceed Eighteen Hundred (\$1800.00) Dollars per annum. He may appoint one stenographer, who shall receive a salary, not to exceed Sixteen Hundred and Twenty (\$1620.00) Dollars per annum. He may appoint one abstractor, who shall receive a salary, not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum. The salaries of all such assistants, stenographers and investigators hereinbefore provided for in this Article shall be paid monthly by said counties by warrant drawn upon the general funds thereof. Should such District Attorney or Criminal District Attorney or County Attorney be of the opinion that the number of assistants, stenographers, investigators or other employees above provided for are inadequate for the proper investigation of crime in the efficient performance of the duties of said office, he may, with the advice and consent of the County Commissioners' Court, appoint not to exceed seven such additional assistants and employees and fix their salaries, provided such salaries shall not, in any event, exceed Three Thousand (\$3000.00) Dollars per annum each, but such additional assistants or employees so appointed before qualifying and entering upon the duties of such office and employment shall be approved as to number and salary by the Commissioners' Court of the county in which such appointments were made. The salaries of such additional assistants and employees shall be paid monthly out of the excess fees collected by such District Attorney, or Criminal District Attorney, or County Attorney which would otherwise go to said county. In no event shall said county be liable for the salaries of such additional assistants or employ-

ees; provided, however, in any county having a population in excess of three hundred fifty-five thousand (355,000) inhabitants the Criminal District Attorney shall be authorized to appoint eleven Assistant District Attorneys; two of whom shall receive a salary not to exceed Four Thousand Two Hundred Fifty (\$4250.00) Dollars per annum each; two of whom shall receive a salary not to exceed Thirty-six Hundred (\$3600.00) Dollars per annum each; the balance of whom shall receive a salary not to exceed Three Thousand (\$3000.00) Dollars per annum each. He may employ two court reporters at a salary not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum each. He may employ three stenographers, each of whom shall receive a salary not to exceed Sixteen Hundred and Twenty (\$1620.00) Dollars per annum. He may employ three investigators who shall receive a salary not to exceed Eighteen Hundred (\$1800.00) Dollars per annum each. He may employ one information clerk who shall receive a salary not to exceed Nine Hundred (\$900.00) Dollars per annum. The salaries of such assistants, stenographers, investigators and clerk above provided for shall be paid monthly by said counties by warrant drawn upon the general funds thereof. Should such District Attorney or Criminal District Attorney be of the opinion that the number of assistants, stenographers, investigators or other employees above provided for are inadequate for the proper investigation of crime and the efficient performance of the duties of said office, he may, with the advice and consent of the County Commissioners' court, appoint not to exceed nine additional assistants and employees and fix their salaries, provided such salaries shall in no event exceed Three Thousand (\$3000.00) Dollars per annum each, but such additional assistants or employees so appointed before qualifying and entering upon the duties of such office and employment shall be approved as to number and salary by the Commissioners' Court of the county in which such appointments are made. The salaries for such additional assistants and employees shall be paid monthly out of the excess fees collected by such District Attorney and his office which would otherwise go to said county. Each of the officers named herein shall be subject to the provisions of Articles 3883 and 3891 in so far as the retention of the maximum and excess fees is concerned, and each shall file the sworn report required by Article 3897 giving a detailed and itemized statement of all fees collected and the purposes for which the same were used, provided that nothing in this Act shall be construed as repealing or affecting House Bill No. 875, passed by the Regular Session of the Forty-third Legislature.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20; Acts 1933, 43rd Leg., p. 734, ch. 220, § 5.]

Art. 3886a. Assistants and Other Appointments by District and County Attorneys in Counties of 125,001 to 150,000

In all counties in this State having a population of one hundred and twenty-five thousand and one

(125,001) inhabitants and not more than one hundred and fifty thousand (150,000) inhabitants, according to the last preceding Federal Census, and being in a Judicial District composed of two or more counties, the District Attorney of any such Judicial District in this State, if and when in his judgment the efficient conduct of his office so requires may, with the consent and approval of the Commissioners' Court, and in addition to such of his Assistants as are or may be paid by the State, appoint not to exceed two (2) Assistant District Attorneys, each of whom shall receive a salary of not more than Three Thousand Two Hundred Dollars (\$3,200.00) per annum. Such District Attorney may also, with the consent and approval of the Commissioners' Court, appoint one stenographer who shall receive a salary of not more than Two Thousand Four Hundred Dollars (\$2,400.00) per annum. Such District Attorney may also, with the consent and approval of the Commissioners' Court, appoint two (2) investigators, each of whom shall receive a salary of not more than Two Thousand Four Hundred Dollars (\$2,400.00) per annum. The salaries of such Assistant District Attorneys, stenographers, and investigators shall be fixed by the said Commissioners' Court and shall be payable out of the General Fund of such county, upon the certificate of the District Attorney aforesaid. The Commissioners' Court of such county is hereby authorized to set aside each year a sum not to exceed One Thousand Five Hundred Dollars (\$1,500.00), to be expended by such District Attorney in preparation and conduct of the criminal affairs of his office. This sum is to be expended upon sworn claim of such District Attorney, to be approved by the County Judge of such County and shall be payable out of the General Fund of such County.

In addition to the above the County Attorney in each of such Counties, when and if in his judgment the efficient conduct of his office so requires may with the consent and approval of the Commissioners' Court appoint two Assistant County Attorneys, each of whom shall have the qualifications of County Attorneys, and each of whom shall receive a salary of not more than Three Thousand Dollars (\$3,000.00) per annum; such salary to be fixed and determined by the Commissioners' Court of such Counties. The County Attorney in such Counties may also appoint, with the consent and approval of the Commissioners' Court, one Assistant County Attorney, who need not possess the qualifications of County Attorneys, who shall act as stenographer and/or investigator and perform such other duties as may be assigned to him by such County Attorney; such Assistant County Attorney shall receive a salary of not to exceed Eighteen Hundred Dollars (\$1,800.00) per annum. Such salaries hereinabove set out shall be paid monthly by the Commissioners' Court, out of the General Fund of such Counties, upon the certificate of the County Attorney.

The County Attorney in such Counties may also appoint, with the consent and approval of the Com-

missioners' Court, an Assistant County Attorney to assist in the filing and prosecuting of tax suits. Such Assistant County Attorney shall receive such salary as the Commissioners' Court may determine, not to exceed Twenty-four Hundred Dollars (\$2,400.00) per annum, said salary to be paid monthly out of a percentage of all delinquent taxes collected.

Should such District and/or County Attorney aforesaid be of the opinion that the number of Assistants, stenographers, investigators or other employees above provided for are inadequate for the proper investigation of crime, and the efficient performance of the duties of said office, he may, with the advice and consent of the County Commissioners' Court, appoint additional Assistants, deputies or clerks, under the provisions and limitations of Article 3902, Revised Civil Statutes of Texas of 1925, as amended by the Forty-third Legislature, Regular Session, 1933, Chapter 220.

[Acts 1933, 43rd Leg., 1st C.S., p. 300, ch. 110, § 1.]

Art. 3886b. Appointment and Salaries of Assistant County Attorneys in Counties of Over 125,000 Having No District or Criminal District Attorney

In all Counties in this State having a population of over 125,000 inhabitants according to the latest preceding Federal Census and in which there is no District Attorney or Criminal District Attorney and the County Attorney performs the duties of County and District Attorney, the County Attorney in such Counties, upon sworn application showing the necessity therefor and upon approval by the Commissioners' Court of such application, shall be authorized to appoint one first assistant County Attorney who shall receive a salary of not to exceed Three Thousand Six Hundred (\$3,600.00) Dollars per annum, and such other assistants and employees as are necessary who shall receive salaries of not to exceed Three Thousand (\$3,000.00) Dollars per annum. The Commissioners' Court in each order approving the appointment of such assistants and employees shall state the number authorized and the amount of compensation to be allowed each assistant or employee; and should the fees of the County Attorney's office be insufficient to pay the compensation allowed to such officer, and also pay the allowable expense and the salaries of such assistants and employees of such office as the Commissioners' Court may determine are necessary to properly perform the duties and carry on the affairs of the office, the Commissioners' Court shall allow the payment of such portion of such expenses and salaries out of the general fund of the County as in their judgment may be necessary. The County Attorney may also appoint with the consent and approval of the Commissioners' Court an Assistant County Attorney who need not possess the qualifications of County Attorney, but who shall have the qualifications of a competent tax man, and a Clerk or Assistant to assist in the collection of delinquent

taxes, and in the filing and prosecuting of tax suits. Such Assistant County Attorney shall receive such salary as the Commissioners' Court may determine, not to exceed Three Thousand (\$3,000.00) Dollars per annum, and such Clerk or Assistant a salary not to exceed One Thousand Eight Hundred (\$1,800.00) Dollars per annum, such salary to be paid monthly out of a percentage of all delinquent taxes collected.

[Acts 1933, 43rd Leg., 1st C.S., p. 145, ch. 49, § 1. Amended by Acts 1934, 43rd Leg., 2nd C.S., p. 54, ch. 18, § 1; Acts 1935, 44th Leg., p. 228, ch. 92, § 1.]

Art. 3886b-1. Salaries and Expenses of County Attorneys and Judges of County Courts at Law in Counties of 97,000 to 99,000

Sec. 1. In any county having a population of not less than 97,000 nor more than 99,000, according to the last preceding federal census, the county attorney, with the approval of the commissioners court, may appoint a first assistant county attorney and other assistants and investigators as necessary for the proper performance of the duties of his office. All assistant county attorneys must be attorneys licensed to practice law in this state, and are authorized to perform all the duties imposed by law on the county attorney. The commissioners court may pay to the county attorney and his assistants and investigators actual and necessary travel expenses incurred in the discharge of their duties. Salaries and expenses authorized by this Act may be paid from the officers salary fund or the general fund, or both, as determined by the commissioners court.

Sec. 2. In any county having a population of not less than 97,000 nor more than 99,000, according to the last preceding federal census, the commissioners court may fix the salary of the judges of the county courts at law, at not more than the amount of annual salary paid by the State to any district judge in that county. The commissioners court may pay the judge of the county court at law, actual and necessary travel expenses incurred in the discharge of their duties. Salaries and expenses authorized by this Act may be paid from the officers salary fund or the general fund, or both, as determined by the commissioners court.

[Acts 1965, 59th Leg., p. 997, ch. 484. Amended by Acts 1969, 61st Leg., p. 492, ch. 159, § 1, eff. May 8, 1969; Acts 1971, 62nd Leg., p. 1293, ch. 335, § 1, eff. Aug. 30, 1971; Acts 1981, 67th Leg., p. 586, ch. 237, §§ 103, 104, eff. Sept. 1, 1981.]

Sections 2 and 3 of the 1971 amendatory act provided:

"Sec. 2. As used in this Act, 'the last preceding federal census' means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes.

"Sec. 3. If any provision of this Act is declared unconstitutional, that declaration shall have no effect on the remaining provisions of this Act which can be given effect without the invalid portion, and provisions of this Act are declared to be severable."

Art. 3886b-2. Assistant County Attorneys in Counties of 400,000 to 450,000

Sec. 1. The county attorney in any county of this State having a population of not less than 400,000 and not more than 450,000 according to the last preceding federal census may appoint not more than five assistant county attorneys, one of whom may be designated first assistant county attorney. Assistant county attorneys must be licensed to practice law in the State of Texas, and they serve at the pleasure of the county attorney.

Sec. 2. The First Assistant County Attorney shall be paid a salary not to exceed Twelve Thousand Five Hundred Dollars (\$12,500.00) a year. Other assistant county attorneys shall be paid a salary not to exceed Twelve Thousand Dollars (\$12,000.00) a year.

Sec. 3. The number of assistant county attorneys to be appointed and the salary to be paid each assistant shall be approved by the Commissioners Court.

[Acts 1969, 61st Leg., p. 491, ch. 158, eff. May 8, 1969. Amended by Acts 1971, 62nd Leg., p. 1830, ch. 542, § 59, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 586, ch. 237, § 105, eff. Sept. 1, 1981.]

Art. 3886b-3. Salaries of Assistant County Attorneys in Counties of 74,000 to 75,800

Sec. 1. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Sec. 2. This Act shall not be construed to decrease the total allowable annual compensation of any assistant county attorney allowed under existing laws. Nothing herein shall prevent more than one pay raise from time to time under the provisions of Section 1 hereof so long as said total salary shall not exceed said sum for any one calendar year.

Sec. 3. The provisions of this Act shall be cumulative of all other laws pertaining to the compensation of assistant county attorneys to the extent that any Act passed subsequent to the effective date of this Act increasing the salary of assistant county attorneys generally shall apply to increase the salary of assistant county attorneys affected by this Act, by a like percentage.

[Acts 1969, 61st Leg., p. 992, ch. 317, eff. May 23, 1969. Amended by Acts 1971, 62nd Leg., p. 1838, ch. 542, § 87, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.]

Art. 3866c. Assistant Criminal District Attorneys and Other Appointees in Counties of Over 355,000

In any county having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants the Criminal District Attorney shall be authorized to appoint nine (9) assistant criminal district attorneys, and fix their salaries at not to exceed the following amounts: Four (4) of said Assistant Criminal District Attorneys shall receive a salary not to exceed Forty-two Hundred Dollars

(\$4200.00) per annum each; one of said Assistant Criminal District Attorneys shall receive a salary of not to exceed Thirty-six Hundred Dollars (\$3600.00) per annum; one of said Assistant District Attorneys shall receive a salary of not to exceed Three Thousand Dollars (\$3000.00) per annum; three of said Assistant Criminal District Attorneys shall receive a salary not to exceed Twenty-four Hundred Dollars (\$2400.00) per annum each. He may employ three (3) investigators and fix their salaries at not to exceed the following amounts: One (1) of said investigators shall receive a salary of not to exceed Twenty-one Hundred and Sixty Dollars (\$2160.00) per annum, and the other two investigators shall each receive a salary of not to exceed Twenty-one Hundred Dollars (\$2100.00) per annum. He may employ two (2) court reporters and fix their salaries at not to exceed Twenty-one Hundred and Sixty Dollars (\$2160.00) per annum each. He may employ one (1) combination stenographer and accountant and fix his salary at not to exceed Twenty-one Hundred Dollars (\$2100.00) per annum. He may employ one (1) stenographer and fix his salary at not to exceed Eighteen Hundred Dollars (\$1800.00) per annum. He may employ one (1) Chief Civil Clerk and fix his salary at not to exceed Twenty-one Hundred Dollars (\$2100.00) per annum. He may employ two (2) abstracters and fix their salaries as follows: One (1) of said abstracters at not to exceed Twenty-one Hundred Dollars (\$2100.00) per annum, and the salary of the other abstracter at not to exceed Eighteen Hundred Dollars (\$1800.00) per annum. The salaries of all of such above provided for Assistants, Investigators, Court Reporters and other employes shall be paid monthly by said counties by warrants drawn upon the general funds thereof. Should such Criminal District Attorneys be of the opinion that the number of assistants, stenographers, investigators or other employes above provided for is not adequate for the proper investigation and prosecution of crime, and the efficient performance of the duties of said office, he may, with the advice and consent of the Commissioners' Court appoint not to exceed five (5) additional Assistant Criminal District Attorneys and fix their salaries as follows: One (1) of such additional Assistant Criminal District Attorneys to receive a salary of not to exceed Forty-two Hundred and Fifty Dollars (\$4250.00) per annum, one of such additional Assistant Criminal District Attorneys to receive a salary of not to exceed Thirty-six Hundred Dollars (\$3600.00) per annum, one of such additional Assistant Criminal District Attorneys to receive a salary of not to exceed Three Thousand Dollars (\$3,000.00) per annum, one of such additional Assistant Criminal District Attorneys to receive a salary of not to exceed Twenty-four Hundred Dollars (\$2400.00) per annum, and one (1) of such additional Assistant Criminal District Attorneys to receive a salary of not to exceed Twenty-one Hundred Dollars (\$2100.00) per annum. He may employ one (1) court reporter and fix his salary at not to exceed Twenty-one Hundred and Sixty Dollars (\$2160.00) per an-

num. He may employ one (1) stenographer and fix his salary at not to exceed Fifteen Hundred Dollars (\$1500.00) per annum. He may employ one (1) Civil Clerk and fix his salary at not to exceed Fifteen Hundred Dollars (\$1500.00) per annum. He may employ one (1) information clerk and fix his salary at not to exceed Nine Hundred Dollars (\$900.00) per annum, but such additional assistants or employes so appointed, before qualifying and entering upon the duties of such office and employment, shall be approved as to number and salaries by the Commissioners' Court of the county in which such appointments are made. The salaries of such additional Assistants and employes shall be paid monthly by such Criminal District Attorney out of the excess fees of his office, which would otherwise go to said county.

[Acts 1933, 43rd Leg., 1st C.S., p. 134, ch. 40, § 1.]

Art. 3886d. Investigators and Stenographers for District Attorneys in Counties of Less Than 30,000

Provided that in any county in this State having a population less than thirty thousand (30,000) inhabitants, according to last preceding Federal Census, and which has a tax valuation exceeding Sixty Million Dollars (\$60,000,000.00), according to the last tax roll approved as required by law, the District Attorney or Criminal District Attorney may if and when in his judgment the efficient conduct of his office so requires, appoint a criminal investigator who shall receive a salary not to exceed Three Thousand Dollars (\$3,000.00) per year. Such District Attorney or Criminal District Attorney may also, if in his judgment the efficient conduct of his office so requires, appoint a stenographer for said office, who shall receive a salary of not more than Eighteen Hundred Dollars (\$1800.00) per year. The salary of such investigator and stenographer shall be payable out of the General Fund of the county in which they are appointed, in twelve (12) equal installments, upon the certificate of the District Attorney or Criminal District Attorney of such county.

Provided, that in Montgomery County, the District Attorney of the Ninth Judicial District may, if and when in his judgment the efficient conduct of his office so requires, appoint a criminal investigator in and for Montgomery County, who shall receive a salary of not to exceed Eighteen Hundred Dollars (\$1800) per year. The salary of such investigator shall be payable out of the General Fund of Montgomery County, Texas, in twelve (12) equal installments upon the certificate of the District Attorney of said District.

[Acts 1934, 43rd Leg., 3rd C.S., p. 118, ch. 63, § 2. Amended by Acts 1939, 46th Leg., Spec.Laws, p. 751, § 1.]

Art. 3886e. Court Reporter; Salary

In any county of this State having a population in excess of one hundred and fifty thousand (150,000) and less than three hundred and fifty-five thousand (355,000) inhabitants, according to the last preced-

ing Federal Census, and which alone constitutes two or more Judicial Districts, the District Attorney or Criminal District Attorney may appoint one Court Reporter who shall receive a salary not to exceed Three Thousand Dollars (\$3,000) per annum to be paid monthly by such county by warrant drawn upon the General Funds thereof.

[Acts 1935, 44th Leg., p. 802, ch. 343, § 1.]

Art. 3886f. Compensation of District Attorneys

Sec. 1. From and after September 1, 1967, in all judicial districts of this State, the district attorney in each such district shall receive from the State as pay for his services the sum of \$10,000 per year. Such salary shall be paid in twelve (12) equal monthly installments upon warrants drawn by the Comptroller of Public Accounts upon the State Treasury. Provided that this Act shall not be construed as repealing any Act which allows the district attorneys travelling expenses or any other expenses or allowances.

Sec. 1a. The State's Attorney assigned to and practicing before the Court of Criminal Appeals shall receive from the state as pay for his services the sum of Seven Thousand Two Hundred (\$7,200.00) Dollars per year, such salary to be paid in twelve (12) equal monthly installments upon warrants drawn on the State Comptroller of Public Accounts upon the State Treasury.

Sec. 2. All fees, commissions and perquisites which may be earned and collected by District Attorneys affected by this Act shall be paid to the County Treasurer of the counties in which such fees are earned for the account of the proper fund. The provisions of this Section shall not apply to Article 7436 and the other provisions of the anti-trust laws of this state.

Sec. 3. Nothing in this Act shall be construed to repeal or in any manner affect any law now in existence with reference to Assistant District Attorneys, investigators or stenographers in Judicial Districts included in this Act.

Sec. 3a. This Act¹ shall not repeal any Act which permits or requires any county in this State to pay its district attorney any supplemental or additional salary out of the county funds.

Sec. 4. Nothing in this Act shall affect Criminal District Attorneys whose District is composed of only one county.

[Acts 1935, 44th Leg., 2nd C.S., p. 1710, ch. 442. Amended by Acts 1949, 51st Leg., p. 112, ch. 67, § 1; Acts 1955, 54th Leg., p. 871, ch. 329, §§ 1, 2; Acts 1967, 60th Leg., p. 2072, ch. 773, § 1, eff. Sept. 1, 1967.]

¹ Acts 1955, 54th Leg., p. 871, ch. 329, amending section 1 of this article.

Art. 3886g. Seventy-Second District; Supplemental Salary

Sec. 1. The commissioners courts of the counties comprising the 72nd Judicial District shall pay the

district attorney at least \$2,410 a year in addition to the salary paid to him by the State.

Sec. 2. In no event shall the district attorney be paid a total salary less than the salary of the county attorney of Lubbock County.

Sec. 3. The supplemental salary to be paid the District Attorney of the 72nd Judicial District by the Commissioners Courts of the counties comprising said district shall be paid on the basis of the total number of criminal causes filed in the respective counties during the year preceding the year for which the supplemental salary is to be fixed and paid.

[Acts 1951, 52nd Leg., p. 606, ch. 358. Amended by Acts 1965, 59th Leg., p. 858, ch. 419, § 1.]

Art. 3886h. Compensation of District Attorneys, Assistants, Investigators, Secretaries and Office Personnel in 34th District

Sec. 1. The District Attorney of the Thirty-fourth Judicial District may be paid a salary in an amount not to exceed the total salary and supplemental compensation paid from the state and county funds to the Judge of the Thirty-fourth Judicial District of Texas. The amount of county contributions to the salary paid by the State of Texas to the District Attorney of the Thirty-fourth Judicial District shall be fixed by the Commissioners Court of El Paso County. The salaries of Assistant District Attorneys, Investigators, secretaries, and other office personnel shall be fixed by the District Attorney, subject to approval of the Commissioners Court of El Paso County.

Sec. 2. The Commissioners Court of El Paso County, Texas, in said Thirty-fourth Judicial District, is hereby authorized to pay the salaries of the Assistant District Attorneys, Investigators, secretaries, and other office personnel as provided in Section 1 of this Act, and to supplement the salary of the District Attorney paid by the State of Texas in such an amount that the total salary paid shall not exceed the maximum provided for in Section 1 hereof. Nothing shall affect the present existing law relating to the manner of selecting and determining the number of Assistant District Attorneys and Investigators except as herein provided.

[Acts 1953, 53rd Leg., p. 21, ch. 12. Amended by Acts 1957, 55th Leg., p. 862, ch. 378, § 1; Acts 1959, 56th Leg., 1st C.S., p. 38, ch. 15, § 1; Acts 1963, 58th Leg., p. 29, ch. 22, § 1; Acts 1969, 61st Leg., p. 2299, ch. 776, § 1(a), eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 2495, ch. 818, § 1, eff. June 8, 1971; Acts 1973, 63rd Leg., p. 120, ch. 60, § 1, eff. April 26, 1973; Acts 1975, 64th Leg., p. 276, ch. 118, § 1, eff. Sept. 1, 1975.]

Art. 3886i. District Attorneys in Counties of 600,000 to 700,000; Salary

From and after September 1, 1961, in all counties of a population of not less than six hundred thousand (600,000) nor more than seven hundred thousand (700,000), the district attorneys in each of such

counties may receive as pay for their services the sum of Sixteen Thousand, Five Hundred Dollars (\$16,500) per year. The Commissioners Court of such counties may supplement the salary of the district attorney paid by the State of Texas in an amount to provide the salary provided herein.

[Acts 1961, 57th Leg., p. 1065, ch. 477, § 1.]

Art. 3886j. District Attorneys and Criminal District Attorneys in Counties of 600,000 to 700,000

In counties having a population of more than 600,000 and less than 700,000, according to the last preceding federal census, the district attorney and the criminal district attorney shall be compensated for their services in such amount as may be fixed by the general law relating to the salary paid to district attorneys by the state, and in addition their salaries may be supplemented by the commissioners courts of the counties; provided, however, that the total salary of such district attorney or criminal district attorney shall not be supplemented to exceed the sum of \$20,500 per year.

[Acts 1969, 61st Leg., p. 1680, ch. 541, eff. Sept. 1, 1969.]

Art. 3886k. District Attorneys and Criminal District Attorneys in Counties of Not Less Than 1,200,000; Compensation; Private Practice

Sec. 1. In all counties of this State having a population of not less than one million two hundred thousand (1,200,000) inhabitants, according to the last preceding federal census, the Commissioners Court shall fix the salary of the Criminal District Attorney and District Attorney at not less than Thirty-five Thousand Dollars (\$35,000) per annum, which shall be paid in twelve (12) equal monthly installments.

Sec. 2. When this bill becomes effective, such Criminal District Attorney or District Attorney shall be prohibited from any private practice of law without regard to whether or not he receives any compensation therefor.

[Acts 1971, 62nd Leg., p. 1042, ch. 210, eff. May 14, 1971. Amended by Acts 1973, 63rd Leg., p. 660, ch. 277, § 1, eff. June 11, 1973.]

Art. 3887. County Attorney

In any county having a population of one hundred thousand (100,000) or less, and containing a city having a population in excess of fifty thousand (50,000) in which county there is no District Attorney, the County attorney may appoint not to exceed three Assistant County Attorneys, two of whom shall receive a salary not to exceed Two Thousand Seven Hundred (\$2700.00) Dollars per annum each, and one of whom shall receive a salary of not to exceed Two Thousand One Hundred (\$2100.00) Dollars per annum. He may appoint an investigator who shall receive a salary not to exceed One Thousand Eight Hundred (\$1800.00) Dollars per annum.

He may appoint a stenographer who shall receive a salary not to exceed One Thousand Five Hundred (\$1500.00) Dollars per annum. The salaries of such assistants, investigator and stenographer shall be paid monthly by said county by warrants drawn on the general fund thereof. Any such assistant, investigator or stenographer shall be subject to removal at the will of such County Attorney. All fees collected by such County Attorney, including fees for representing the state in criminal actions in corporation courts, shall be accountable for and disposed of in the manner provided in this chapter.

In any county having a population of more than one hundred thirty thousand (130,000) and less than one hundred fifty thousand (150,000), and containing two cities of fifty thousand (50,000) population or more each, in which county there is no District Attorney, the Commissioners' Court may, should the fees of the County Attorney's office be insufficient to pay the compensation allowed herein to such officer, and also pay the allowable expenses as otherwise provided in this Act and the salaries of such deputies, assistants and employees of such office as the Commissioners' Court may determine are necessary to properly perform the duties and carry on the affairs of the office, allow the payment of such portion of such expenses and salaries out of the general fund of the county as in their judgment may be necessary.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 256, ch. 112; Acts 1931, 42nd Leg., p. 800, ch. 326; Acts 1933, 43rd Leg., p. 734, ch. 220, §§ 6, 9.]

Art. 3887a. Compensation of County Attorneys in Counties of 48,540 to 48,800

In all counties in the State of Texas having a population of more than forty-eight thousand five hundred and forty (48,540) and less than forty-eight thousand eight hundred (48,800), according to the last preceding or any future Federal Census, where the Commissioners' Court shall have determined, or shall determine, to compensate the county attorney of such counties upon an annual salary basis according to law, such Court shall fix the salary of such county attorneys at not to exceed Two Thousand Four Hundred (\$2,400.00) Dollars per annum.

[Acts 1937, 45th Leg., 2nd C.S., p. 1878, ch. 11, § 1.]

Art. 3887a-1. County Attorneys in Counties of 83,000 to 84,000; Private Practice

Sec. 1. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Sec. 2. In all counties having a population of more than 83,000 inhabitants and less than 84,000 inhabitants, according to the last preceding Federal Census, no county attorney or assistant county attorney may engage in the private practice of law except in regard to civil matters involving the aforesaid counties.

Sec. 3. Nothing herein shall prohibit the Commissioners Court in the aforesaid counties from

employing and compensating the county attorney to represent the county in civil and condemnation cases.

[Acts 1969, 61st Leg., p. 2213, ch. 755, eff. June 12, 1969. Amended by Acts 1971, 62nd Leg., p. 1161, ch. 266, § 1, eff. May 19, 1971; Acts 1971, 62nd Leg., p. 1847, ch. 542, § 120, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 586, ch. 237, §§ 106, 145, eff. Sept. 1, 1981.]

Art. 3887a-2. Compensation of County Attorneys in Counties of 300,000 to 500,000

The county attorney in all counties having a population of not less than 300,000 nor more than 500,000 according to the last preceding federal census, shall be paid a salary not to exceed \$16,500 per year. Beginning January 1, 1971, the salary of the county attorney in those counties shall be fixed by the commissioners court at \$18,000 per year.

[Acts 1969, 61st Leg., p. 2300, ch. 776, § 2, eff. Sept. 1, 1969.]

Art. 3887a-3. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3887b. Counties of 650,000 or More; Salary; Assistants

Sec. 1. County Attorneys in counties having a population of six hundred and fifty thousand (650,000) inhabitants or more according to the last preceding Federal Census shall receive an annual salary of not less than Nine Thousand, Nine Hundred Dollars (\$9,900) nor more than Eleven Thousand, Eight Hundred Dollars (\$11,800), the exact amount to be fixed by the Commissioners Court but at a sum not less than the minimum nor more than the maximum provided above.

Sec. 2. In all counties in which this bill applies, whenever the County Attorney shall require the service of assistants, investigators and secretaries, in the performance of his duties, he shall apply to the Commissioners Court for authority to appoint such assistants, investigators and secretaries stating by sworn application the number needed, the position to be filled, the duties to be performed and the amount to be paid. The court shall make its order authorizing the appointment of such assistants, investigators and secretaries and fix the compensation to be paid them, and determine the number to be appointed as in the discretion of said court may be proper. Provided that in no case shall the Commissioners Court, or any member thereof, attempt to influence the appointment of any person as assistant, investigator or secretary in the County Attorney's office. All of the salaries provided for in this Act shall be paid from the officers' salary fund if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

[Acts 1953, 53rd Leg., p. 788, ch. 317.]

Art. 3888. Repealed by Acts 1969, 61st Leg., p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this article, enacts Titles 1 and 2 of the Education Code.

Art. 3888a. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9

Art. 3888b. Repealed by Acts 1969, 61st Leg., p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this article, enacts Titles 1 and 2 of the Education Code.

Art. 3889. Census to Govern

The preceding Federal census shall govern as to population in all cases under any provision of this chapter.

[Acts 1925, S.B. 84.]

Art. 3890. State or County Not Liable

The amounts allowed to each officer mentioned in Article 3883 may be retained out of the fees collected by him under existing laws; but in no case shall the State or county be responsible for the payment of any sum when the fees collected by any officer are less than the maximum compensation allowed by this chapter, nor be responsible for the pay of any deputy or assistant.

[Acts 1925, S.B. 84.]

Art. 3891. Disposition of Fees; Increase of Compensation of Officers

Each officer named in this Chapter shall first out of the current fees of his office pay or be paid the amount allowed him under the provisions of Article 3883, together with the salaries of his assistants and deputies, and authorized expenses under Article 3899, and the amount necessary to cover costs of premium on whatever surety bond may be required by law. If the current fees of such office collected in any year be more than the amount needed to pay the amounts above specified, same shall be deemed excess fees, and shall be disposed of in the manner hereinafter provided.

In counties containing twenty-five thousand (25,000) or less inhabitants, District and County officers named herein shall retain one-third of such excess fees until such one-third, together with the amounts specified in Article 3883, amounts to Three Thousand Dollars (\$3,000). Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Fourteen Hundred Dollars (\$1400).

In counties containing as many as twenty-five thousand and one (25,001) and not more than thirty-seven thousand, five hundred (37,500) inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to Thirty-five Hundred Dollars (\$3500). Precinct officers shall retain one-third un-

til such one-third, together with the amount specified in Article 3883, amounts to Eighteen Hundred Dollars (\$1800).

In counties containing as many as thirty-seven thousand, five hundred and one (37,501) and not more than sixty thousand (60,000), or containing a city of over twenty-five thousand (25,000) inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to Forty-two Hundred and Fifty Dollars (\$4250). Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Twenty-two Hundred Dollars (\$2200).

In counties containing sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to Forty-seven Hundred and Fifty Dollars (\$4750). Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Twenty-six Hundred Dollars (\$2600).

In counties containing as many as one hundred thousand and one (100,001) and not more than one hundred and fifty thousand (150,000) inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to Fifty-five Hundred Dollars (\$5500). Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Three Thousand Dollars (\$3000).

In counties containing as many as one hundred and fifty thousand and one (150,001) or more inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to Sixty-five Hundred Dollars (\$6500). Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Four Thousand Dollars (\$4000).

All current fees earned and collected by officers named in Article 3883 during any fiscal year in excess of the maximum and excess allowed by this Act, and for their services and for the services of their deputies and assistants and authorized expenses, together with all delinquent fees collected and not used as provided in Article 3892, or used to pay salaries of deputies and assistants when current fees are insufficient, shall be paid into the County Treasury in the county where the excess accrued.

All fees due and not collected, as shown in the report required by Article 3897, shall be collected by the officer to whose office the fees accrued and shall be disposed of by said officer in accordance with the provisions of this Act.

The compensations, limitations and maximums herein fixed in this Act for officers shall include and apply to all officers mentioned herein in each and every county of this State, and it is hereby declared to be the intention of the Legislature that the provisions of this Act shall apply to each of said officers, and any special or general law inconsistent with the provisions hereof is hereby expressly repealed in so far as the same may be inconsistent with this Act.

The compensation, limitations and maximums herein fixed shall also apply to all fees and compensation whatsoever collected by said officers in their official capacity, whether accountable as fees of office under the present law, and any law, general or special, to the contrary is hereby expressly repealed. The only kind and character of compensation exempt from the provisions of this Act shall be rewards received by Sheriffs for apprehension of criminals or fugitives from justice and for the recovery of stolen property, and moneys received by County Judges and Justices of the Peace for performing marriage ceremonies, which sum shall not be accountable for and not required to be reported as fees of office.

(a) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20; Acts 1931, 42nd Leg., p. 870, ch. 368; Acts 1933, 43rd Leg., p. 734, ch. 220, § 2; Acts 1935, 44th Leg., p. 752, ch. 327, § 1; Acts 1945, 49th Leg., p. 244, ch. 179, § 1.]

Repeal

Article 3891, as amended, is repealed in so far as the provisions thereof are applicable to the officers named in art. 3883h. See article 3883h, § 6, ante.

Art. 3892. Failure to Collect Maximum

Any officer mentioned in this Chapter who does not collect the maximum amount of his fees for any fiscal year and who reports delinquent fees for that year, shall be entitled to retain, when collected, such part of such delinquent fees as is sufficient to complete the maximum compensation authorized by Articles 3883, 3883-A, and 3886 for the year in which delinquent fees were charged, and also retain the amount of excess fees authorized by law, and the remainder of the delinquent fees for that fiscal year shall be paid as herein provided for when collected; provided, the provisions of this Article shall not apply to any officer after one year from the date he ceases to hold the office to which any

delinquent fee is due, and in the event the officer earning the fees that are delinquent has not collected the same within twelve months after he ceases to hold the office, the amount of fees collected shall be paid into the county treasury. Provided, however, that nothing in this Act precludes the payment of ex-officio fees in accordance with Title 61 of the Revised Civil Statutes of Texas, 1925, as part of the maximum compensation. Provided, that any change made in this Article by this Act shall not apply to fees heretofore earned.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20, § 4.]

Art. 3893. District Clerks

In counties having more than one judicial district, the district clerks thereof shall in no case be allowed fees in excess of the maximum fees allowed clerks in counties having only one district court.

[Acts 1925, S.B. 84.]

Art. 3894. Repealed by Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20, § 10

Art. 3895. Ex-officio Services

The Commissioners' Court is hereby debarred from allowing compensation for ex-officio services to county officials when the compensation and excess fees which they are allowed to retain shall reach the maximum provided for in this chapter. In cases where the compensation and excess fees which the officers are allowed to retain shall not reach the maximum provided for in this chapter, the Commissioners' Court shall allow compensation for ex officio services when, in their judgment, such compensation is necessary, provided, such compensation for ex officio services allowed shall not increase the compensation of the official beyond the maximum of compensation and excess fees allowed to be retained by him under this chapter. Provided, however, the ex officio herein authorized shall be allowed only after an opportunity for a public hearing and only upon the affirmative vote of at least three members of the Commissioners' Court.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 734, ch. 220, § 7.]

Art. 3896. To Keep Accounts

Each district, county and precinct officer shall keep a correct statement of all fees earned by him and all sums coming into his hands as deposits for costs, together with all trust funds placed in the registry of the court, fees of office and commissions in a book or in books to be provided him for that purpose, in which the officer, at the time when such deposits are made or such fees and commissions are earned and when any or all of such funds shall come into his hands, shall enter the same; and it shall be the duty of the county auditor in counties having a county auditor to annually examine the books and accounts of such officers and to report his findings to the next succeeding grand jury or

district court. In counties having no county auditor, it shall be the duty of the Commissioners' Court to make the examination of said books and accounts or have the same made and to make report to the grand jury as hereinabove provided.

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., 2nd C.S., p. 1762, ch. 465, § 8.]

Art. 3897. Sworn Statement

Each district, county and precinct officer, at the close of each fiscal year (December 31st) shall make to the district court of the county in which he resides a sworn statement in triplicate (on forms designed and approved by the State Auditor) a copy of which statement shall be forwarded to the State Auditor by the clerk of the district court of said county within thirty (30) days after the same has been filed in his office, and one copy to be filed with the county auditor, if any; otherwise said copy shall be filed with the Commissioners' Court. Said report shall show the amount of all fees, commissions and compensations whatever earned by said officer during the fiscal year; and secondly, shall show the amount of fees, commissions and compensations collected by him during the fiscal year; thirdly, said report shall contain an itemized statement of all fees, commissions and compensations earned during the fiscal year which were not collected, together with the name of the party owing said fees, commissions and compensations. Said report shall be filed not later than February 1st following the close of the fiscal year and for each day after said date that said report remains not filed, said officer shall be liable to a penalty of Twenty-Five (\$25.00) Dollars, which may be recovered by the county in a suit brought for such purposes, and in addition said officer shall be subject to removal from office.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20, § 5; Acts 1935, 44th Leg., 2nd C.S., p. 1762, ch. 465, § 9.]

Repeal

Article 3897 is repealed by Acts 1965, 59th Leg., p. 610, ch. 302, § 2, insofar as the provisions thereof are applicable to counties whose officers are compensated on a salary basis.

Art. 3898. Fiscal Year

The fiscal year, within the meaning of this Act, shall begin on January 1st of each year; and each district, county and precinct officer shall file his report and make the final settlement required in this Act not later than February 1st of each year; provided, however, that officers receiving an annual salary as compensation for their services shall, by the close of each month, pay into the Officers' Salary Fund or funds, all fees, commissions and compensation collected by him during said month. Whenever such officer serves for a fractional part of the fiscal year, he shall nevertheless file his report and make final settlement for such part of

the year as he serves and shall be entitled to such proportionate part of his compensation as the time for his service bears to the entire year.

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., 2nd C.S., p. 1762, ch. 465, § 10.]

Art. 3899. Expense Account

(a) At the close of each month of his tenure of office, each officer named herein who is compensated on a fee basis shall make, as part of the report now required by law, an itemized and sworn statement of all the actual and necessary expenses incurred by him in the conduct of his office such as stationery, stamps, telephone, premiums on officials' bonds including the cost of surety bonds for his deputies, premium on fire, burglary, theft, robbery insurance protecting public funds, traveling expenses, and other necessary expenses; provided, that in addition to the officers named herein, the county treasurer, county auditor, county road commissioners, county school superintendent, and the hide and animal inspector shall likewise make a report on the premiums on officials' bonds, including the cost of surety bonds for any deputies, and said premiums shall be subject to payment out of the fees of said office, as herein otherwise provided for the officers named; and provided further that if any of the officers so designated are on a salary rather than a fee basis, then all such bond premiums for officers and their deputies shall be paid from the General Fund of the county. The Commissioners Court of the county of the sheriff's residence may, upon the written and sworn application of the sheriff stating the necessity therefor, purchase equipment for a Bureau of Criminal Identification such as cameras, fingerprint cards, inks, chemicals, microscopes, radio and laboratory equipment, filing cards, filing cabinets, tear gas, and other equipment in keeping with the system in use by the Department of Public Safety of this State or the United States Department of Justice and/or Bureau of Criminal Identification. If such expenses be incurred in connection with any particular case, such statement shall name such case. Such expense account shall be subject to the audit of the county auditor, if any, otherwise by the Commissioners Court; and if it appears that any item of such expense was not incurred by such officer or such item was not a necessary expense of office, such item shall be by such auditor or court rejected, in which case the collections of such item may be adjudicated in any court of competent jurisdiction. The amount of salaries paid to assistants and deputies shall also be clearly shown by such officer, giving the name, position, and amount paid each; and in no event shall any officer show any greater amount than actually paid any such assistant or deputy. The amount of such expenses, together with the amount of salaries paid to assistants, deputies, and clerks, shall be paid out of the fees earned by such officer. The Commissioners Court of the county of the sheriff's residence may, upon the written and sworn application of the sheriff stating

the necessity therefor, allow one or more automobiles to be used by the sheriff in the discharge of his official duties, which, if purchased by the county, shall be bought in the manner prescribed by law for the purchase of supplies and paid for out of the General Fund of the county, and they shall be and remain the property of the county. The expense of maintenance, depreciation, and operation of such automobiles as may be allowed, whether purchased by the county or owned by the sheriff or his deputies personally, shall be paid for by the sheriff and the amount thereof shall be reported by the sheriff, on the report above mentioned, in the same manner as herein provided for other expenses.

(b) Each officer named in this Act, where he receives a salary as compensation for his services, shall be entitled and permitted to purchase or charge to his county all reasonable expenses necessary in the proper and legal conduct of his office, premiums on officials' bonds, premiums on fire, burglary, theft, robbery insurance protecting public funds, and including the cost of surety bonds for his deputies, provided that expenses incurred for premiums on officials' bonds for the county treasurer, county auditor, county road commissioners, county school superintendent, and the hide and animal inspector, including the cost of surety bonds for any deputies of any such officers, may be also included, and such expenses to be passed on, predetermined and allowed in the time and amount, as nearly as possible, by the Commissioners Court once each month for the ensuing month, upon the application by each officer, stating the kind, probable amount of expenditure and the necessity for the expenses of his office for such ensuing month, which application shall, before presentation to said court, first be endorsed by the county auditor, if any, otherwise the county treasurer, only as to whether funds are available for payment of such expenses. The Commissioners Court of the county of the sheriff's residence may, upon the written and sworn application of the sheriff stating the necessity therefor, purchase equipment for a Bureau of Criminal Identification, such as cameras, fingerprint cards, inks, chemicals, microscopes, radio and laboratory equipment, filing cards, filing cabinets, tear gas and other equipment, in keeping with the system in use with the Department of Public Safety of this State, or the United States Department of Justice and/or Bureau of Criminal Identification.

Such purchases shall be made by each officer, when allowed, only by requisition in manner provided by the county auditor, if any, otherwise by the Commissioners Court. Each officer, shall, at the close of each month of his tenure of office, make an itemized and sworn report of all approved expenses incurred by him and charged to his county, accompanying such report with invoices covering such purchases and requisitions issued by him in support of such report. If such expenses be incurred in connection with any particular case, such report shall name such case. Such report, invoices, and

requisitions shall be subject to the audit of the county auditor, if any, otherwise by the Commissioners Court, and if it appears that any item was not incurred by such officer, or that such item was not a necessary or legal expense of such office, or purchased upon proper requisition, such item shall be by said county auditor or court rejected, in which case the payment of such item may be adjudicated in any court of competent jurisdiction. All such approved claims and accounts shall be paid from the Officers Salary Fund unless otherwise provided herein.

The Commissioners Court of the county of the sheriff's residence may, upon the written and sworn application of such officer, stating the necessity therefor, allow one or more automobiles to be used by the sheriff in the discharge of official business, which, if purchased by the county shall be bought in the manner prescribed by law for the purchase of supplies and paid for out of the General Fund of the county and they shall be reported and paid in the same manner as herein provided for other expenses.

Where the automobile or automobiles are owned by the Sheriff or his deputies, they shall be allowed four (4) cents for each mile traveled in the discharge of official business, which sum shall cover all expenses of the maintenance, depreciation, and operation of such automobile. Such mileage shall be reported and paid in the same manner prescribed for other allowable expenses under the provisions of this section. No automobile shall be allowed for any Deputy Sheriff except those regularly employed in outside work. It shall be the duty of the County Auditor, if any, otherwise the Commissioners Court, to check the speedometer reading of each of said automobiles, owned by the county once each month and to keep a public record thereof; no automobile owned by the county shall be used for any private purpose.

(c) Provided that in all counties of this State having a population of not less than thirty thousand, nine hundred (30,900) and not more than thirty thousand, nine hundred and fifty (30,950) according to the last preceding Federal Census wherein there is no District Attorney and the Criminal District Attorney performing the duties of a District Attorney, such Criminal District Attorney performing the duties of a District Attorney shall be empowered and permitted to incur reasonable and necessary expenses in investigating crime and accumulating evidence in criminal cases; and shall be allowed Three (3) Cents a mile for each mile traveled by him in an automobile furnished by him in the discharge of official business, which sum shall cover all expenses of the maintenance, depreciation, and operation of such automobile; such expenses shall be reported to the Commissioners Court of each county affected by this Act as other expenses are

reported and shall be paid by said Commissioners Court as such other expenses are paid.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 734, ch. 220, § 4; Acts 1935, 44th Leg., p. 718, ch. 311, § 1; Acts 1935, 44th Leg., 2nd C.S., p. 1762, ch. 465, § 11; Acts 1937, 45th Leg., p. 1340, ch. 498, § 1; Acts 1937, 45th Leg., 1st C.S., p. 1817, ch. 37, § 1; Acts 1941, 47th Leg., p. 1390, ch. 629, §§ 1, 2.]

Art. 3899a. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9

Art. 3899b. Offices, Office Supplies, Furniture and Automobiles; Aid for District Attorneys

Sec. 1. There shall be allowed to County Judges, Clerks of the District and County Courts, Sheriffs, County Treasurers, Tax Assessors and Collectors, such books, stationery, including blank bail bonds and blank complaints, and office furniture as may be necessary for their offices, to be paid for on the order of the Commissioners Court out of the County Treasury; and suitable offices shall also be provided by the Commissioners Court for said officers at the expense of the county. And such books and stationery as are necessary in the performance of their duties shall also be furnished Justices of the Peace by said Commissioners Court. Provided all purchases herein must be approved by Commissioners Court, and must be made under the provisions of Article 1659, Revised Civil Statutes of Texas, 1925.

Sec. 1a. In addition to the expenditures authorized in Section 1, in all counties having a population in excess of two million (2,000,000) inhabitants according to the last preceding federal census, the Commissioners Court may, in its discretion, at the expense of the county, furnish constables such offices and office furniture as may be necessary for the performance of their duties.

Sec. 2. Suitable offices and stationery and blanks necessary in the performance of their duties may in the discretion of the Commissioners Court also be furnished to resident District Judges, resident District and County Attorneys, County Superintendents and County Surveyors, and may be paid for on order of the Commissioners Court out of the County Treasury.

Sec. 3. In addition to the expenditures authorized in the preceding paragraphs, Numbers 1 and 2 of said Article 3899b, in all counties having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants according to the preceding or any future Federal Census, the Commissioners Court of the county of the Tax Assessor and Tax Collector's residence may, upon the written and sworn application of such officer, stating the necessity therefor, allow one or more automobiles to be used by the Tax Assessor and Collector or his deputies in the discharge of official business, which, if purchased by the county shall be bought in the manner prescribed by law for the purchase of sup-

plies and paid for out of the General Fund of the county. All expenses incurred in the operation, repair, and maintenance of such automobile or automobiles purchased by the county shall be incurred and paid in the manner provided by subdivision 1 of Section 19 of Acts 1935, Forty-fourth Legislature, Second Called Session, Chapter 465.¹ The Commissioners Court may in lieu of the purchase of automobiles for the use of the Assessor and Collector of Taxes, authorize the use of personally owned automobiles of the Assessor and Collector of Taxes or his deputies in which event such Assessor and Collector of Taxes or his deputies shall file monthly sworn reports with the County Auditor showing mileage covered by such automobiles on official business and the nature thereof and may be allowed ten cents (10c) per mile for each mile traveled which sum shall cover all expenses of maintenance, operation, and depreciation, and claims therefor shall be audited and allowed in the manner provided by Section 19 of Acts, 1935, Second Called Session, Chapter 465, for other expenses of County and District Officers. The District Attorney or Criminal District Attorney may be allowed by order of the Commissioners Court of his county, such amount as said Court may deem necessary to pay for, or aid in, the proper administration of the duties of such office not to exceed Twenty-five Hundred Dollars (\$2,500) in any one calendar year; provided that such amounts as may be allowed shall be allowed upon written application of such District Attorney or Criminal District Attorney showing the necessity therefor, and provided further that said Commissioners Court may require any other evidence that it may deem necessary to show the necessity for such expenditures, and that its judgment in allowing or refusing to allow the same shall be final.

No expenditures made in accordance with the preceding paragraph shall lessen or diminish the amount of fees that said District Attorney or Criminal District Attorney may retain or receive as compensation under the terms of Articles 3883 and 3891 of the Revised Civil Statutes as amended by the Acts of the Forty-third Legislature or under the terms of Article 3892 of said Statutes as amended by the Acts of the Forty-first Legislature and this Act shall be cumulative of any other Act now in effect permitting such Commissioners Court to defray, or aid in defraying the expenses incurred by such County Tax Assessor and Collector, or District Attorneys or Criminal District Attorneys, and all such Acts shall be and remain valid and effective and wholly unaffected hereby.

[Acts 1929, 41st Leg., p. 448, ch. 207. Amended by Acts 1935, 44th Leg., p. 726, ch. 316, § 1; Acts 1945, 49th Leg., p. 182, ch. 140, § 1; Acts 1953, 53rd Leg., p. 579, ch. 222, § 1; Acts 1963, 58th Leg., p. 971, ch. 394, § 1; Acts 1963, 58th Leg., p. 742, ch. 278, § 1; Acts 1971, 62nd Leg., p. 1836, ch. 542, § 80, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 2442, ch. 785, § 1, eff. June 8, 1971; Acts 1981, 67th Leg., p. 586, ch. 237, § 107, eff. Sept. 1, 1981.]

¹ Article 3912e, § 19.

Art. 3899b-1. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3899c. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9

Art. 3900. Repealed by Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20, § 10

Art. 3901. Collector and Assessor

Each assessor and collector of taxes, at the time of his settlement with the Comptroller of Public Accounts of the State of Texas, shall file with the Comptroller a copy of the sworn statement required under Article 3897 as herein amended.

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., 2nd C.S., p. 1762, ch. 465, § 12.]

Art. 3901-1. Maximum Fees of Assessor-Collector in Counties of 13,350 to 13,440 Population

Sec. 1. In all counties having a population of not less than thirteen thousand, three hundred and fifty (13,350) and not more than thirteen thousand, four hundred and forty (13,440), according to the most recent available Federal Census and each available Federal Census thereafter, the Assessors-Collectors of Taxes of such counties shall be entitled to receive the fees of office earned by their offices in accordance with the provisions of the Maximum Fee Bill; provided, however, that in such counties the maximum amount of fees which may be retained by such officer, including all excess fees, shall be Four Thousand Dollars (\$4,000), provided such office earns sufficient fees to pay this amount.

Sec. 2. Each Assessor-Collector of Taxes earning fees in excess of Four Thousand Dollars (\$4,000) shall make disposition of such excess in accordance with the provisions of the Maximum Fee Bill. All Assessors-Collectors in counties hereby affected shall be entitled to deputies and assistants in the manner authorized in the Maximum Fee Bill.

[Acts 1937, 45th Leg., 1st C.S., p. 1826, ch. 45.]

Art. 3902. Deputies, Assistants or Clerks; Appointment; Compensation and Salaries; Increase

Whenever any district, county or precinct officer shall require the services of deputies, assistants or clerks in the performance of his duties he shall apply to the County Commissioners' Court of his county for authority to appoint such deputies, assistants or clerks, stating by sworn application the number needed, the position to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expenses of said office; and said court shall make its order authorizing the appointment of

such deputies, assistants and clerks and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said court may be proper; provided that in no case shall the Commissioners' Court or any member thereof attempt to influence the appointment of any person as deputy, assistant or clerk in any office. Upon the entry of such order the officers applying for such assistants, deputies or clerks shall be authorized to appoint them; provided that said compensation shall not exceed the maximum amount hereinafter set out. The compensation which may be allowed to the deputies, assistants or clerks above named for their services shall be a reasonable one, not to exceed the following amounts:

1. In counties having a population of twenty-five thousand (25,000) or less inhabitants, first assistant or chief deputy not to exceed Eighteen Hundred (\$1800.00) Dollars per annum; other assistants, deputies or clerks not to exceed Fifteen Hundred (\$1500.00) Dollars per annum each.

1-a. In counties having a population of twenty-five thousand (25,000) inhabitants or less, according to the last preceding Federal Census, and whose tax values exceed One Hundred Million Dollars (\$100,000,000), according to the last approved tax rolls, the first assistant to the Tax Assessor and Collector and the first assistant to the County Clerk may each receive an annual salary of not to exceed Three Thousand Dollars (\$3,000) per annum, and the cashier to the Tax Assessor and Collector and the County Clerk may each receive an annual salary of not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum. The Tax Assessor and Collector shall designate in addition to the first assistant and cashier, two heads of departments, one to be in charge of assessing and one to be in charge of collecting in such counties, who may receive an annual salary of not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, and any additional assistants, deputies or clerks to the Tax Assessor and Collector or the County Clerk may receive an annual salary of not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum.

1a. In counties having a population of not less than nineteen thousand, eight hundred and fifty (19,850) and not more than nineteen thousand, eight hundred and ninety-five (19,895) inhabitants, according to the last preceding Federal Census, the Commissioners Court may approve the appointment of heads of departments, when necessary, and when additional allowance for salary is deemed necessary or justified by the Commissioners Court of such counties for heads of departments or chief deputies, a sum not to exceed Two Hundred Dollars (\$200) per annum may be allowed, in addition to the regular salary for such heads of departments or chief deputies, when such officers shall have previously served the county for not less than two (2) continuous years.

1b. In counties having a population of not less than twenty-four thousand, five hundred (24,500) and not more than twenty-four thousand, seven hundred (24,700) inhabitants, according to the last preceding Federal census, the Commissioners Court may approve the appointment of heads of departments, when necessary, and when additional allowance for salary is deemed necessary, or justified by the Commissioners Court of such counties for heads of departments or Chief Deputies, a sum not to exceed Two Hundred Dollars (\$200) per annum may be allowed, in addition to the regular salary for such heads of departments or Chief Deputies, when such officers shall have previously served the County for not less than three (3) continuous years.

2. In counties having a population of twenty-five thousand and one (25,001) and not more than thirty-seven thousand, five hundred (37,500) inhabitants, first assistant or chief deputy not to exceed Two Thousand Dollars (\$2,000) per annum; other assistants, deputies, or clerks not to exceed Seventeen Hundred Dollars (\$1700) per annum each. Provided, however, that in all counties containing a population of not less than thirty thousand (30,000) nor more than thirty-seven thousand, five hundred (37,500), according to the last preceding Federal Census, and having a valuation in excess of Eighty-five Million Dollars (\$85,000,000), and in all counties having an assessed valuation of not less than Twenty-seven Million, Five Hundred Thousand Dollars (\$27,500,000) nor more than Twenty-seven Million, Seven Hundred Thousand Dollars (\$27,700,000), according to the last approved tax roll, and containing a population of not less than fifty-three thousand, nine hundred (53,900) nor more than fifty-four thousand (54,000), according to the last preceding Federal Census, four (4) deputies in the Tax Collector and Assessor's office may receive not to exceed Twenty-four Hundred Dollars (\$2400) per annum each, the remainder of the deputies in said office shall receive not exceeding Seventeen Hundred Dollars (\$1700) per annum each.

3. In counties having a population of thirty-seven thousand five hundred and one (37,501) and not more than sixty thousand (60,000) inhabitants, first assistant or chief deputy not to exceed Twenty-one Hundred (\$2100.00) Dollars per annum; other assistants, deputies or clerks not to exceed Eighteen Hundred (\$1800.00) Dollars per annum each. Provided that nothing in this Act shall be construed as repealing or affecting Section 2 of H.B. No. 694, Chapter 315, Acts 1935, Forty-fourth Legislature, page 724.

3a. In counties having a population of not less than forty-eight thousand nine hundred (48,900) and not more than forty-nine thousand (49,000) inhabitants, according to the preceding Federal Census, the County Judge may employ one person as office assistant, bookkeeper and stenographer at a salary to be fixed by the County Judge not to exceed Eighteen Hundred (\$1,800.00) Dollars per annum, in

twelve equal monthly installments out of the general fund of the county.

4. In counties having a population of sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants, first assistant or chief deputy not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum; other assistants, deputies or clerks not to exceed Twenty-one Hundred (\$2100.00) Dollars per annum each.

4a. In counties having a population of sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants, according to the preceding Federal Census and containing a city of not less than fifty-two thousand (52,000) inhabitants according to the preceding Federal Census, heads of departments may be allowed by the Commissioners Court, when in their judgment such allowable is justified, the sum of Two Hundred Dollars (\$200) per annum in addition to the amount hereinbefore authorized to either First Assistant or Chief Deputy, or other Assistants, Deputies or Clerks, when such heads of departments sought to be appointed shall have previously served the county or political subdivision thereof for not less than two (2) continuous years; provided no heads of departments shall be created except where the person sought to be appointed shall be in actual charge of some department, with Deputies or Assistants, under his supervision, or a department approved by the Court, and only in offices capable of a bona fide subdivision into departments.

5. In counties having a population of one hundred thousand and one (100,001) and not more than one hundred and fifty thousand (150,000) inhabitants, first assistant or chief deputy not to exceed Twenty-six Hundred (\$2600.00) Dollars per annum; heads of departments may be allowed by the Commissioners' Court, when in their judgment such allowance is justified, the sum of Two Hundred (\$200.00) Dollars per annum in addition to the amount herein allowed, when such heads of departments sought to be appointed shall have previously served the county or political subdivision thereof for not less than two continuous years; other assistants, deputies or clerks not to exceed Twenty-three Hundred (\$2300.00) Dollars per annum each.

6. In counties having a population of one hundred fifty thousand and one (150,001) and not more than one hundred ninety thousand (190,000) inhabitants, first assistant or chief deputy not to exceed Three Thousand (\$3,000.00) Dollars per annum; other assistants, deputies or clerks not to exceed Twenty-four Hundred (\$2,400.00) Dollars per annum each.

7. That in all counties in this State having a population of not less than thirty-nine thousand, four hundred and ninety-six (39,496) and not more than forty thousand (40,000), according to the last preceding Federal Census, first assistant county attorneys shall be entitled to a salary of not less than Sixteen Hundred and Twenty Dollars (\$1620)

per annum nor more than Nineteen Hundred and Twenty Dollars (\$1920) per annum, to be set by the Commissioners Court of the County. The amount of the salary shall be paid on the first of each month and in twelve (12) equal monthly payments.

8. That in all counties of the State having a population of not less than twenty-four thousand, nine hundred (24,900) inhabitants and not more than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, first assistants or chief deputies shall receive a salary not to exceed Two Thousand Dollars (\$2,000) per annum, and other assistant deputies or clerks shall receive salaries not to exceed Seventeen Hundred Dollars (\$1700) each.

9. The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputies, assistants and clerks of any district, county or precinct officer justify the increase, to enter an order increasing the compensation of such deputy, assistant or clerk in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed Thirty-six Hundred (\$3600.00) Dollars.

10. In all counties having a population of not less than fifty-one thousand seven hundred eighty-two (51,782) inhabitants, and not more than fifty-two thousand five hundred (52,500) inhabitants, according to the last preceding Federal Census, the Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputies, assistants and clerks of any district, county, or precinct officer justify the increase, to enter an order increasing the compensation of such deputy, assistant or clerk in an additional amount not to exceed twenty (20%) per cent of the maximum sum now allowed under the present law. Provided that nothing in this Act shall be construed as repealing or affecting Sections 3 and 9 of Article 3902, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., 1st C.S., p. 225, ch. 92; Acts 1931, 42nd Leg., p. 364, ch. 214; Acts 1933, 43rd Leg., p. 734, ch. 220, § 3; Acts 1934, 43rd Leg., 2nd C.S., p. 123, ch. 59, § 2; Acts 1934, 43rd Leg., 3rd C.S., p. 118, ch. 63, § 1; Acts 1935, 44th Leg., p. 667, ch. 282, § 1; Acts 1935, 44th Leg., p. 724, ch. 315, § 2; Acts 1935, 44th Leg., p. 752, ch. 327, § 2; Acts 1935, 44th Leg., 2nd C.S., p. 1762, ch. 465, § 14; Acts 1937, 45th Leg., p. 301, ch. 157, § 1; Acts 1937, 45th Leg., p. 581, ch. 290, § 1; Acts 1937, 45th Leg., p. 1330, ch. 493, § 1; Acts 1937, 45th Leg., 2nd C.S., p. 1870, ch. 6, § 1; Acts 1939, 46th Leg., Spec.Laws, p. 736, § 1; p. 740, § 1; Acts 1941, 47th Leg., p. 153, ch. 114, § 1; Acts 1941, 47th Leg., p. 540, ch. 334, § 1; Acts 1945, 49th Leg., p. 244, ch. 179, § 2; Acts 1947, 50th Leg., p. 266, ch. 162, § 1.]

Arts. 3902a to 3902f. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9

Art. 3902f-1. Increase of Compensation of Deputies, Clerks and Assistants by Commissioners Court

Sec. 1. In each county in the State of Texas having a population of one hundred and fifty thousand (150,000) inhabitants or under according to the last preceding Federal Census, or any future Federal Census, the Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputies, assistants and clerks of any district, county or precinct officer justify the increase, to enter an order increasing the compensation of such deputy, assistant or clerk in an additional amount not to exceed thirty-five per cent (35%) of the sum allowed under the law at the present time.

Sec. 1A. No increase allowed under Section 1 of this Act shall result in any deputy, assistant, or clerk receiving a greater salary than is allowed the district, county or precinct officer under whom such deputy, assistant or clerk is employed.

Sec. 2. The provisions of this Act shall be cumulative of all other laws pertaining to the compensation of deputies, assistants and clerks of any district, county or precinct officer.

Sec. 3. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

[Acts 1953, 53rd Leg., p. 777, ch. 308.]

Art. 3902f-2. Counties of 11,400 to 11,500; Compensation of Deputies, Clerks and Assistants

Sec. 1. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Sec. 2. No salary fixed under Section 1 of this Act shall result in any deputy, assistant, or clerk receiving a greater salary than is allowed the district, county or precinct officer under whom such deputy, assistant or clerk is employed.

Sec. 3. The provisions of this Act shall be cumulative of all other laws pertaining to the compensation of deputies, assistants and clerks of any district, county or precinct officer.

[Acts 1961, 57th Leg., p. 1172, ch. 527. Amended by Acts 1971, 62nd Leg., p. 1838, ch. 542, § 91, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.]

Art. 3902f-3. Counties of 29,300 to 31,000; Compensation of Deputies, Assistants, Clerks or Stenographers

Sec. 1. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Sec. 2. Provided further that the commissioners court of the counties affected by this Act may not fix the salaries of the deputies, assistants, clerks or stenographers of the officials in such county at a lesser amount than the salary paid such deputies, assistants, clerks or stenographers for the calendar year 1966.

[Acts 1967, 60th Leg., p. 986, ch. 430, eff. June 12, 1967. Amended by Acts 1971, 62nd Leg., p. 1836, ch. 542, § 82, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.]

Art. 3902f-4. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3902f-5. Deputies, Assistants and Clerks of District, County or Precinct Officers; Increase in Compensation

The Commissioners Court of any county in the State is authorized to enter an order increasing the compensation of a deputy, assistant, or clerk of any district, county, or precinct officer in an additional amount not to exceed 35 per cent of the maximum sum now allowed under present law, when in the judgment of the court the financial condition of the county and needs of the deputies, assistants, and clerks justify the increase.

[Acts 1971, 62nd Leg., p. 1223, ch. 299, § 1, eff. May 24, 1971.]

Arts. 3902f-6, 3902f-7. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3902g. Deputy Sheriffs in Counties Over 48,000

It is hereby provided that in counties having a population of more than 48,000 as shown by the last preceding Federal Census, and containing a city of more than 15,000 population as shown by the last preceding Federal Census, located in a justice precinct other than that in which is located the county site in such county, the sheriff of such county may appoint as many deputies as the Commissioners' Court of such county may deem necessary.

[Acts 1935, 44th Leg., p. 53, ch. 17, § 1.]

Art. 3902h. Deputy Assessor-Collector of Taxes in Counties of 140,000 to 220,000

In all counties in this state having a population of not less than one hundred forty thousand (140,000) nor more than two hundred twenty thousand (220,000), according to the last preceding Federal Census or any future Federal Census, the Commissioners Court may employ one deputy Assessor-Collector of Taxes in each of such counties who shall receive a salary not to exceed Thirty-six Hundred (\$3,600.00)

Dollars per annum, payable in equal monthly installments; provided however, that said deputy Assessor-Collector of Taxes shall possess special technical training, skill and experience as to valuations of oil and mineral bearing lands, properties and interests therein, industrial and refining plants, synthetic rubber plants, wharfs, docks and other transportation facilities, shipyards and other properties where special technical skill and training are required. The Commissioners Court in such counties may contract with such deputy who shall work under the Assessor-Collector of Taxes, but such contract shall be terminable at the will of either party. To be valid any such contract of employment shall be in writing, shall be signed by the parties thereto, and shall be approved as to substance and form by the County Auditor and by the County Attorney. It is further provided that the Commissioners Court in any such counties, by order duly entered, shall be empowered to immediately terminate any such contract of employment as is provided for by this Section.

[Acts 1943, 48th Leg., p. 382, ch. 257, § 3.]

Art. 3902h-1. Deputy Assessor-Collector of Taxes in Counties with Assessed Valuation of \$20,000,000 to \$25,000,000

Sec. 1. In all counties in this State having an assessed property valuation of not less than Twenty Million Dollars (\$20,000,000) and not more than Twenty-five Million Dollars (\$25,000,000) on the ad valorem tax rolls of said counties approved as provided by law for the year 1946, it shall be the duty of the Commissioners Court in said counties at the first regular meeting following the effective date of this Act to determine the advisability of increasing the compensation of the First Assistant or Chief Deputy to the Tax Assessor-Collector of said county. If deemed necessary, expedient or advisable, said Commissioners Court, by order effective thirty (30) days after the passage thereof, may fix the salaries or compensation of said First Assistant or Chief Deputy Tax Assessor-Collector in and for said counties at not less than the present minimum provided by law, and not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable as present salaries of said officers are now paid, in equal monthly installments.

Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed, with the exception that said repeal shall apply only to the counties designated by this Act, and only as to the officers affected.

[Acts 1947, 50th Leg., p. 377, ch. 211.]

Art. 3902h-2. Chief Deputy Assessor and Collector in Counties Over 150,000

Sec. 1. The assessor and collector of taxes in each county of this State having a population of one hundred and fifty thousand (150,000) inhabitants or more is authorized to appoint two chief deputies to assist him in carrying out the duties of his office.

One chief deputy shall be known as the chief deputy assessor and the other chief deputy shall be known as the chief deputy collector. Each chief deputy shall be entitled to the compensation provided by law for the chief deputy to the tax assessor and collector.

Sec. 2. This Act shall be cumulative of all other laws relating to the appointment of deputies for the tax assessor and collector in counties having a population of one hundred and fifty thousand (150,000) inhabitants or more and the method of appointing such deputies shall be governed by existing laws. [Acts 1955, 54th Leg., p. 518, ch. 154.]

Art. 3902i. Counties of 35,000 to 40,000; First Assistant or Chief Deputy to County Clerk

In all counties in this State having a population, according to the last preceding or any future Federal Census, of more than thirty-five thousand (35,000) persons and less than forty thousand (40,000) persons and an assessed property valuation, according to the latest approved tax rolls, of not less than Twenty Million Dollars (\$20,000,000) nor more than Thirty Million Dollars (\$30,000,000), the Commissioners Courts of such counties may fix the compensation of the First Assistant or Chief Deputy to the County Clerk of such county at an annual salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) to be paid in twelve (12) equal monthly installments. The salary of such officer from the effective date of this Act, for the remainder of the year 1949, shall be paid on the same ratio basis as the remainder of the year bears to the total annual salary provided herein.

[Acts 1949, 51st Leg., p. 426, ch. 227, § 1.]

Art. 3902j. Deputies, Assistants and Clerks of County or Precinct Officers; Increase of Compensation

Sec. 1. The Commissioners Court in each county of this State is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputies, assistants and clerks of any district, county or precinct officer justify the increase, to enter an order increasing the compensation of such deputy, assistant or clerk in an additional amount not to exceed thirty-five per cent (35%) of the maximum sum allowed under the law at the present time.

Sec. 2. The provisions of this Act shall be cumulative of all other laws pertaining to the compensation of deputies, assistants and clerks of any district, county or precinct officer.

[Acts 1951, 52nd Leg., p. 694, ch. 401. Amended by Acts 1957, 55th Leg., p. 364, ch. 169, § 1.]

Art. 3903. Special Deputy District Clerk

In counties of two hundred thousand inhabitants and over containing a city of over one hundred and thirty thousand inhabitants, and in which counties

there are more than one district court, including criminal district courts, the clerk of the district courts shall appoint a special deputy for each court when directed so to do by the judge of any such court. Any such special deputy shall be paid out of the general fund of the county, a salary not in excess of the maximum salary per annum provided herein for deputies, payable monthly and such compensation shall not be paid out of the fees or compensation of the district clerk, and shall not be taken into consideration in arriving at the maximum compensation and excess fees allowed the clerk of the district courts.

[Acts 1925, S.B. 84.]

Art. 3903a. Special Deputy District Clerks in Counties of More Than 355,000

That in counties of more than three hundred and fifty-five thousand (355,000) population according to the last preceding Federal Census, and in which counties there are more than one District Court, including Criminal District Courts, the Clerk of the District Court may appoint a special Deputy for each Court when directed so to do by the Judge of any such Court. Any such special Deputy shall be paid out of the General Funds of the county a salary to be fixed by the Commissioners' Court of said county not to exceed the maximum amount fixed by Article 3902 of the Revised Civil Statutes, as amended by the Acts of the Forty-third Legislature, for salaries of Deputies and/or heads of departments, other than the first assistant or chief Deputy.

[Acts 1934, 43rd Leg., 2nd C.S., p. 122, ch. 57, § 1.]

Art. 3903b. Special Deputy in Counties of More Than 132,000 and Less Than 150,000 Salary

In counties having a population of more than one hundred and thirty-two thousand (132,000), and less than one hundred and fifty thousand (150,000) inhabitants as shown by the latest United States Census, and in which counties there is more than one District Court, including a Criminal District Court, the Clerk of the District Court may appoint a special deputy for each Court when directed so to do by the Judge of any such Court. Any such special deputy shall receive a salary of One Hundred and Seventy-five Dollars (\$175) per month, to be paid out of the General Funds of the county and such compensation shall not be paid out of the fees or compensation of the District Clerk, and shall not be taken into consideration in arriving at the maximum compensation and excess fees allowed the Clerk of the District Courts.

[Acts 1935, 44th Leg., p. 740, ch. 321, § 1.]

Art. 3903c. Assistant to County Judge in Counties of 48,600 to 49,000; Salary

Sec. 1. The County Judge in all counties in Texas having a population of not less than forty-eight thousand, six hundred (48,600) nor more than forty-

nine thousand (49,000) according to the last preceding or any future Federal Census be empowered to appoint an Assistant.

Sec. 2. The salary of such Assistant shall be in an amount not to exceed Eighteen Hundred Dollars (\$1800) per annum and shall be subject to the consent and approval of the Commissioners Court of such counties.

[Acts 1939, 46th Leg., Spec.Laws, p. 750.]

Art. 3903d. Assistant to County Judge in Certain Counties Over 90,000; Secretary in Lieu of Stenographer

Sec. 1. In all counties in Texas of more than ninety thousand (90,000) population, according to the last preceding Federal Census, and in which counties the last preceding assessed tax valuation was in excess of Ninety Million (\$90,000,000.00) Dollars, and in which counties there is no County Court-at-Law, the County Judge is empowered to appoint an Assistant. The salary of such Assistant shall be in an amount not to exceed Four Thousand Two Hundred (\$4,200.00) Dollars per annum and shall be subject to the consent and approval of the Commissioners Court of such counties.

Sec. 2. The County Judge in any such county may also appoint one Secretary in lieu of the stenographer which he may now appoint as provided by law. The salary of such Secretary shall be set by the Commissioners Court of such county at an amount not to exceed Two Thousand Seven Hundred (\$2,700.00) Dollars per annum, and such Secretary shall be removable at the will of the County Judge of such county.

[Acts 1947, 50th Leg., p. 775, ch. 384.]

Art. 3903e. Seasonal Help for District Clerk; Counties of 30,400 to 31,150

Sec. 1. In all counties in this State whose population exceeds thirty thousand, four hundred (30,400) inhabitants, and does not exceed thirty-one thousand, one hundred and fifty (31,150) inhabitants, according to the preceding Federal Census, the district clerks of such counties shall be authorized to employ seasonal employees whose total compensation shall not exceed Five Hundred Dollars (\$500) per annum where such district clerks are not allowed regular full-time deputies by their respective Commissioners Court.

Sec. 2. The Commissioners Court of such county shall approve the employment of such seasonal employees and order their salaries paid out of the general funds of such counties upon written request of the district clerks to the Commissioners Court of such respective county.

Sec. 3. This Act is cumulative of all other Acts providing for the payment of salaries of deputies, assistants and employees in the offices of the district clerks of such counties, and nothing herein provided shall be construed as limiting or diminish-

ing such compensation as is now fixed by law, but it is the intention of the Legislature that a minimum of Five Hundred Dollars (\$500) per year shall be allowed such district clerks for the purpose of enabling them to employ seasonal help during rush periods.

[Acts 1949, 51st Leg., p. 446, ch. 240.]

Art. 3903f. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3904. No Fee Allowed

No clerk or justice of the peace shall be entitled to any fee for the examination of any paper or record in his office, nor for filing any process or paper issued by him and returned into court, nor for motions or judgments upon motions for security for costs, nor for taking and approving a bond for costs. A judgment containing several orders shall be considered as one judgment, and only one fee shall be charged by said clerk or justice for entering or rendering the same.

[Acts 1925, S.B. 84.]

Art. 3905. Fee for Acknowledgment

Officers authorized by law to take acknowledgment or proof of deeds or other instruments of writing shall receive the same fees for taking such acknowledgment or proof as are allowed notaries public for the same services.

[Acts 1925, S.B. 84.]

Art. 3906. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3907. Fee Book

Every officer entitled by law to charge fees for services shall keep a fee book, and shall enter therein all fees charged for services rendered, which fee book shall, at all times be subject to the inspection of any person wishing to see the amount of fees therein charged.

[Acts 1925, S.B. 84.]

Art. 3908. To Itemize Costs

None of the fees mentioned in this title shall be payable to any person whomsoever until there be produced, or ready to be produced, unto the person owing or chargeable with the same, a bill or account in writing containing the particulars of such fees, signed by the clerk or officer to whom such fees are due, or by whom the same are charged, or by the successor in office, or legal representative of such clerk or officer.

[Acts 1925, S.B. 84.]

Art. 3909. Extortion

If any officer named in this title shall demand and receive any higher fees than are prescribed to them in this title, or any fees that are not allowed by this title, such officer shall be liable to the party ag-

grieved for fourfold the fees so unlawfully demanded and received by him.

[Acts 1925, S.B. 84.]

Art. 3910. Fees Posted

County judges, clerks of the district and county courts, sheriffs, justices of the peace, constables and notaries public of the several counties shall keep posted up, at all times, in a conspicuous place in the¹ respective offices a complete list of fees allowed by law to be charged by them respectively.

[Acts 1925, S.B. 84.]

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

Art. 3911. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3912. Repealed by Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20, § 10

Art. 3912a. County Judge as Budget Officer in Counties of 300,000 to 355,000; Compensation of Officers; Preparation

Sec. 1. The County Judge of each county in which the population according to the last preceding Federal Census exceeds three hundred thousand (300,000) inhabitants and does not exceed three hundred fifty-five thousand (355,000) inhabitants, in his capacity as budget officer for the Commissioners Court in each county shall, during the month of November of each year, assisted by the County Auditor, prepare a budget to cover all proposed expenditures for the offices of the Sheriff, County Clerk, District Clerk, Tax Assessor, Tax Collector, and/or Tax Collector-Tax Assessor, Criminal District Attorney, Constables and Justices of the Peace for the year beginning the following January 1st. Such budget shall be carefully itemized and shall include the salaries and number of deputies and assistants in each of said offices, and all other expense necessary for the operation of said offices. Such budget shall provide for the amount to be paid for each office out of the fees of office and the amount to be appropriated out of the General Fund by the Commissioners Court, and such appropriations shall be within the discretion of the Commissioners Court. In the preparation of the budget for each of said offices the County Judge shall make such investigation as may be deemed necessary and shall also have authority to require any officer of the county and/or officer-elect of the county to furnish such information concerning his office as may be necessary in the preparation of such budget.

Sec. 2. Prior to the 15th day of December of each year the County Commissioners Court shall provide for a public hearing on the proposed budget, after notice in some paper of general circulation in the county. Any citizen of such county shall have the right to the present and participate in said hearing. Prior to the 20th day of December of each year the budget shall be acted upon by the Commis-

sioners Court, and the Court in entering its order shall take into consideration any and all information obtained, and may make such changes in the proposed budget as it may deem advisable for the interests of the people. When the budget for the said offices has been finally approved by the Commissioners Court the order approving same, together with a copy of the budget, shall be filed with the Clerk of the County Court, and a certified copy thereof filed in the office of the State Comptroller. The expenditures of the officers shall be in strict conformity with the budget adopted by the Commissioners Court; provided and except, however, that the Commissioners Court is authorized to make, from time to time such amendments increasing or decreasing appropriations provided for in such budget as are in the judgment of the Court necessary, and no additional expense and/or change in the expenditures may be made until after such expense and/or change has been authorized by the Court. In every case where the budget is amended by the Court the order amending same shall state fully the reasons and the necessity for such amendment; and a copy of same shall be filed with the Clerk of the County Court and attached to the budget originally adopted.

Sec. 3. The Commissioners Court in providing such budget is expressly authorized to fix the compensation for each deputy, assistant, and employee of said officers named in Section 1, regardless of the limitations and maximums now provided by any other law or laws, and to determine the number of the deputies, assistants, and employees of said officers named in Section 1, regardless of the number provided and/or required by any other law or laws.

Sec. 4. If any of the officers named in Section 1 hereof shall fail to comply with the provisions of this Act such officer shall be liable to a penalty of Twenty-five Dollars (\$25.00) for each day such officer fails to comply with each of the provisions hereof; and in case of such failure it shall be the duty of the Commissioners Court to bring suit to recover against such officer for such purpose.

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed as applied to all counties coming within the provisions of this Act.

[Acts 1933, 43rd Leg., p. 107, ch. 54.]

Art. 3912a-1. County Judge as Budget Officer in Counties of 7,050 to 7,075; Compensation

The County Judge of each county containing a population of not less than seven thousand and fifty (7,050) and not more than seven thousand and seventy-five (7,075) inhabitants, according to the last preceding Federal Census, shall receive and be paid out of the General Fund of such counties the sum of Three Hundred Dollars (\$300) per annum, payable in equal monthly installments, as compensation for his services as budget officer in such counties and said compensation herein provided shall be in addi-

tion to all salaries and/or compensations now provided by law for County Judges to receive.

[Acts 1941, 47th leg., p. 742, ch. 463, § 1.]

Art. 3912b. Unconstitutional

This article, Acts 1933, 43rd Leg., p. 128, ch. 60, § 1, reducing salaries of officers in counties of over 290,000 and less than 310,000 was held unreasonable and arbitrary in its classification and void as a special law, where it applied only to Bexar County. See *Bexar County v. Tynan*, 128 T. 223, 97 S.W.2d 467, affirming Civ.App., 69 S.W.2d 193.

The Court of Civil Appeals in *Bexar County v. Tynan*, Civ.App., 69 S.W.2d 193, held that Acts 1933, 43rd leg., p. 128, ch. 60, § 1, was repealed by an act enacted at the same session of the Legislature, namely, Acts 1933, 43rd leg., p. 734, § 9, effective Jan. 1, 1934.

Art. 3912c. Compensation of County Judge in Counties of 195,000 to 200,000; Stenographer; Salary

Sec. 1. That in all counties of the State which have a population of not less than one hundred and ninety-five thousand (195,000) and not more than two hundred thousand (200,000), according to the last preceding census of the United States, there shall be paid to the County Judge out of the General Funds of the county the sum of Three Hundred and Seventy-five Dollars (\$375.00) per month on the first day of each calendar month, which sum shall be accounted for as fees of office, and provided said compensation from all sources, including this, shall not exceed the maximum sum now or hereafter allowed by law.

Sec. 2. The Commissioners' Court of such county shall, on application to the County Judge, authorize the County Judge to employ a stenographer at a salary of from One Hundred Dollars (\$100.00) to One Hundred and Twenty-five Dollars (\$125.00) per month, and such extra help as the Commissioners' Court may deem advisable and necessary at a salary of not exceeding Thirty Dollars (\$30.00) per week, providing such extra help shall not be employed for more than one person for three (3) months in any one calendar year. The salary of such stenographer and such extra help shall be paid out of the General Funds of the county.

[Acts 1934, 43rd Leg., 3rd C.S., p. 36, ch. 20.]

Art. 3912c-1. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3912d. Compensation of Officers in Counties of 355,000 or Over

Sec. 1. In all counties having a population of three hundred fifty-five thousand (355,000) inhabitants or more according to the last preceding or any future Federal Census, the County Judge, Sheriff, County Clerk, Criminal District Attorney, District Clerk, Assessor and Collector of Taxes, Justices of the Peace and Constables thereof, shall, subject to the conditions hereinafter set out, be entitled to draw and receive such annual compensation as is allowed them under the terms of Article 3883 of the Revised Civil Statutes, as amended by Section 1 of

Chapter 220 of the Acts of the Forty-third Legislature, appearing at Page 734 of said Acts, in monthly installments in all cases in which the earnings and/or collections are sufficient for the purpose, and such of the deputies, assistants, and employees of said officials as are now or may be compensated from fees of office shall also be authorized to receive such compensation as is now or may hereafter be provided for them by law in monthly installments provided the earnings and/or collections are sufficient for the purpose, and the payment of such compensation to such officials and their deputies, assistants, and employees is hereby authorized to be made in twelve monthly installments, the same to be as nearly equal as the circumstances will permit, the same to be paid as nearly as possible on the first day of each calendar month for services rendered during the preceding month. Provided that all of the expenses which said officials are now or may hereafter be authorized by law to incur and pay in any calendar year from the fees of their respective offices, in the operation of said offices, other than the compensation allowed to such officers by said Article 3883 as amended as aforesaid, and that allowed or to be allowed by law to the deputies, assistants, and other employees of said officers, shall first be paid from and out of the fees earned and collected in cash by such officer during the calendar year in which such expense was incurred, and the balance remaining, if any, of the fees earned and collected in such calendar year, after the payment of the expenses incurred in such calendar year (exclusive of the said compensation of such officers and their deputies, assistants, and employees), shall then be applied ratably to the payment of said then earned or proportionate monthly compensation of such officers, and their deputies, assistants, and other employees. Provided that whenever the balance of current fees is insufficient to pay such officers and their said deputies, assistants, and employees one-twelfth ($\frac{1}{12}$)th of the said compensation so authorized, or to be authorized, for them annually and due for services rendered during the preceding month, then the balance of such compensation for such services may be paid from such sums, if any, as such officers may then have on hand in cash, resulting from the collection of fees earned by their respective offices in previous years and not payable to the then, or any former, holders of said offices under the terms of Article 3892 of the Revised Civil Statutes, as amended by Section 4 of Chapter 20 of the Acts of the Forty-first Legislature, Fourth Called Session, appearing at Page 30 of the Acts of said Session under the terms and conditions hereinafter set out.

Sec. 2. Nothing contained in this Act shall authorize the use of fees earned in prior years and collected in the current year when current fees collected are available and sufficient for the payment (in installments as herein provided) of the Officer's primary compensation fixed by said Article 3883, his current expenses, and the authorized salaries of deputies for the current year payable from

fees, and the right to use delinquent fees monthly for the purposes named herein shall in no wise alter the final application of such fees and their accounting as provided in Articles 3883, 3891, 3892, and 3902, all as amended by the Acts of the Forty-third Legislature, but each such officer shall, at the close of each calendar year, finally adjust and settle his accounts with the County as provided by the said articles last above referred to, it being the intention of this Act that the provision for the use of delinquent fees is intended to facilitate and expedite payment of salaries and expenses without repealing the provisions of the named statutes with respect to the use of current and/or delinquent fees collected during the calendar year.

Sec. 3. Subject to the terms and provisions hereinbefore set out, when, in any county subject to the terms and provisions of this Act, any of the officers hereinbefore mentioned and/or their predecessors in office, and/or the said deputies, assistants, or employees of such officers and those of their predecessors in office, are or shall be entitled to any wages, salaries, or compensation for services heretofore rendered, or hereafter to be rendered, which wages, salaries, or compensation have not been paid, and which are or may become due under the terms of this or any former or other law, and which said wages, salaries, or compensation are or may be represented by, or payable in whole or in part, from any warrants issued by the State Comptroller for fees and remaining unpaid by the State for a period of not less than thirty days, any of said officers in office may apply to the Commissioners' Court of his County in writing for authority to sell, at the market price prevailing therefor, so many of such warrants as shall be necessary to meet and defray such unpaid wages, salaries, or compensation, setting up in his application the amount thereof unpaid; provided that such Court shall hear such application within five (5) days from the date of the filing thereof, and at such hearing shall enter its order granting the application, if the facts are found to be as alleged and the application conforms to the requirements of this Act, and shall in such order find and declare the true market price prevailing for such warrants, whereupon such officer may sell such warrants at a price not less than that fixed in the order relating thereto, and the proceeds arising from such sale shall be deposited and accounted for as fees of office as provided by law, and said officer shall be authorized to pay off and discharge said unpaid wages, salaries, and compensation in the manner provided by law; provided further that the difference between the sale price and the face value of any warrant so sold shall never be chargeable against any such officer in any settlement with his County.

Sec. 4. The Commissioners' Courts of such counties are authorized to purchase such warrants from any such officers and to pay therefor, from any available county funds, the market price prevailing as determined by the Court, and such officer, upon

receiving from such county an amount equivalent to such market value of such warrants is authorized to indorse over and deliver such warrants to such county, provided that whenever such warrants become redeemable in cash and such county shall obtain from the State the proceeds of such redemption, such proceeds shall be paid into and shall become a part of the general fund of such county.

Sec. 5. Nothing herein contained shall be construed as repealing, or affecting the provisions of, Article 3892 of the Revised Civil Statutes of 1925, as amended by the Acts of the Forty-first Legislature, and otherwise known as Section 4 of Chapter 20 of the Acts of the Fourth Called Session of said Legislature, appearing at page 30 of said Acts, nor as increasing or diminishing the salaries now authorized by law to be paid to any such officer, his deputies, assistants, and employees, nor as repealing, altering or affecting any of the provisions of Chapter 98 of the Acts of the Regular Session of the Forty-third Legislature, otherwise known as House Bill No. 875.¹

Sec. 6. The invalidity of any part or portion of this Act shall be without effect upon or prejudice to the other and remaining portions thereof, which shall, nevertheless, be and remain valid, operative, and in full force and effect.

[Acts 1935, 44th Leg., p. 100, ch. 34.]

¹ Articles 1656a, 1656b.

Art. 3912e. Method of Compensation of District and Certain Designated County and Precinct Officers

Payment of Fees or Commissions

Sec. 1. No district officer shall be paid by the State of Texas any fees or commissions for any service performed by him; nor shall the State or any county pay to any county officer in any county containing a population of twenty thousand (20,000) inhabitants or more according to the last preceding Federal Census any fee or commission for any service by him performed as such officer; provided, however, that the assessor and collector of taxes shall continue to collect and retain for the benefit of the Officers' Salary Fund or funds hereinafter provided for, all fees and commissions which he is authorized under law to collect; and it shall be his duty to account for and to pay all such moneys received by him into the fund or funds created and provided for under the provisions of this Act; provided further, that the provisions of this Section shall not affect the payment of costs in civil cases or eminent domain proceedings by the State, but all such costs so paid shall be accounted for by the officers collecting the same, as they are required under the provisions of this Act, to account for fees, commissions and costs collected from private parties; provided further, that the provisions of this Section shall not affect the payment of fees and commissions by the State or County for services rendered by County Officers in connection with the

acquisition of rights of way for public roads or highways, and provided that such fees and commissions shall be deposited into the Officers' Salary Fund of the County by the County Officer collecting such fee.

Determination by Commissioners' Court as to Precinct Officers and Officers in Counties of Less Than 20,000

Sec. 2. The Commissioners' Court of each county in the State of Texas, at its first regular meeting in January of each calendar year, shall, by order made and entered in the minutes of said court, determine whether precinct officers of such county (except public weighers and registrars of vital statistics) shall be compensated on a salary basis as provided for in this Act, or whether they shall receive as their compensation, such fees of office as may be earned by them in the performance of the duties of their offices, and it shall be the duty of the county clerk of each county to forward to the Comptroller of Public Accounts of the State of Texas on or before the 31st day of January a certified copy of such order. In counties having a population of less than twenty thousand (20,000) inhabitants according to the last preceding Federal Census, it shall likewise be the duty of the Commissioners' Court, by its order duly made and entered of record at its first regular meeting in January of each calendar year, to determine whether county officers of such county (excluding county surveyors, registrars of vital statistics and notaries public) shall be compensated for the fiscal year on the basis of an annual salary or whether they shall be compensated on the basis of fees earned by them in the performance of their official duties, and it shall also be the duty of the county clerk to forward to the Comptroller of Public Accounts of the State of Texas, on or before the 31st day of January, a certified copy of said order of said Commissioners' Court.

Additional Fees of Precinct Officers

Sec. 2a. In all counties of this State containing a population of less than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, wherein the precinct officers are compensated on a salary basis under the provisions of this Act, such precinct officers shall receive, in addition to the salary fixed by the Commissioners Court, all fees, commissions, or payments for performing marriage ceremonies and for acting as registrar for the Board of Vital Statistics, and for acting as ex-officio notary public.

Payment of Salaries in Lieu of Fees

Sec. 3. In all cases where the Commissioners Court shall have determined that county officers or precinct officers in such county shall be compensated for their services by the payment of an annual salary, neither the State of Texas nor any county shall be charged with or pay to any of the officers so compensated, any fee or commission for the performance of any or all of the duties of their offices but such officers shall receive said salary in

lieu of all other fees, commissions or compensation which they would otherwise be authorized to retain; provided, however, that the assessor and collector of taxes shall continue to collect and retain for the benefit of the Officers' Salary Fund or funds herein-after provided for all fees and commissions which he is authorized under law to collect; and it shall be his duty to account for and to pay all such moneys received by him into the fund created and provided for under the provisions of this Act; provided further, that the provisions of this Section shall not affect the payment of costs in civil cases or eminent domain proceedings by the State but all costs so paid shall be accounted for by the officers collecting the same, as they are required under the provisions of this Act to account for fees, commissions and costs collected from private parties, providing further that the provisions of this Section shall not affect the payment of fees and commissions by the State or County for services rendered by County Officers in connection with the acquisition of rights of way for public roads or highways, and provided that such fees and commissions shall be deposited into the Officers' Salary Fund of the County by the County Officer collecting such fee.

Officers' Salary Fund in Counties of Less Than 190,000

Sec. 4. In all counties of this State containing a population of less than one hundred and ninety thousand (190,000) inhabitants according to the last preceding Federal Census wherein the county or precinct officers are compensated on a salary basis under the provisions of this Act, there shall be created a fund to be known as the "Officers' Salary Fund of _____ County, Texas." Such fund shall be kept separate and apart from all other county funds, and shall be held and disbursed for the purpose of paying the salaries of officers and the salaries of deputies, assistants and clerks of officers who are drawing a salary from said fund under the provisions of this Act, and to pay the authorized expenses of their offices. Such fund shall be deposited in the county depository and shall be protected to the same extent as other county funds. The Commissioners Court of the county, at its first regular meeting in January of each year, may determine by order made and entered in the minutes of the court that all fees, costs, compensation, salaries, expenses, and other funds which would otherwise be deposited in the Officers' Salary Fund shall be paid into and drawn from the general fund of the county. In a county where the Commissioners Court has entered an order to that effect, any reference in this Act to a salary fund shall be construed to mean the general fund of the county.

Fees Collected Deposited in Officers' Salary Fund

Sec. 5. It shall be the duty of all officers to charge and collect in the manner authorized by law all fees and commissions which are permitted by law to be assessed and collected for all official service performed by them. As and when such fees are collected they shall be deposited in the Officers'

Salary Fund, or funds provided in this Act. In event the Commissioners' Court finds that the failure to collect any fee or commission was due to neglect on the part of the officer charged with the responsibility of collecting same, the amount of such fee or commission shall be deducted from the salary of such officer. Before any such deduction is made, the Commissioners' Court shall furnish such officer with an itemized statement of the uncollected fees with which his account is to be charged, and shall notify such officer of the time and place for a hearing on same, to determine whether such officer was guilty of negligence, which time for hearing shall be at least ten days subsequent to the date of notice. Unless an officer is charged by law with the responsibility of collecting fees, the Commissioners' Court shall not in any event make any deductions from the authorized salary of such officer.

Apportionment of Appropriations

Sec. 6. (a) In counties wherein the county officials are on a salary basis, in addition to the monies deposited in said Officers' Salary Fund or funds under the provisions of Sections 1, 3 and 5 of this Act there shall be deposited therein quarterly on the first day of January, April, July and October of each year, such sums as may be apportioned to such county under the provisions of this Act, out of the available appropriations made by the Legislature for such purposes, provided, however, that in counties wherein the Commissioners' Court is authorized to determine whether county officers shall be compensated on a salary basis, no apportionment shall be made to such county until the Comptroller of Public Accounts shall have been notified of the order of the Commissioners' Court that the county officers of such county shall be compensated on a salary basis for the fiscal year, and in that case the first quarterly payment of such apportionment shall be made in fifteen (15) days after the receipt of such notice by the Comptroller, and the remaining payments on the dates hereinabove prescribed. It shall be the duty of the Comptroller of Public Accounts to annually apportion to all counties in which the county officers are to be compensated on the basis of a salary any monies, appropriated for said year for such apportionment; each county entitled to participate in such apportionment shall receive for the benefit of its Officers' Salary Fund or funds its proportionate part of the appropriation which shall be distributed among the several counties entitled to participate therein, on the basis of the per capita population of each county according to the last preceding Federal Census; provided that the annual apportionment for such purposes shall not exceed fourteen (14¢) cents per capita of said population of each county where county officers are compensated on a salary basis under the provisions of this Act. Provided that in all counties which had a population of less than sixty thousand (60,000) inhabitants in 1930 according to the last preceding Federal Census and which now have ad valorem valuations for all

purposes according to the last approved tax roll of such county, which have increased at least fifty (50) per cent over the valuation for 1930, the amount to be paid to each of said counties for its salary fund shall be the sum not to exceed twenty-five (25¢) cents per capita based on the 1930 population. The quarterly payment of such apportionment of such appropriation shall be made on warrants drawn by the State Comptroller upon the State Treasury payable to the county treasurer of the county in whose favor the apportionment is made and said warrants shall be registered by the Comptroller and the Treasurer and shall be mailed by the Comptroller to the Treasurer of the county.

(b) No officer receiving a salary shall hereafter receive any ex officio compensation; provided, however, the Commissioners' Court shall transfer from the General Fund of the county to the Officers' Salary Fund or funds of such county such funds as may be necessary to pay the salaries and other claims chargeable against the same when the monies deposited therein are insufficient to meet the claims payable therefrom.

(c) Any monies remaining in the Officers' Salary Fund or funds of any county at the end of any fiscal year after all salaries and authorized expenses incurred against said fund for said year shall have been paid may be, by order of the Commissioners' Court, transferred to the credit of the General Fund of the county.

Warrants on Officers' Salary Fund

Sec. 7. All monies drawn from said Officers' Salary Fund or funds shall be paid out only on warrants approved by the county auditor in counties having a county auditor; otherwise all claims against said fund shall first have been audited and approved by the Commissioners' Court of said county and the monies shall be disbursed on such approved claims by warrants drawn by the county treasurer on said fund.

No warrant shall be drawn on said fund or funds in favor of any person indebted to the State, county or to said fund or in favor of his agent or assignee until such debt is paid.

Secs. 8 to 12. [Amends arts. 3896 to 3899, 3901].

Commissioners' Court to Fix Salaries of Certain Officers; Increase

Sec. 13. The Commissioners' Court in counties having a population of twenty thousand (20,000) inhabitants or more, and less than one hundred and ninety thousand (190,000) inhabitants according to the last preceding Federal Census, is hereby authorized and it shall be its duty to fix the salaries of all the following named officers, to-wit: sheriff, assessor and collector of taxes, county judge, county attorney, including criminal district attorneys and county attorneys who perform the duties of district attorneys, district clerk, county clerk, treasurer, hide and animal inspector. Each of said officers

shall be paid in money an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year 1935, and not more than the maximum amount allowed such officer under laws existing on August 24, 1935; provided that in counties having a population of twenty thousand (20,000) and less than thirty-seven thousand five hundred (37,500) according to the last preceding Federal Census, and having an assessed valuation in excess of Fifteen Million (\$15,000,000.00) Dollars, according to the last approved preceding tax roll of such county the maximum amount allowed such officers as salaries may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation or fractional part thereof, in excess of said Fifteen Million (\$15,000,000.00) Dollars valuation over and above the maximum amount allowed such officers under laws existing on August 24, 1935; and provided that in counties having a population of thirty-seven thousand five hundred (37,500) and less than sixty thousand (60,000) according to the last preceding Federal Census, and having an assessed valuation in excess of Twenty Million (\$20,000,000.00) Dollars, according to the last preceding approved tax roll of such county, the maximum amount allowed such officers as salaries, may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation or fractional part thereof, in excess of said Twenty Million (\$20,000,000.00) Dollars valuation over and above the maximum amount allowed such officer under laws existing on August 24, 1935.

(a) The Commissioners Court may authorize the employment of a stenographer by the county judge and pay for such services out of the General Fund of the county to an amount not to exceed Fifteen Hundred Dollars (\$1500) per year.

(b) In those counties wherein the county officials are on a salary basis and in which counties there is a criminal district attorney or a county attorney performing the duties of a district attorney, there shall be deposited in the officers salary fund on the first day of September, January and May of each year, such sums as may be apportioned to such county under the provisions of this Act out of the available appropriations, made by the Legislature for such purposes; provided, however, that in counties wherein the Commissioners Court is authorized to determine whether county officers shall be compensated on a salary basis, no apportionment shall be made to such county until the Comptroller of Public Accounts shall have been notified of the order of the Commissioners Court that the county officers of such county shall be compensated on a salary basis for the fiscal year. It shall be the duty of the Comptroller of Public Accounts to annually apportion to such counties any monies appropriated for said year for such apportionment; each such county entitled to participate in such apportionment shall receive for the benefit of its officers salary fund or funds its proportionate part of the appropria-

tion which shall be distributed among the several counties entitled to participate therein, on the basis of the per capita population of each such county according to the last preceding Federal Census; provided the annual apportionment for such purposes shall be determined as follows: the apportionment shall not exceed Ten Cents (10¢) per capita of said population in those counties under eighty five hundred (8500) inhabitants; the apportionment shall not exceed Seven and One-half Cents (7½¢) per capita of said population in those counties having a population of not less than eighty five hundred (8500) and not more than nineteen thousand (19,000) inhabitants; the apportionment shall not exceed Five Cents (5¢) per capita of said population in those counties having a population of not less than nineteen thousand and one (19,001) and not more than seventy five thousand (75,000) inhabitants and the apportionment shall not exceed Four Cents (4¢) per capita in those counties having a population of over seventy five thousand (75,000) inhabitants. Provided the provisions of this Act shall also apply to Harris County for the constitutional office of the District Attorney for the Criminal District Court of Harris County at not to exceed Four Cents (4¢) per capita. The Comptroller shall, at the option of the criminal district attorney, pay directly to the criminal district attorney in all counties with a population in excess of six hundred thousand (600,000) inhabitants according to the last preceding Federal Census a sum equal to the sum authorized in the general appropriations bill for district attorneys. Such sum shall be paid in twelve (12) equal installments on the first day of each month. Any such sums so paid shall be deducted from any sum due to said county under the provisions of this Act. In no event shall the total salary and allowances of the criminal district attorney of any such county from all sources be less than the salary of such criminal district attorney paid by said county on the effective date of this Act.

(c) The Commissioners Courts of the respective counties of Texas having a population of more than forty-six thousand, one hundred (46,100) and less than forty-six thousand, two hundred (46,200), according to the last preceding Federal Census, are hereby authorized to fix the salary of the County Treasurer of their particular county at any sum not less than Fifty Dollars (\$50) per month. In the determination of such salary the Court will consider the fees received by such office during the preceding fiscal year, the expenses of that office during the same period, and the relative duties incumbent on such officer; and shall in their discretion affix to such office such compensation as they deem just and necessary for the services rendered, within the limits hereinbefore provided.

(d) The Commissioners Courts of the respective counties of Texas having a population of more than ninety thousand (90,000), and less than one hundred and twelve thousand (112,000), according to the last preceding Federal Census, are hereby authorized to

fix the salary of the County Treasurer of the particular county at a sum not less than Six Hundred Dollars (\$600) per year, nor more than Thirty-six Hundred Dollars (\$3600) per year.

(e) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars.

Sec. 14. [Amends art. 3902].

Commissioners' Court to Fix Salaries of County and Precinct Officers in Counties of Less Than 20,000; Increase

Sec. 15. The Commissioners' Court in counties having a population of less than twenty thousand (20,000) inhabitants, according to the last preceding Federal Census at the first regular meeting in January of each calendar year, may pass an order providing for compensation of all county and precinct officers on a salary basis. The Commissioners' Court in each of such counties is hereby authorized, and it shall be its duty, to fix the salaries of Criminal District Attorneys. In the event such Court passes such order they shall pay to each of said District and County officers in money an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by said officer in his said official capacity for the fiscal year of 1935 and not more than the maximum allowed such officer under laws existing August 24th, 1935, and not more than the maximum amount allowed such officer under laws existing August 24, 1935¹; provided, that in counties having a population of less than twenty thousand (20,000) inhabitants, according to the last preceding Federal Census, and having an assessed valuation in excess of Ten Million (\$10,000,000.00) Dollars according to the last preceding approved tax roll of such county the maximum amount allowed such officers as salaries may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation, or fractional part thereof, in excess of said Ten Million (\$10,000,000.00) Dollars valuation over and above the maximum amount allowed such officers under laws existing on August 24, 1935; provided however, no salaries covered by this Section shall exceed the sum of Four Thousand Five Hundred (\$4,500.00) Dollars regardless of the percentage of increase in population and valuation and provided further that in all counties having a population of not less than twenty thousand and one (20,001) and not more than twenty-five thousand (25,000), according to the last preceding Federal Census, and which has an assessed valuation in excess of Twenty-five Million (\$25,000,000.00) Dollars according to the last preced-

ing approved tax roll of such counties, the county judge, sheriff, county attorney, assessor and collector of taxes, county clerk and district clerk, the maximum salary is hereby fixed at Three Thousand Seven Hundred and Fifty (\$3,750.00) Dollars.

(a) Repealed. Acts 1963, 58th Leg., p. 586, ch. 210, § 2.

(b) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars.

¹ Duplication of words "and not more than the maximum allowed such officer under laws existing August 24, 1935" appears in enrolled bill.

County Judge's Salary in Counties of 24,500 to 24,700

Sec. 15a. Provided further that in all counties having a population of not less than twenty-four thousand, five hundred (24,500) and not more than twenty-four thousand, seven hundred (24,700), according to the last preceding Federal Census, and which have an assessed valuation of not less than Twenty Million Dollars (\$20,000,000), according to the last preceding approved tax rolls in such counties, the county judge's salary is hereby fixed at Three Thousand, Four Hundred and Twenty Dollars (\$3,420).

Fees Continued Until Otherwise Determined in Counties Between 15,140 and 15,160 Population; Additional Allowance

Sec. 16. In counties having a population of not less than fifteen thousand one hundred and forty (15,140) and not more than fifteen thousand one hundred and sixty (15,160) inhabitants according to the last preceding Federal Census, all county officers shall continue to be compensated for their services on a fee basis until the Commissioners' Court shall have determined otherwise, in accordance with the provisions of Section 2 of this Act. Provided that in counties having a population of not less than fifteen thousand one hundred and forty (15,140) and not more than fifteen thousand one hundred and sixty (15,160) inhabitants according to the last preceding Federal Census heads of departments may be allowed by the Commissioners' Court, when such allowance is justified, the sum of Two Hundred (\$200.00) Dollars per annum in addition to the regular salary when such heads of departments so to be appointed shall have previously served the county or political subdivision thereof for not less than two continuous years.

Precinct Officers' Fees Continued, Salary Basis

Sec. 17. (a) The term "Precinct Officers" as used in this Act means justices of the peace and constables.

In all counties in this State such precinct officers shall continue to be compensated for their services on a fee basis until the Commissioners' Court shall have determined otherwise in accordance with the provisions of Section 2 of this Act.

In counties wherein the Commissioners' Court shall have determined that precinct officers shall be compensated on an annual salary basis, but wherein they have determined that county officers shall not be so compensated, the Officers' Salary Fund of said county shall be composed and made up of fees, commissions and other compensation collected by the precinct officers of such county and deposited in said fund, and such funds as may be transferred to said fund by the Commissioners' Court of the county.

(b) In counties where it shall have been determined that precinct officers shall be compensated on an annual salary basis it shall be the duty of the Commissioners Court of such county to fix the salary allowed to such officers. Each of said officers shall be paid in money an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year 1935, and not more than the maximum amount, plus twenty-five per cent (25%) thereof, allowed such officer under laws existing August 24, 1935.

In counties in which precinct officers are paid in salary as compensation for their services, such officers desiring to appoint one or more deputies or assistants shall make application to the Commissioners Court for authority to appoint such deputy or deputies, in the manner and form prescribed for applications for deputy county officers by Article 3902, Revised Civil Statutes 1925, as amended within the provisions of this Act; the Commissioners Court shall not authorize the appointment of any deputy constable at a salary exceeding Fifteen Hundred Dollars (\$1500) per year. The salaries of deputies authorized to be appointed under the provisions of this Section shall be paid out of the Officers' Salary Fund.

In counties wherein the county officers named in this Act are compensated on the basis of an annual salary, the State of Texas shall not be charged with, and shall not pay any fee or commission to any precinct officer for any services by him performed, but said officer shall be paid by the County out of the Officers' Salary Fund such fees and commissions as would otherwise be paid him by the State for such services.

(b) 1. Provided however the provisions of this Act shall not apply to Counties having a population of over one hundred and fifty thousand (150,000)

inhabitants according to the last preceding Federal or Special Census.

(b) 2. Provided however that no provision of this Act shall apply to Counties having a population of less than seventy-five thousand (75,000) according to the last Federal or Special Census.

Salary of Criminal District Attorney

Sec. 18. (a) Each criminal district attorney in this State serving a district comprising two or more counties, the population of which district exceeds one hundred and fifty thousand (150,000) inhabitants, according to the last preceding Federal Census, shall receive an annual salary of Four Thousand Five Hundred (\$4,500.00) Dollars, to be paid in twelve (12) equal monthly installments, upon warrants drawn by the Comptroller of Public Accounts upon the State Treasury; provided nothing in this Section shall be construed as repealing any existing laws providing for assistants for said criminal district attorney.

(b) Such criminal district attorneys shall be allowed a sum not to exceed Five Hundred (\$500.00) Dollars per annum for the necessary expenses of such office, said sum to be paid only upon the itemized sworn statement of such officer showing the necessity therefor and approved by the state auditor.

Provision Applicable to Counties in Excess of 190,000

Sec. 19. Provisions of this Section shall apply to and control in each county in the State of Texas having a population in excess of one hundred and ninety (190,000) thousand inhabitants, according to the last preceding Federal Census.

(a) The Commissioners' Court of each such county, at its first regular meeting in January of each calendar year, shall determine by order made and entered in the minutes of said court, whether the precinct officers of such county shall be compensated on a salary basis as provided for in this Section, or whether they shall receive as their compensation such fees of office as may be earned and collected by them in the performance of the duties of their offices, subject to the limitations hereinafter provided; and it shall be the duty of the county clerk of each such county to forward to the Comptroller of Public Accounts of the State of Texas, on or before the 31st day of January, a certified copy of such order.

(b) Where the Commissioners' Court shall have determined that precinct officers in such county shall be compensated for their services by the payment of an annual salary, such officers shall receive said salary in lieu of all other fees, commissions or compensation which they would otherwise be authorized to retain; provided that the provisions of this subsection shall not affect the payment of costs in civil cases by the State but all such costs so paid shall be accounted for by the officers collecting the same, as they are required under the provisions of

this Section to account for fees, commissions, and costs collected from private parties.

(c) The term "Precinct Officers" as used in this section means Justices of the Peace and Constables.

Such Precinct Officers shall continue to be compensated for their services on a fee basis until the Commissioners' Court shall have determined otherwise in accordance with the provisions of this section.

The annual fees that may be retained by any such Precinct Officer shall be Four Thousand (\$4,000.00) Dollars each; provided that in counties having a population in excess of 355,000 inhabitants, according to the last preceding or any future Federal Census, such Precinct Officers may retain not to exceed Four Thousand, Five Hundred (\$4,500.00) Dollars each.

All fees and commissions earned by such official shall be applied first to the payment of his Deputies, authorized expenses of his office, and to make up the maximum provided for such officers.

All fees and commissions over and above the amount necessary to pay authorized expenses and Deputies' salaries, and to make up the maximum compensation above provided for, shall be deemed excess fees, and all excess fees not permitted to be retained shall be paid into the General Fund of the county.

Delinquent fees may be used to defray the salaries of Deputies if current fees are insufficient for that purpose; and may be used also to make up the maximum compensation, exclusive of excess fees, allowed to such officers for the fiscal year within which such fees were earned. Delinquent fees collected in excess of the amount above provided for shall be paid by the Officer collecting the same into the General Fund of the county.

Precinct Officers, as defined in this section, shall be compensated after an order duly enacted by the Commissioners' Court as herein provided, on an annual salary basis from said Officer's Salary Fund; such salaries shall be fixed by the Commissioners' Court at a reasonable sum not to exceed Four Thousand (\$4,000.00) Dollars each; provided that in counties having a population in excess of 355,000 inhabitants, according to the last preceding or any future Federal Census, such salaries shall be fixed by the Commissioners' Court at a reasonable sum not to exceed Four Thousand, Five Hundred (\$4,500.00) Dollars each; provided further that in such counties in which the Commissioners' Court determines to place Justices of the Peace and Constables on a salary basis, said Commissioners' Court shall not be required to place said salaries in all precincts within the county at equal amounts, but said Commissioners' Court shall have discretion to determine the amount of salary to be paid to each of said Justices of the Peace and to each of said Constables in the several precincts in said counties within the limitations hereinabove set out. In coun-

ties where the Commissioners' Court determine to place the Justices of the Peace on a salary basis the Justice of the Peace shall receive in addition thereto all fees, commissions, or payments for performing marriage ceremonies and for acting as Registrar for the Board of Vital Statistics and when acting as Ex-officio Notary Public.

(d) The County Judge, Sheriff, District Attorney or Criminal District Attorney, as the case may be, District Clerk, County Clerk, and Assessor and Collector of taxes shall receive a salary of Six Thousand, Five Hundred (\$6,500.00) Dollars per annum from the Officer's Salary Fund herein provided for; provided that in counties having a population of more than 355,000 inhabitants, according to the last preceding or any future Federal Census, the said officers shall receive a salary of Seven Thousand, Four Hundred (\$7,400.00) Dollars per annum from the said Officer's Salary Fund. The compensation herein fixed for the Sheriff or Constable shall be exclusive of any reward received for the apprehension of criminal fugitives from justice and rewards received for the recovery of stolen property. The County Commissioners in counties having a population in excess of 355,000 inhabitants, according to the last preceding or any future Federal Census, shall each receive a salary of Four Thousand, Eight Hundred (\$4,800.00) Dollars per annum, and said salaries shall be paid in equal monthly installments, three-fourths ($\frac{3}{4}$) out of the Road and Bridge Fund and one-fourth ($\frac{1}{4}$) out of the General Fund of the county. The Judge of the County Court at Law of Harris County, Texas and the Judge of the County Court at Law No. 2 of Harris County, Texas each shall receive a salary of Six Thousand (\$6,000.00) Dollars per annum to be paid out of the County Treasury by the Commissioners' Court in equal monthly installments.

(e) The Commissioners' Court of each county shall determine annually the salary to be paid to the County Treasurer at a reasonable sum not to exceed Three Thousand, Six Hundred (\$3,600.00) Dollars per annum; provided that in counties having a population in excess of 355,000 inhabitants, according to the last preceding or any future Federal Census, the salary to be paid to the County Treasurer shall not exceed Three Thousand, Nine Hundred (\$3,900.00) Dollars per annum. Said Treasurer shall be allowed to appoint one Assistant at a reasonable salary not to exceed One Thousand, Eight Hundred (\$1,800.00) Dollars per annum; and said Court may allow one additional Assistant upon adequate proof of necessity at a reasonable salary not to exceed One Thousand, Five Hundred (\$1,500.00) Dollars per annum. Said Assistants shall be appointed by the Treasurer and shall take the usual oath of office and, in addition thereto, shall give such surety bond as may be required by the County Treasurer or by the Commissioners' Court. Said Assistants shall have authority to do and perform in the name of the Treasurer such acts of a clerical or ministerial character as may be required of them by the County

Treasurer. The County Treasurer may designate, subject to the approval of the Commissioners' Court, a named person to act for him and in his stead when he shall be absent, unavoidably detained or incapacitated. The particulars justifying such appointment shall be placed before the Commissioners' Court and such Court may require any proof in connection therewith desired. Upon approval of the Court of the appointment of the person so designated, and the recording of such appointment in the minutes of the Court, thereupon such person may act for such Treasurer during such period of absence, detention or incapacity; provided, however, that such appointment shall not become effective until such named person shall have given a surety bond in favor of the county and the County Treasurer as their interests may appear and in such amounts as the Commissioners' Court may require.

(f) The district attorney or criminal district attorney shall be authorized to appoint nine (9) assistants and fix their salaries at a rate not to exceed the following amounts: two (2) of said assistants, Four Thousand, Five Hundred Dollars (\$4,500) per annum each; two (2) of said assistants, Four Thousand, Two Hundred Dollars (\$4,200) per annum each; one (1) of said assistants, Three Thousand, Six Hundred Dollars (\$3,600) per annum; one (1) of said assistants, Three Thousand Dollars (\$3,000) per annum; and three (3) of said assistants, Two Thousand, Seven Hundred Dollars (\$2,700) per annum each. He may employ three (3) investigators and fix their salaries at not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum each. He may employ two (2) court reporters and fix their salaries at not to exceed Two Thousand, Two Hundred and Eighty Dollars (\$2,280) per annum each. He may employ one (1) combination stenographer and accountant and fix his salary at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum. He may employ one (1) stenographer and fix his salary at not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum. He may employ one (1) chief civil clerk and fix his salary at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum. He may employ two (2) abstracters and fix their salaries as follows: one (1) of said abstracters at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum, and the other abstracter at not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum. All such salaries above mentioned shall be payable from the Officers Salary Fund, if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the county to the Officers Salary Fund.

In all counties in this State containing a population of not less than two hundred and ninety thousand (290,000) nor more than three hundred and twenty thousand (320,000) inhabitants, according to the last preceding Federal Census, the district attorney or criminal district attorney shall be authorized to employ two (2) court reporters and fix their

salaries as follows: one (1) of said court reporters at a salary not to exceed Three Thousand Dollars (\$3,000) per annum, and one (1) of said court reporters at a salary not to exceed Two Thousand, Seven Hundred Dollars (\$2,700) per annum.

Should a district or criminal district attorney be of the opinion that the number of assistants, stenographers, investigators, or other employees above provided for is not adequate for the proper investigation and prosecution of crime, and the efficient performance of the duties of his office, with the advice and consent of the Commissioners Court he may appoint additional assistants and employees as hereinafter limited and fix their salaries as follows: one (1) additional assistant to receive a salary not to exceed Four Thousand, Two Hundred and Fifty Dollars (\$4,250) per annum; one (1) additional assistant or employee to receive a salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum; one (1) additional assistant to receive a salary not to exceed Three Thousand Dollars (\$3,000) per annum; and two (2) additional assistants to receive a salary not to exceed Two Thousand, Seven Hundred Dollars (\$2,700) per annum each. He may employ one (1) additional court reporter and fix his salary at a rate not to exceed Two Thousand, One Hundred and Sixty Dollars (\$2,160) per annum. He may employ one (1) stenographer and fix his salary at a rate not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. He may employ one (1) civil clerk and fix his salary at a rate not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. He may employ one (1) information clerk and fix his salary at a rate not to exceed Nine Hundred Dollars (\$900) per annum, but such additional assistants or employees so appointed, before qualifying and entering upon the duties of such office and employment, shall be approved as to number and salaries by the Commissioners Court of the county in which such appointments are made, these salaries being payable from the Officers Salary Fund, if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the county to the Officers Salary Fund. In addition to the salary herein provided for investigators for district attorneys and criminal district attorneys, each of such investigators shall be allowed a sum not to exceed Fifty Dollars (\$50) per month for repair and maintenance expense of an automobile used by said investigator in the investigation of crime, said allowances to be paid monthly by such county by warrant drawn upon said Officers Salary Fund upon the written claim of such investigator showing that said automobile was in official use, and such claim shall bear the approval of the district attorney before being paid.

(f-1) The District Attorney or Criminal District Attorney in any county having a population of not less than three hundred twenty-five thousand (325,000) nor more than five hundred thousand (500,000) inhabitants, according to the last preceding or any

future Federal Census, shall be authorized to appoint fourteen (14) assistants and fix their salaries at a rate not to exceed the following amount: Two (2) of said assistants, Five Thousand One Hundred Seventy-five (\$5,175.00) Dollars per annum each; one (1) of said assistants, Four Thousand Eight Hundred Eighty Seven (\$4,887.00) Dollars per annum; two (2) of said assistants, Four Thousand Eight Hundred Thirty (\$4,830.00) Dollars per annum each; two (2) of said assistants, Four Thousand One Hundred Forty (\$4,140.00) Dollars per annum each; two (2) of said assistants, Three Thousand Four Hundred Fifty (\$3,450.00) Dollars per annum each; and five (5) of said assistants, Three Thousand One Hundred Five (\$3,105.00) Dollars per annum each. He may employ one additional assistant or employee at a salary not to exceed Two Thousand Seven Hundred Sixty (\$2,760.00) Dollars per annum. He may employ two (2) Court Reporters and fix their salaries as follows: one (1) of said Court Reporters at a salary not to exceed Four Thousand One Hundred Forty (\$4,140.00) Dollars per annum, and one (1) of said Court Reporters at a salary not to exceed Three Thousand Four Hundred Fifty (\$3,450.00) Dollars per annum. He may employ three (3) investigators and fix their salaries not to exceed Two Thousand Seven Hundred Sixty (\$2,760.00) Dollars per annum each. He may employ one (1) chief civil clerk and fix the salary not to exceed Two Thousand Four Hundred Fifteen (\$2,415.00) Dollars per annum. He may employ one (1) combination stenographer and accountant and fix the salary not to exceed Two Thousand Four Hundred Fifteen (\$2,415.00) Dollars per annum. He may employ two (2) abstractors and fix their salaries not to exceed Two Thousand Four Hundred Fifteen (\$2,415.00) Dollars per annum each. He may employ two (2) stenographers and fix their salaries not to exceed Two Thousand Seventy (\$2,070.00) Dollars per annum each. He may employ one (1) stenographer at a salary not to exceed One Thousand Seven Hundred Twenty-five (\$1,725.00) Dollars per annum. He may employ one (1) information clerk at a salary not to exceed One Thousand Seven Hundred Twenty-five (\$1,725.00) Dollars per annum. All of such salaries above mentioned shall be payable from the Officers' Salary Fund, if adequate. If inadequate, the Commissioners Court shall transfer necessary funds from the General Fund of the County to the Officers' Salary Fund. In addition to the salaries herein provided for investigators for District Attorneys and Criminal District Attorneys, each of such investigators shall be allowed a sum not to exceed Fifty (\$50.00) Dollars per month for repair and maintenance expense of an automobile used by said investigator in the investigation of crime, said allowance to be paid monthly by such county by warrant drawn upon said Officers' Salary Fund upon the written claim of such investigator, showing that said automobile was in official use; and such claim shall bear the approval of the District Attorney or Criminal District Attorney before being paid.

Should a District Attorney or Criminal District Attorney in any county having a population of not less than three hundred twenty-five thousand (325,000) nor more than five hundred thousand (500,000) inhabitants, according to the last preceding or any future Federal Census, be of the opinion that the number of assistants, stenographers, investigators or other employees above provided for is not adequate for the proper investigation and prosecution of crime and the efficient performance of the duties of his office, with the advice and approval of the Commissioners Court he may appoint such additional assistants or employees as the Commissioners Court may allow and fix their salaries in such amounts as the Commissioners Court may provide. All such salaries may be paid either from the Jury Fund or from the Officers' Salary Fund, if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the county to such Officers' Salary Funds.

(g) In addition to other sums provided in this section, the district attorney or criminal district attorney may be allowed by order of the Commissioners' Court of his county such amount as said court may deem necessary to pay for, or aid in, the proper administration of the duties of such office, not to exceed Two Thousand Five Hundred (\$2,500.00) Dollars in any one calendar year; provided, that such amounts as may be allowed shall be allowed upon written application of such district attorney or criminal district attorney showing the necessity therefor, and provided further that said Commissioners' Court may require any other evidence that it may deem necessary to show the necessity for any such expenditures, and that its judgment in allowing or refusing to allow the same shall be final. No payment therefor shall be made except upon an itemized sworn statement of such expenses filed in the manner provided in this section for other expenses.

(h) Whenever any district or county officer, or precinct officer when such officer is compensated on a salary basis, with the exception of district attorneys and criminal district attorneys, shall require the services of deputies, assistants, and employees in the performance of his duties he shall apply to the Commissioners' Court for authority to appoint such deputies, assistants, and employees, stating by sworn application the number needed, the position to be filled, the duties to be performed, and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions, and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expenses of said office; and said court shall make its order authorizing the appointment of such deputies, assistants, and clerks and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said court may be proper; provided that in no case shall the Com-

missioners' Court or any member thereof attempt to influence the appointment of any person as deputy, assistant, or clerk in any office. Upon the entry of such order the officers applying for such deputies, assistants, and employees shall be authorized to appoint them; provided that said compensation shall not exceed the maximum amount hereinafter set out. The maximum compensation which may be allowed to the deputies, assistants, or clerks above named for their services shall be as follows:

First Assistant or Chief Deputy not to exceed Three Thousand Six Hundred (\$3,600.00) Dollars per annum; one assistant or deputy not to exceed Three Thousand (\$3,000.00) Dollars per annum; other assistants, deputies, and employees not to exceed Two Thousand Four Hundred (\$2,400.00) Dollars per annum each; provided that bailiffs serving criminal district courts shall be paid not less than One Hundred and Seventy-five (\$175.00) Dollars per month each; provided further that chief clerks or chief deputies in county and district offices shall receive not less than Three Thousand (\$3,000.00) Dollars per annum each and heads of departments in county or district offices shall receive not less than Twenty-five Hundred (\$2,500.00) Dollars per annum each. No payment shall be made to any deputy, assistant or employee for any service performed prior to the authorization of his appointment and until he shall have subscribed to the constitutional oath of office and such appointment and oath have been filed with the county clerk for record. The amounts allowed to be paid to deputies, assistants and employees shall be paid after rendition of service out of said Officers' Salary Fund as provided for in this Act.

Provided, that in counties having a population of three hundred and fifty-five thousand (355,000) or more, according to the last preceding Federal Census, whenever any district or county officer, or precinct officer when such precinct officer is compensated on a salary basis, with the exception of district attorneys and criminal district attorneys, shall require the services of deputies, assistants, and employees, in the performance of his duties, he shall apply in writing to the Commissioners Court of his county for authority to appoint such deputies, assistants, and employees, such written application to be sworn to and to set forth the number needed, the positions to be filled, the duties to be performed, and the amount of compensation to be paid. Each such application shall be accompanied by a statement showing the probable receipts from fees, commissions, and compensation to be collected by the office of the officer so applying during the fiscal year and the probable disbursements to be made by such office during such fiscal year, which shall include all salaries and expenses of such office, and said Court shall make its order authorizing the appointment of such deputies, assistants, and employees, and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed, as in the discretion of said Court may seem proper; provided that

in no case shall the Commissioners Court, or any member thereof, attempt to influence the appointment of any person as a deputy, assistant, or employee in any office. Upon the entry of such order the officer applying for such deputies, assistants, and employees, shall be authorized to appoint them, provided that the compensation to be paid them shall not exceed the maximum amount hereinafter set out. The maximum compensation which may be allowed to the deputies, assistants, and employees of the officers hereby affected for their services shall be as follows:

First Assistant or Chief Deputy not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum, one Assistant Chief Deputy not to exceed Three Thousand Dollars (\$3,000) per annum; other assistants, deputies, and employees not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum each; provided further that the First Assistant or Chief Deputy in county and district offices affected hereby shall receive not less than Three Thousand Dollars (\$3,000) per annum; provided further that heads of departments may each be allowed by the Commissioners Court, when necessary in the judgment of such Court, to receive respective salaries not to exceed the rate of Two Thousand, Five Hundred Dollars (\$2,500) per annum, when such heads of departments sought to be appointed shall have previously served the county or district by which they are employed for not less than two (2) continuous years, but no head of a department shall be created except where the person sought to be appointed is to be in actual charge of the department with deputies or assistants under his supervision, and such heads of departments shall only be appointed in offices capable of a bona fide subdivision into departments; provided further, that in all counties affected by this Act, having more than one District Court or Criminal District Court, the deputies or assistants of the District Clerk, who are regularly assigned to serve in such Courts as clerks, shall be considered as heads of departments within the meaning of this Act, and Sheriffs' deputies regularly assigned to and serving in such District Courts or Criminal District Courts, not to exceed one deputy to each such Court, shall be paid a salary of not less than Two Thousand, One Hundred Dollars (\$2,100) per annum each. No payment shall be made to any deputy, assistant, or employee for any service performed prior to the authorization of his appointment and until he shall have subscribed to the Constitutional Oath of Office and such appointment and Oath have been filed with the County Clerk and County Auditor for record. The amounts allowed to be paid to deputies, assistants, and employees shall be paid only after rendition of service out of said Officers' Salary Fund or General Fund as provided for in this Act.

(h-1) [Blank]

(h-2) In any county of this State with a population of two hundred fifty thousand (250,000) inhabitants and over and less than three hundred twenty-

five thousand (325,000) inhabitants, according to the last preceding Federal Census, the District Clerk may make written application to the District Judges of said county for the appointment of assistants and/or deputies and the salaries to be paid same, setting forth the number of assistants and/or deputies sought to be appointed and the salary to be paid each, such salaries to be not more than allowed by law in Senate Bill 5, Acts of the Forty-fourth Legislature, Second Called Session, and amendments thereto. Said application shall be accompanied by a statement showing the probable receipts and disbursements of said office, and shall be presented to the District Judges, who shall then carefully consider same; and, if after such consideration, a majority of the District Judges shall approve the appointments sought to be made, and shall also approve the salary to be paid each, they shall certify said list to the Commissioners' Court of said county; and said application and the order of the District Judges thereon shall be recorded in the minutes of the District Court.

The Commissioners' Court shall thereupon order the amount approved to be paid from the General Fund, officers' salary fund, or any other fund of the county, as herein provided, upon the performance of the services required, and said Commissioners' Court shall appropriate adequate funds for that purpose. All assistants to the District Clerk shall be paid from the General Fund of the county or the Officers' Salary Fund, as per the order of the Commissioners' Court, except as herein provided; and be it further provided that the Commissioners' Court may authorize that the court clerks, the index clerk, and the clerk handling the jury in each such county can be paid either from the General Fund or the Jury Fund of said county.

The deputies appointed by the District Clerk shall be authorized to discharge such duties as may be assigned to them by the District Clerk and provided for by law, and all of said assistants shall take the oath of office for faithful performance of duty. The District Clerk shall have the right to discontinue the services of any assistants employed in accordance with the provisions of this Article, but no assistant shall be employed except in the manner herein provided. In like manner, the Judges of the District Court may authorize the appointment of additional assistants when, in the judgment of the District Clerk, a necessity exists therefor.

(h-3) In any county of this State with a population of two hundred and ninety thousand (290,000) inhabitants and over, and less than three hundred and ninety thousand (390,000) inhabitants, according to the last preceding Federal Census, the District Clerk may make written application to the Commissioners Court of said county, subject to the approval by the Court, for the appointment of assistants and/or deputies and the salaries to be paid same, setting forth the number of assistants and/or deputies sought to be appointed and the salaries to be paid each, such salaries to be not more than allowed

by law in Senate Bill 5, Acts of the Forty-fourth Legislature, Second Called Session,¹ and amendments thereto.

The Commissioners Court, upon approval of the application, shall thereupon order the amount approved to be paid from the General Fund, officers' salary fund, or any other fund of the county, as herein provided, and said Commissioners Court shall appropriate adequate funds for that purpose. Assistants to the District Clerk shall be paid from the General Fund of the county or the officers' salary fund, provided the Commissioners Court may authorize that the Court clerks, the index clerk, and the clerk handling the jury in each such county can be paid either from the General Fund or the Jury Fund of said county; and be it further provided that the per capita payments made by the State to the counties in lieu of felony fees formerly paid to the officers shall be apportioned by the County Auditor, as follows: after paying the fees to precinct officers rendering services in felony cases, pay to the District Clerk and the Sheriff the same amount each officer earned in felony fees during the year 1935, and the remaining balance shall be paid to the District Attorney or Criminal District Attorney, as the case may be.

The deputies appointed by the District Clerk shall be authorized to discharge such duties as may be assigned to them by the District Clerk and provided for by law, and all of said assistants shall take the oath of office for faithful performance of duty. The District Clerk shall have the right to discontinue the services of any assistants employed in accordance with the provisions of this Article, but no assistant shall be employed except in the manner herein provided. In like manner, the Commissioners Court may authorize the appointment of additional assistants when, in the judgment of the District Clerk, a necessity exists therefor.

(i) There shall be created a fund for each officer affected by the provisions hereof to be known as the "_____ Salary Fund of _____ County, Texas" (insert the title of the officer affected and the name of the county) and such fund shall be kept separate and apart from all other county funds and shall be held and disbursed for the purpose of paying the salary of such officer, the salaries of his deputies, assistants, clerks, stenographers, and investigators who are authorized to draw a salary from said fund under the provisions of this Section and to pay the authorized and approved expenses of his office. Such fund shall be deposited in the county depository and shall be protected to the same extent, and draw the same interest, as other county funds. The Commissioners' Court of each county affected by the provisions of this Section, at its first regular meeting in January of each calendar year, may determine, by order made and entered in the minutes of said court, that all fees, costs, compensation, salaries, expenses, etc., provided for in this Section, shall be paid into and drawn from the general fund of such county; in which event each reference in

this Section to a salary fund shall be read as and interpreted to be "General Fund".

(j) Each district, county, and precinct officer who shall be compensated on a salary basis shall continue to charge for the benefit of the Officers' Salary Fund of his office provided for in this Section, all fees and commissions which he is now or hereafter may be authorized to charge against and collect from the State of Texas for services performed by him in civil proceedings and to file claims for the fees or commissions due for such services in the manner now or hereafter provided by law; and it shall be the duty of said officer to account for and cause to be paid to the salary fund created for such officer all such commissions and fees when paid by the State in like manner as for costs collected from private parties; provided further, that such warrants issued by the State Comptroller of Public Accounts shall be made payable jointly to the officer in office at the date of payment and to the county treasurer, and that upon endorsement thereof such warrants shall be deposited forthwith by said county treasurer in the salary fund created for such officer.

(k) No officer receiving a salary shall receive any ex-officio compensation from the county; provided, however, the Commissioners' Court shall transfer from the general fund of the county to any Officers' Salary Fund of such county such funds as may be necessary to pay the salaries and other legally authorized claims chargeable against such fund when the moneys deposited to the credit of such fund are insufficient to meet the claims against it.

(l) Each district, county, and precinct officer receiving an annual salary as compensation shall be entitled, subject to the provisions of this Section, to issue warrants against the salary fund created for his office in payment of the services of deputies, assistants, clerks, stenographers, and investigators, for such amounts as said employees may be entitled to receive for services performed under their authorizations of employment. And such officer shall be entitled to file claims for and issue warrants in payment of all actual and necessary expenses incurred by him in the conduct of his office, such as stationery, stamps, telephone, traveling expenses, premiums on deputies' bonds, and other necessary expenses. If such expenses be incurred in connection with any particular case, such claim shall state such case. All such claims shall be subject to the audit of the county auditor; and if it appears that any item of such expense was not incurred by such officer, or such item was not a necessary expense of office, or such claim is incorrect or unlawful, such item shall be by such auditor rejected, in which case the correctness, legality, or necessity of such item may be adjudicated in any Court of competent jurisdiction. Provided, the Assessor and Collector of Taxes shall be authorized in like manner annually to incur and pay for insurance premiums in a reasonable sum for policies to carry insurance against loss of funds by fire, burglary, or theft.

At the close of each month of the tenure of his office, each officer named herein shall make as a part of the report required by Subsection (o) of this Section an itemized and sworn statement of all expense claims paid during said month. And said report shall give the name, position, and amount paid to each authorized employee of such officer. Such deputies, assistants, clerks, or other employees as well as expenses shall be paid from the Officers' Salary Fund in cases in which the officer is on a salary basis, and from fees earned and collected by such officer in all cases in which the officer is compensated on a basis of fees earned by him.

The Commissioners Court may allow, upon the written and sworn application of the sheriff showing the necessity therefor, one or more automobiles to be used by the sheriff or his deputies in the discharge of his official duties, which, if purchased by the county, shall be bought in the manner prescribed by law for the purchase of supplies, and shall be paid for out of the Officers' Salary Fund, and said automobiles shall be and remain the property of the county. The expense of operating and maintaining said automobile shall be paid in the manner and subject to the provisions herein provided for other expense items. The Commissioners Court by an order entered of record may make provision for payment of depreciation upon automobiles owned personally by the sheriff or his deputies.

The Commissioners Court may, upon the written and sworn application of the District Attorney or Criminal District Attorney stating the necessity therefor, allow one or more automobiles to be used by him in the discharge of his official duties, which if purchased shall be bought by the county in the manner prescribed by law for the purchase of supplies and paid for out of the Officers' Salary Fund, and they shall be and remain the property of the county. The amount to be expended for the purchase of an automobile or automobiles shall not exceed the sum of One Thousand, Two Hundred Dollars (\$1,200) for the first year, and shall not exceed the sum of Five Hundred Dollars (\$500) for any year thereafter. The expense of the maintenance and operation of such automobile or automobiles as may be allowed shall be paid for by the District Attorney or the Criminal District Attorney from the Officers' Salary Fund, and the amount thereof shall be reported in detail by the District Attorney or the Criminal District Attorney on his monthly report, as is required by this Section in reporting expenses incurred by him in the conduct of his office. Such expense account for the maintenance and operation of such automobile or automobiles shall be subject to audit as hereinabove provided.

(m) All moneys drawn from said Officers' Salary Funds shall be paid out only on warrants approved by the county auditor. No warrants shall be drawn on said fund in favor of any person indebted to the

State, county, or to said fund or in favor of his agent or assignee until such debt is paid, when notice of such indebtedness has been filed with the county auditor.

All moneys remaining in any Officers' Salary Fund of the county at the end of any fiscal year after all salaries and authorized expenses incurred against said fund for said year shall have been paid and the accounts of said officer have been audited and approved by the county auditor shall be by order of the Commissioners' Court transferred by warrant issued by the county clerk when approved to the credit of the general fund of the county.

(n) Each district, county and precinct officer shall keep a correct detailed statement of all amounts earned by him and of sums coming into his hands as fees, costs, and commissions, in a book to be provided for him by the proper authorities of the county for that purpose in which the officer at the time when fees or moneys are earned or shall come into his hands shall enter the same in such form as may be lawfully required.

(o) The fiscal year, within the meaning of this Section, shall begin on January 1st of each year; and each district, county, and precinct officer shall file his annual report and make the final settlement required in this Act by January 15th of each year; provided, however, that officers receiving an annual salary as compensation for their services shall on or before the fifth day of each month file with the county auditor on forms prescribed by him and as part of the report required by subsection 1 of this Section, a detailed and itemized report of all fees, commissions, and compensations collected by him during the preceding month, and shall forthwith pay into the Officers' Salary Fund for his office, all fees, commissions, and compensations collected by him during said month. Whenever such officer serves a fractional part of the fiscal year, he shall, nevertheless, file his report and make final settlement for such part of the year as he serves and shall be entitled to such proportionate part of his compensation as the time of his service bears to the entire year.

(p) It shall be the official duty of each clerk of the district and county courts and of all justices of the peace to require at the commencement of any civil suit adequate security for costs; provided a pauper's oath may be filed and contested as provided by law. No district, county or precinct officer shall under the penalties now provided by law waive any fees or costs but it shall be the duty of all officers to assess and collect all fees and commissions which they are permitted or directed by law to assess and collect for services performed by them. Where any officer receives a salary payable from the salary fund created for such officer all fees, commissions, and other compensation received by him in his official capacity shall be by him deposited and paid monthly, or oftener, into the salary fund created for such officer, and such remittance shall

be accompanied by his official report thereof, as provided for in this Section.

(q) Each district, county, and precinct officer, at the close of each fiscal year (December 31st), shall make to the district court of such county a sworn statement in triplicate (on forms designed and approved by the State Auditor), a copy of which statement shall be forwarded to the State Auditor by the clerk of the district court of said county within fifteen (15) days after the same has been filed in his office, and one (1) copy shall be filed with the county auditor. Said report shall show the amount of all fees, commissions, and compensations whatever earned by said officer during the fiscal year; and the amount of fees, commissions, and compensations collected by him during the fiscal year and their disposal. Said report shall contain an itemized statement of all fees, commissions, and compensations earned during the fiscal year which were not collected, together with the style of the case and number, the name of the party owing said fees, commissions, and compensations, the nature of the security for costs, and the reason for non-collection. Said report shall show the names of the deputies and assistants employed by him during the year, the time served, and the amount paid or to be paid each. Said report shall be filed not later than February 1, following the close of the fiscal year. For failure to file said report said officer shall be subject to removal from office. The county auditor shall audit such report and file his report with the Commissioners Court, and said county auditor also shall prepare and file with the district or criminal district attorney a detailed report of all fees, commissions, and compensations uncollected which have been due and payable to any officer of the county for a period of more than six (6) months; and a similar report of all fees, commissions, and compensations collected by said officers and not reported by them and a list of cases filed since January 1, 1936, in which any county or district clerk or justice of the peace has not taken adequate security for costs or required a pauper's oath. It shall be the duty of the district or criminal district attorney to institute proceedings for the collection of such fees, commissions, and compensations, all of which are declared to be the property of the county and shall be deposited in the general fund.

(r) The moneys received from the State by each such county under the provisions of Section 6 and subsection b of Section 13 of this Act shall be apportioned by the Commissioners' Court to the proper Officers' Salary Fund of each such county.

(s) Notaries Public, public weighers, and county surveyors are expressly exempted from the provisions of this Section.

(t) It is hereby declared to be the intention of the Legislature that the provisions of this Section control in all things as to the counties affected hereby. Nothing herein shall be held to repeal Chapter 122, Page 330, Acts of the 44th Legislature, 1935, Regu-

lar Session,² except insofar as its provisions may be in direct conflict herewith, in which event the terms of this Section shall prevail, nor shall anything herein contained affect or be construed as repealing Chapter 34, Acts of the 44th Legislature, Regular Session, appearing at Page 100, et sequente, of said Acts,³ or Art. 3912a, Revised Civil Statutes of Texas, the same being Acts 1933, 43rd Legislature, Page 107, Chapter 54.

(u) The provisions of this Section shall be severable and if any subsection, sentence, clause, phrase, word or part of the same shall be held to be unconstitutional or invalid for any reason, the same shall not be construed to affect the validity of any of the remaining provisions of this Section. It is hereby declared to be the Legislative intent that this Section would have been adopted had such invalid provision not been included therein.

¹ Articles 3896 to 3899, 3901, 3902, 3912e.

² Article 1256a.

³ Article 3912d.

Appropriation

Sec. 20. Any unexpended balance in the appropriation made by the Regular Session of the 44th Legislature, for the payment of fees and costs of sheriffs, attorneys and clerks in felony cases, fees of county judges, county attorneys, justices of the peace, sheriffs and constables in examining trials actually held and where indictments are returned, in the sum of Five Hundred Fifty Thousand (\$550,000.00) Dollars for each of the fiscal years ending August 31, 1936, and August 31, 1937, in addition to the purposes therein specified, is hereby appropriated and authorized to be disbursed by the Comptroller and Treasurer in the payment of any apportionment which may become due to any counties in this State under the provisions of this Act for the fiscal year for which the appropriation is available.

Effective Date

Sec. 21. The provisions of this Act shall become effective January 1, A.D., 1936.

Provisions Cumulative

Sec. 22. The provisions of this Act shall be cumulative of all laws not in conflict herewith. It is hereby declared to be the intention of the Legislature that the compensation, limitations, and maximums fixed in this Act for the named officers, their deputies, assistants and employees control over any other provisions contained in all laws, general and special.

Repeals

Sec. 23. All general laws in conflict with the provisions of this Act, fixing or attempting to fix the compensation of officers enumerated herein, are hereby in all things repealed, except such general or special laws that do not have a statewide application. Special and local laws or general laws of local

application which do not have a statewide application shall remain in full force and effect.

[Acts 1935, 44th Leg., 2nd C.S., p. 1762, ch. 465. Amended by Acts 1937, 45th Leg., p. 32, ch. 26, §§ 1 to 1-b; Acts 1937, 45th Leg., p. 351, ch. 171, § 1; Acts 1937, 45th Leg., p. 647, ch. 317, § 1; Acts 1937, 45th Leg., 1st C.S., p. 1801, ch. 26, § 1; Acts 1937, 45th Leg., 2nd C.S., p. 1996, ch. 68, § 1; Acts 1939, 46th Leg., Spec.Laws, p. 608, § 1; Acts 1939, 46th Leg., Spec.Laws, p. 742, § 1; Acts 1939, 46th Leg., Spec.Laws, p. 744, § 1; Acts 1941, 47th Leg., p. 74, ch. 61, § 1; Acts 1941, 47th Leg., p. 240, ch. 169, § 1; Acts 1941, 47th Leg., p. 543, ch. 338, § 1; Acts 1941, 47th Leg., p. 1309, ch. 585, § 1; Acts 1945, 49th Leg., p. 244, ch. 179, §§ 3, 4; Acts 1945, 49th Leg., p. 626, ch. 356, § 1; Acts 1947, 50th Leg., p. 170, ch. 107, § 1; Acts 1949, 51st Leg., p. 90, ch. 54 § 1; Acts 1949, 51st Leg., p. 474, ch. 257, § 1; Acts 1955, 54th Leg., p. 598, ch. 205, § 1; Acts 1959, 56th Leg., p. 35, ch. 23, §§ 1, 2; Acts 1963, 58th Leg., p. 586, ch. 210, §§ 1, 2; Acts 1973, 63rd Leg., p. 1379, ch. 530, § 1, eff. June 14, 1973; Acts 1977, 65th Leg., p. 1489, ch. 604, § 1, eff. Aug. 29, 1977.]

Repealer

The provisions of § 19(q) of this article, insofar as applicable to counties whose officers were compensated on a salary basis, were repealed by Acts 1965, 59th Leg., p. 610, ch. 302, § 1.

Repeal of fees provided for county clerks in laws, or parts of laws, conflicting with the provisions of article 3930, see note under article 3930.

Acts 1971, 62nd Leg., p. 2019, ch. 622, providing for the setting of compensation, expenses and allowances for certain county and precinct officials and employees by the commissioners courts effective January 1, 1972, provides in section 8 thereof that to the extent any local, special, or general law, including Acts of the 1971 Legislature, prescribes such compensation, expenses and allowances for any official or employee covered by this Act, that law is repealed. See article 3912k.

Section 7 of the Public Prosecutors Act (Art. 332b-4) provides that § 13(b) of this article continues in force only as to those counties and district attorneys not subject to said Act.

The 1977 Act, amending § 13(b) of this article, provides in §§ 2 and 3:

"Sec. 2. All laws or portions thereof in conflict with the provisions of this Act are hereby repealed to the extent of such conflict.

"Sec. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision."

Art. 3912e-1. Compensation of Designated Officers in Counties of 225,000 to 500,000

(a) The provisions of this Section shall apply to and control in each county in the State of Texas having a population of two hundred and twenty-five thousand (225,000) inhabitants or more, and less

than five hundred thousand (500,000) inhabitants according to the last preceding Federal Census.

(b) From and after the effective date of this Act up to January 1, 1946, the County Judge, the Sheriff, District Attorney, Criminal District Attorney, District Clerk, County Clerk and the Assessor and Collector of Taxes of such counties shall each receive a salary of Sixty-five Hundred Dollars (\$6500) per annum. The County Treasurer of such counties shall receive Thirty-six Hundred Dollars (\$3600) per annum salary. The Judges of the County Courts at Law and the County Criminal Courts of such counties shall each receive a salary of Five Thousand Dollars (\$5000) per annum. All of such salaries enumerated in this subsection shall be paid out of the General Fund of such counties.

(c) The County Commissioners of such counties shall each receive a salary of Forty-eight Hundred Dollars (\$4800) per annum, Thirty-six Hundred Dollars (\$3600) of which shall be paid out of the General Fund and Twelve Hundred Dollars (\$1200) of which shall be paid out of the Road and Bridge Funds of such counties.

(d) All Justices of the Peace and Constables of such counties who are compensated on a fee basis as provided by law shall be entitled to retain annual fees not to exceed Four Thousand Dollars (\$4000) each. All Justices of the Peace and Constables of such counties who are compensated on a salary basis as provided by law shall receive an annual salary of not to exceed Four Thousand Dollars (\$4000) each, such salary to be fixed by the Commissioners Court. Provided, however, that all fees and commissions whether current or delinquent which are collected by the incumbent during his tenure of office shall be applied first to the payment of his deputies, authorized expenses of his office and to make up the maximum compensation provided for in this subsection. No such officers shall be entitled to receive for any purpose any fees or commissions that are collected after he ceases to hold such office.

(e) Provided further that from and after January 1, 1946, the salaries of the herein above enumerated officers shall be as hereinafter set out.

(f) The Sheriff, District Attorney, District Clerk, County Clerk and the Assessor and Collector of Taxes of such counties shall each receive a salary of Seventy-four Hundred Dollars (\$7400) per annum. The County Treasurer of such counties shall receive per annum a salary of Thirty-nine Hundred Dollars (\$3900). The Judges of the County Courts at Law and the County Criminal Courts of such counties shall each receive a salary of Six Thousand Dollars (\$6000) per annum. The County Judge of such counties shall each receive a salary of Seventy-four Hundred Dollars (\$7400) per annum in lieu of all other compensation now provided by law. All of such salaries enumerated in this subsection shall be paid out of the General Fund of such counties.

(g) The County Commissioners of such counties shall each receive a salary of Fifty-five Hundred Dollars (\$5500) per annum and such salaries shall be out of the Road and Bridge Funds of such counties.

(h) All Justices of the Peace and Constables of such counties who are compensated on a fee basis as provided by law shall be entitled to retain annual fees not to exceed Forty-five Hundred Dollars (\$4500) each. All Justices of the Peace and Constables of such counties who are compensated on a salary basis as provided by law shall receive an annual salary of not to exceed Forty-five Hundred Dollars (\$4500) each, such salary to be fixed by the Commissioners Court. Provided, however, that all fees and commissions whether current or delinquent which are collected by the incumbent during his tenure of office shall be applied first to the payment of his deputies, authorized expenses of his office and to make up the maximum compensation provided for in this subsection. No such officer shall be entitled to receive for any purpose any fees or commissions that are collected after he ceases to hold such office.

[Acts 1937, 45th Leg., p. 151, ch. 81, § 1. Amended by Acts 1945, 49th Leg., p. 106, ch. 74, § 1; Acts 1945, 49th Leg., p. 428, ch. 271, § 1.]

Art. 3912e-2. Compensation of Certain District, County and Precinct Officers in Counties of 355,000; Appointment of Assistants to District Attorneys

Provisions of this Section shall apply to and control in each county in the State of Texas having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants according to the last preceding or any future Federal Census.

(a) The term "Precinct Officers" as used in this section means Justices of the Peace and Constables.

Precinct Officers in such counties shall be compensated for their services on a fee basis unless the Commissioners Court shall have determined otherwise as provided by law.

The annual fees that may be retained by any such Precinct Officer shall be Four Thousand, Five Hundred Dollars (\$4,500) each.

All fees and commissions earned by such official shall be applied first to the payment of his deputies, authorized expenses of his office, and to make up the maximum provided for such officers.

All fees and commissions over and above the amount necessary to pay authorized expenses and Deputies' salaries, and to make up the maximum compensation above provided for, shall be deemed excess fees, and all excess fees not permitted to be retained shall be paid into the General Fund of the county.

Delinquent fees may be used to defray the salaries of Deputies if current fees are insufficient for that purpose; and may be used also to make up the maximum compensation, exclusive of excess fees,

allowed to such officers for the fiscal year within which such fees were earned. Delinquent fees collected in excess of the amount above provided for shall be paid by the officer collecting the same into the General Fund of the county.

Precinct Officers, as defined in this Section, shall be compensated after an order duly enacted by the Commissioners Court on an annual salary basis from said Officers' Salary Fund or the General Fund, as the case may be; such salaries shall be fixed by the Commissioners Court at a reasonable sum not to exceed Four Thousand, Five Hundred Dollars (\$4,500) each; provided further that in such counties in which the Commissioners Court determines to place Justices of the Peace and Constables on a salary basis, said Commissioners Court shall not be required to place said salaries in all precincts within the county at equal amounts, but said Commissioners Court shall have discretion to determine the amount of salary to be paid to each of said Justices of the Peace and to each of said Constables in the several precincts in said counties within the limitations hereinabove set out. In counties where the Commissioners Court determines to place the Justices of the Peace on a salary basis the Justice of the Peace shall receive in addition thereto all fees, commissions or payments for performing marriage ceremonies and for acting as Registrar for the Board of Vital Statistics and when acting as Ex officio Notary Public.

(b) The County Judge, Sheriff, District Attorney or Criminal District Attorney, as the case may be, District Clerk, County Clerk, and Assessor and Collector of Taxes in such counties shall receive a salary of Seven Thousand, Four Hundred Dollars (\$7,400) per annum from the Officer's Salary Fund or General Fund, as the case may be. The compensation herein fixed for the Sheriff or Constable shall be exclusive of any reward received for the apprehension of criminal fugitives from justice and rewards received for the recovery of stolen property.

(c) The County Commissioners in such counties shall each receive a salary of Four Thousand, Eight Hundred Dollars (\$4,800) per annum, and said salaries shall be paid in equal monthly installments, three-fourths ($\frac{3}{4}$) out of the Road and Bridge Fund and one-fourth ($\frac{1}{4}$) out of the General Fund of the county.

(d) The Judge of the County Court at Law of Harris County, Texas, and the Judge of the County Court at Law No. 2 of Harris County, Texas, each shall receive a salary of Six Thousand Dollars (\$6,000) per annum to be paid out of the County Treasury by the Commissioners Court in equal monthly installments.

(e) The Commissioners Court of each county in the State of Texas having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants according to the last preceding Federal Census shall determine annually the salary to be paid the County Treasurer of each of such counties

from county funds for his services to the county at a reasonable sum not to exceed Three Thousand, Nine Hundred Dollars (\$3,900) per annum. Where such Treasurer acts also as Treasurer of any Navigation and Drainage Districts, he shall receive and be entitled to retain such compensation from such districts as is provided by Articles 8221 and 8148, Revised Civil Statutes of Texas, 1925. Said County Treasurer shall be allowed to appoint one assistant at a reasonable salary, not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum, and the Commissioners Court of such county may allow one additional assistant upon adequate proof of necessity therefor at a reasonable salary not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. Said assistants shall be appointed by such County Treasurer and shall take the usual oath of office, and, in addition thereto, shall give such surety bond as may be required by such County Treasurer or by the Commissioners Court of such county. Said assistants shall have authority to do and perform in the name of such County Treasurer such acts of a clerical or ministerial character as may be required of them by such County Treasurer. The County Treasurer of each of such counties may designate, subject to the approval of the Commissioners Court, any named person to act for him and in his stead when he shall be absent from the county, unavoidably detained, or incapacitated. The particulars justifying such appointment shall be placed before the Commissioners Court and such Court may require any desired proof in connection therewith. Upon the approval by the Commissioners Court of the appointment of any such person so designated, and the recording of such appointment in the minutes of the Commissioners Court, thereupon such person may act for such County Treasurer during such periods of absence, detention or incapacity; provided, however, that such appointment shall not become effective until such named person shall have given such additional surety bond, if any, in favor of such county and the County Treasurer thereof as their interests may appear and in such amounts as the Commissioners Court may require.

(f) The Criminal District Attorney or District Attorney in such counties shall be authorized to appoint nine (9) assistants and fix their salaries at a rate not to exceed the following amounts: two (2) of said assistants, Four Thousand, Five Hundred Dollars (\$4,500) per annum each; two (2) of said assistants, Four Thousand, Two Hundred Dollars (\$4,200) per annum each; one (1) of said assistants, Three Thousand, Six Hundred Dollars (\$3,600) per annum; one (1) of said assistants, Three Thousand Dollars (\$3,000) per annum; and three (3) of said assistants, Two Thousand, Seven Hundred Dollars (\$2,700) per annum each. He may employ three (3) investigators and fix their salaries at not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum each. He may employ two (2) court reporters and fix their salaries at not to exceed Two Thousand, Two Hundred Eighty Dollars (\$2,280) per annum each. He may employ one (1) stenographer

and fix his salary at not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum. He may employ one (1) chief civil clerk and fix his salary at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum. He may employ three (3) abstracters and fix their salaries as follows: Two (2) of said abstracters at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum each, and the other abstracter at not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum. All such salaries above mentioned shall be payable from the Officers' Salary Fund or General Fund, as the case may be.

Should such Criminal District Attorney or District Attorney be of the opinion that the number of assistants, stenographers, investigators, or other employees above provided for is not adequate for the proper investigation and prosecution of crime, and the efficient performance of the duties of his office, with the advice and consent of the Commissioners Court he may appoint additional assistants and employees as hereinafter limited and fix their salaries as follows: One (1) additional assistant to receive a salary not to exceed Four Thousand, Two Hundred Fifty Dollars (\$4,250) per annum; one (1) additional assistant to receive a salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum; one (1) additional assistant to receive a salary not to exceed Three Thousand Dollars (\$3,000) per annum; and two (2) additional assistants to receive a salary not to exceed Two Thousand, Seven Hundred Dollars (\$2,700) per annum each. He may employ one (1) additional court reporter and fix his salary at a rate not to exceed Two Thousand, One Hundred Sixty Dollars (\$2,160) per annum. He may employ one (1) additional stenographer and fix his salary at a rate not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. He may employ one (1) additional stenographer and fix his salary at a rate not to exceed Eighteen Hundred Dollars (\$1,800) per annum. He may employ one (1) civil clerk and fix his salary at a rate not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. He may employ one information clerk and fix his salary at a rate not to exceed Nine Hundred Dollars (\$900) per annum, but such additional assistants or employees so appointed, before qualifying and entering upon the duties of such office and employment, shall be approved as to number and salaries by the Commissioners Court of the county in which such appointments are made, these salaries being payable from the Officers' Salary Fund or General Fund, as the case may be. In addition to the salary herein provided for investigators for Criminal District Attorneys or District Attorneys, each of such investigators shall be allowed a sum not to exceed Fifty Dollars (\$50) per month for repair and maintenance expense of an automobile used by said investigator in the investigation of crime, said allowances to be paid monthly by such county by warrant drawn upon said Officers' Salary Fund or General Fund, as the case may be, upon the written claim of such investigator showing that said

automobile was in official use, and such claim shall bear the approval of the District Attorney before being paid.

(g) The County Auditor in such counties shall receive for his services to the county an annual salary of Six Thousand, Five Hundred Dollars (\$6,500) payable from county funds. This shall not be construed nor shall it operate to repeal Article 1672, Revised Civil Statutes of Texas, nor Article 8245, Revised Civil Statutes of Texas, as amended by Acts 1935, 44th Legislature, page 316, Chapter 119, Section 1.

[Acts 1937, 45th Leg., p. 151, ch. 81, § 2. Amended by Acts 1939, 46th Leg., Spec.Laws, p. 607, § 1.]

Art. 3912e-3. Salary of County Judge in Counties of 12,227 to 12,230

Hereafter, the County Judge in counties having a population of not less than twelve thousand, two hundred and twenty-seven (12,227) and not more than twelve thousand, two hundred and thirty (12,230) according to the last preceding Federal Census of 1930, shall receive an annual salary of Eighteen Hundred Dollars (\$1800) per year, payable in twelve (12) equal monthly installments, and said payments shall be paid out of the funds as now provided by the general laws governing the payment of County Judges in Texas.

[Acts 1937, 45th Leg., p. 398, ch. 199, § 1.]

Art. 3912e-4. District, County and Precinct Officers in Counties of Over 500,000, Payment of Assistants and Expenses of Conduct of Offices

Sec. 1. Each District, County and Precinct officer in counties having a population of more than five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census, receiving an annual salary as compensation, shall be entitled, subject to the provisions of Section 19 of Chapter 465 of the Acts of the 44th Legislature, First Called Session,¹ generally known as the "Fee Bill," and subject to the amendments to said Act subsequently adopted, to issue warrants against the salary fund created for his office in payment of the services of deputies, assistants, clerks, stenographers and investigators, for such amounts as said employees may be entitled to receive for services performed under their authorizations of employment. And such officers shall be entitled to file claims for and issue warrants in payment of all actual and necessary expenses incurred by them in the conduct of their offices, such as stationery, stamps, telephone, traveling expenses, premiums on official bonds of themselves and of their deputies, and premiums on burglary, theft and robbery insurance protecting public funds, and other necessary expenses. If such expenses be incurred in connection with any particular case, such claims shall state such case. All such claims shall be subject to the audit of the County Auditor, and if it appears that any item of such expense was

not incurred by such officer, or such item was not a necessary expense of office, or such claim is incorrect or unlawful, such item shall be by such Auditor rejected, in which case the correctness, legality or necessity of such item may be adjudicated in any court of competent jurisdiction.

Sec. 2. In addition to any other sums now provided for by law, the District Attorney or Criminal District Attorney in each of the counties affected hereby may be allowed, by order of the Commissioners' Court of his county, such amount as said Court may deem necessary to pay for or aid in the proper administration of the duties of his office, which sum may be expended in aid of the discharge of the duties of his office for any purposes, whether similar or dissimilar to the type of expense authorized by Article 3899 of the Revised Civil Statutes, as amended by Chapter 37 of the Acts of the First Called Session of the 45th Legislature, and whether for a purpose similar or dissimilar to those authorized by the preceding Section of this Act; provided further that all sums expended under the authority of this Section of this Act shall not exceed Two Thousand, Five Hundred (\$2,500.00) Dollars in any one calendar year; and provided further that such amounts as may be authorized hereunder shall be allowed by said Court upon written application of such District Attorney or Criminal District Attorney showing the necessity therefor, and the Commissioners' Court may require any other evidence that it may deem necessary to show the necessity for any such expenditures, and its judgment in allowing or refusing to allow any such expenditure shall be final; provided no payment for any such expenditure shall be made except upon an itemized sworn statement of such expense filed in the manner provided for by Section 19 of Chapter 465 of the Acts of the 44th Legislature,¹ generally known as the "Fee Bill," and all such expenditures and the accounts therefor shall be subject to approval of the County Auditor and audit by such Auditor as in the case of other claims and expenditures.

Sec. 3. In addition to the other sums provided for by law and allowed by this Act, the District Attorney or Criminal District Attorney may expend such sums as in his opinion may be reasonably necessary to aid the Grand Juries of this County in the investigation of crime, provided that the expenditures authorized by this Section shall never exceed Two Thousand, Five Hundred (\$2,500.00) Dollars in any one calendar year, and the same shall be made only when three-fourths (¾) of the members of the Grand Jury to be aided thereby and a Judge of a District Court having general criminal jurisdiction in the county shall join the District Attorney in certifying to the necessity therefor. In making any expenditure hereby authorized, neither the District Attorney nor the Grand Jury shall be required, in order to obtain necessary warrants against the county funds to state beforehand the case or cases being investigated, nor to disclose the identity of the person or persons suspected to be guilty, and

such warrants shall issue, subject to the above limitations; provided, that from time to time, additional sums may be requested and allowed in like manner and subject to the same limitations; and provided further, that such District Attorney and his bondsmen shall be and remain liable for any illegal expenditures of such funds; and provided that within twelve (12) months after the termination of the Grand Jury's investigation of the matter from which said funds were expended, the District Attorney or Criminal District Attorney expending the same shall duly account under oath in writing for the same by proper accounts, vouchers and receipts to the County Auditor in such form as said Auditor shall require, and the County Auditor shall, upon the receipt of any such accounts, vouchers or receipts, keep secret all matters pertaining to the same for twelve (12) months after his receipt thereof. Nothing herein contained shall be construed as authorizing any Grand Jury to investigate any matter that it may not by law now be authorized to investigate.

Sec. 4. Nothing herein contained shall be construed as repealing any other Act now in effect authorizing the officers hereby affected to make expenditures of public funds in connection with their respective offices for purposes other than those herein named, but this law shall be cumulative of all such laws.

[Acts 1941, 47th Leg., p. 174, ch. 127.]

¹ Article 3912e, § 19.

Art. 3912e-4a. District and County Officers in Counties of Over 500,000; Compensation; Assistants to County Treasurer and District Attorneys

Application of Law

Sec. 1. The provisions of this law shall apply to and control in each county in this state having a population of 500,000 or more, according to the last preceding or any future Federal Census.

County Treasurer and Assistants

Sec. 2. The County Treasurer in such counties shall have one assistant at a reasonable salary, to be determined by the Commissioners Court, not exceeding that allowed assistants or deputies of other officers, and the Commissioners Court of such counties may allow one additional assistant upon adequate written sworn proof of necessity therefor for a limited emergency period at a reasonable salary to be determined by the Commissioners Court. Said assistants shall be appointed in the same manner as the assistants of other officers and subject to the same legal requirements. They shall take the usual oath of office, and, in addition thereto, shall give such surety bond as may be required by the Commissioners Court of such counties, to run in favor of the County Treasurer or the county as their interests may appear. Said assistants shall have authority to do and perform in the name of the

County Treasurer such acts of a clerical or ministerial character as may be required of them by such County Treasurer. The County Treasurer of each of such counties may designate, subject to the approval of the Commissioners Court, one of said assistants or any named person to act for him and in his stead when he shall be absent from the county, unavoidably detained, incapacitated, or be unable to act. The particulars justifying such appointment shall be placed before the Commissioners Court, which is authorized to make full inquiry into the necessity for such appointment. Upon approval by the Commissioners Court of such appointment, it shall be recorded in the minutes of the court, and thereupon such person may act for the County Treasurer during such periods of absence, detention, incapacity, or inability to act; provided, however, that such appointment shall not become effective until such named person shall have given such additional surety bond in favor of the county and the County Treasurer, as their interests appear, in such amount or amounts as the Commissioners Court may in its order require, and provided any person named other than a regularly appointed assistant shall receive no salary from the county.

Commissioners Court, Authority as to Appointments, Salaries, Etc.; Applications for Increases in Salaries; Hearing

Sec. 3. The provisions of this Act shall not apply where the laws in effect on January 1, 1945, in such counties place no limit upon the salaries authorized for deputies, assistants, employees or department heads; and it shall apply only to those salaries or compensations of deputies, assistants, employees or department heads on which the laws in effect January 1, 1945, placed a fixed limit.

The Commissioners Court of counties coming within the terms of this Act may continue to appoint or approve the appointment of deputies, assistants, employees or department heads and fix their salaries where such matters come within its jurisdiction, and may continue in the manner provided by law to approve the number and fix or approve the salaries of deputies, assistants, employees or department heads legally appointed by county or flood control district officials or department heads within the limitations of number and amount of salaries now or hereafter fixed by law.

In cases in which an officer of said county or any flood control district or conservation or reclamation district wholly within the boundaries of said county desires to increase the salary of any deputy, assistant, employee or department head beyond the limit now fixed by existing law, he shall file a sworn application addressed to the Commissioners Court with the County Clerk and County Auditor, giving full data and information to the extent and in the manner required by the regulations of the court previously adopted and entered in its minutes; and where such sworn applications have been filed, the court shall fix a date for the hearing and considera-

tion thereof, and shall give public notice of the date of such hearing. All such applications shall be acted upon in open court at such public hearing, and any citizen or taxpayer may appear in favor of or in opposition to such application. Such hearing may be continued by the court from day to day. If, after such hearing, the court be of the opinion that such application should be granted in whole or in part, it shall have authority to grant, or authorize the grant of, an increase in salary of any deputy, assistant, employee or department head appointed by the court, or under its authority, or appointed by any other elected or appointed officials, or department heads, in such sum as the court may in its discretion determine without regard to existing limitations of amounts: provided, however, that the amount so allowed or the total amount so allowed when added to funds previously budgeted shall not create any deficit for the current year in any fund, or create an obligation against future revenues; provided further, such increases shall not become effective until approved by the County Auditor and he shall have affixed his certificate to the application that funds are, or will be, available for payment thereof when due.

Regulations, Hours of Work, Vacations, Sick Leaves

Sec. 4. The Commissioners Court of such counties shall have the authority to adopt and enforce all reasonable regulations applying to all such deputies, assistants, employees or department heads governing the hours of work, vacations, and sick leaves, in the interest of obtaining uniform restrictions, conditions, and regulations governing all such deputies, assistants, employees or department heads in the manner now provided by law.

Budget Adjustments or Revisions; Notice; Hearing

Sec. 5. In all cases where the appointment of any deputy, assistant, or employee, or the fixing of any salary, or the approval thereof by the Commissioners Court and the County Auditor shall make necessary an adjustment in the previously adopted budget of such counties, such adjustment or revision may be made to the extent and in the manner made necessary by the appointment and increase or approval of any salaries of any such deputies, assistants, employees or department heads, or by any increase in salary of any officials herein authorized; provided, that in case of necessity to amend any previously adopted budget, it shall be done only upon submission to the Commissioners Court of a supplemental budget by the County Auditor as Budget Officer of the county which shall be advertised and set for hearing in the same manner as for adoption of the original county or flood control district budget for the year. Only one supplemental budget may be filed and adopted in each calendar year.

Assistants to District Attorneys and Criminal District Attorneys; Investigators; Clerks and Other Employees; Transfers of Funds

Sec. 6. (a) The District Attorney or Criminal District Attorney, in the counties to which this bill applies are hereby authorized to appoint not exceeding twelve assistants and to fix their salaries at a rate not to exceed the following amounts: one First Assistant District Attorney or First Assistant Criminal District Attorney, not to exceed Six Thousand Dollars (\$6,000.00) per annum; two assistants, not to exceed Four Thousand Eight Hundred Dollars (\$4,800.00) per annum each; four assistants not to exceed Four Thousand Six Hundred Dollars (\$4,600.00) per annum each; five assistants not to exceed Three Thousand Six Hundred Dollars (\$3,600.00) per annum each. He may employ three investigators and fix their salaries at not to exceed Three Thousand Dollars (\$3,000.00) per annum each. He may employ three court reporters and fix their salaries at not to exceed Three Thousand Dollars (\$3,000.00) per annum each. He may employ one combination stenographer and accountant and fix his salary at not to exceed Two Thousand Four Hundred Dollars (\$2,400.00) per annum. He may employ one combination information clerk and switchboard operator, who shall also handle all telephone calls for the various courts in the Criminal Courts Building, and fix a salary of not exceeding One Thousand Five Hundred Dollars (\$1,500.00) per annum. He may employ one chief civil clerk and fix his salary at not to exceed Two Thousand Four Hundred Dollars (\$2,400.00) per annum. He may employ three abstractors and fix their salaries at not to exceed Two Thousand Four Hundred Dollars (\$2,400.00) per annum each. All such salaries above mentioned shall be payable from the Officers' Salary Fund, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the county to the Officers' Salary Fund. All salaries provided for in the above Section in excess of Three Thousand Six Hundred Dollars (\$3,600.00) per annum shall be subject to the approval of the Commissioners Court before becoming effective in the manner provided in Section 2 of this Act.

(b) Should such a District Attorney or Criminal District Attorney be of the opinion that the number of assistants, stenographers, investigators or other employees above provided for is not adequate for the proper investigation and prosecution of crime, and the efficient performance of the duties of his office, with the advice and approval of the Commissioners Court, he may appoint additional assistants and employees as hereinafter limited and fix their salaries as follows: one additional Assistant District Attorney or Assistant Criminal District Attorney at a salary not to exceed Four Thousand Five Hundred Dollars (\$4,500.00) per annum; four additional assistants at salaries not to exceed Three Thousand Six Hundred Dollars (\$3,600.00) per annum each. He may employ two additional stenographers and

fix their salaries at a rate not to exceed Two Thousand One Hundred Dollars (\$2,100.00) per annum each. He may employ one stenographer additionally, at a salary not to exceed One Thousand Eight Hundred Dollars (\$1,800.00) per annum. He may employ one civil clerk and fix his salary at a rate not to exceed One Thousand Eight Hundred Dollars (\$1,800.00) per annum. But such additional assistants or employees so appointed, before qualifying and entering upon the duties of such office and employment, shall be approved as to number and salaries by the Commissioners Court of such county, all such salaries to be paid from the Officers' Salary Fund, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the County to such Officers' Salary Fund. In addition to the salary herein provided for investigators for District Attorneys or Criminal District Attorneys, each of such investigators may be allowed a sum not to exceed Fifty Dollars (\$50.00) per month for repair and maintenance expense of an automobile owned and maintained by said investigator and used by him in the investigation of crime, said allowance, or allowances, to be paid monthly by the county upon warrants drawn upon the Officers' Salary Fund, or General Fund, as the case may be, upon the written claim of such investigator showing that said automobile was in official use, and such claim shall bear the approval of the District Attorney and shall be paid as provided by law for other claims.

Provisions Cumulative

Sec. 7. This Act shall be cumulative of all laws in force on its effective date, or subsequently enacted, with respect to reports, auditing, accounting, budgets, and approval and disapproval of claims for salaries, compensation, or other expenses, and all such laws shall remain in force, it being the intention of the Legislature that all statutes prescribing the form, time, method, and manner of reports and accounting for all public funds shall continue in full force and effect.

[Acts 1945, 49th Leg., p. 122, ch. 85.]

Art. 3912e-4b. Application of Art. 3912e-4a Extended

Sec. 1. The provisions of the Acts of 1945, Forty-ninth Legislature, page 122, Chapter 85,¹ shall hereafter apply to all counties having a population of three hundred and fifty-five thousand (355,000) inhabitants or more, according to the last preceding or any future Federal Census.

Sec. 2. This Act shall not be construed to repeal or limit the provisions of House Bill No. 324 of the present Session of the Legislature;² nor shall it be construed to affect or repeal the provisions of any other laws relating to the subject matter of said Acts, 1945, Forty-ninth Legislature, page 122, Chapter 85, except to the extent of a conflict with prior Acts; it being the intention of this Act to enlarge the scope of the classification of the Acts of 1945

above-mentioned without affecting other Acts adopted at the present Session of the Legislature except to the extent of an irreconcilable conflict.

[Acts 1949, 51st Leg., p. 374, ch. 198.]

¹ Article 3912e-4a.

² Article 3912e-14.

Art. 3912e-4c. District, County and Precinct Officers in Counties of 600,000 or More

Sec. 1. In all Counties in this State having a population of six hundred thousand (600,000) or more according to the last preceding Federal Census the Commissioners Court shall fix the salaries of the County Judge, Sheriff, District or Criminal District Attorney, Tax Assessor-Collector, District Clerk, County Clerk at not less than Nine Thousand, Nine Hundred Dollars (\$9,900) nor more than Ten Thousand, Eight Hundred Dollars (\$10,800) per annum; the Judges of the County Courts at Law, the Judges of the County Criminal Courts and the Judge of the County Probate Court at not less than Eight Thousand, Two Hundred Dollars (\$8,200) nor more than Nine Thousand, Six Hundred Dollars (\$9,600) per annum; the Justices of the Peace and Constables not to exceed Eight Thousand, Two Hundred Dollars (\$8,200) per annum; provided however that the Justices of the Peace and Constables whose precincts lie wholly or in part in cities having a population of four hundred and ninety-two thousand (492,000) or more shall receive not less than Seven Thousand, Five Hundred Dollars (\$7,500) per annum.

Sec. 2. In all such Counties, the Judges of the several District and Criminal District Courts shall each receive from County funds for all judicial and administrative services required of them an annual salary or allowance of Five Thousand Dollars (\$5,000), to be paid by the Commissioners Court out of any funds available for that purpose, in twelve (12) equal monthly installments. The additional compensation provided to be paid to the District Judges shall be in lieu of all other compensation heretofore provided to be paid to such Judges out of County funds; but shall be in addition to the salary payable out of State funds in such Counties, provided however any amount paid by the State in excess of Seven Thousand Dollars (\$7,000) shall reduce the County's payment by the same amount, provided however that the salary of the Judges of the several District and Criminal District Courts of such Counties from both State and County funds shall not exceed Twelve Thousand Dollars (\$12,000) per annum.

Sec. 3. The Commissioners Court of such Counties shall fix the salaries of all Deputies, Clerks and all other employees including road and bridge employees. In fixing such salaries the Court shall take into consideration the duties and responsibilities of said employees as well as the cost of living at all times.

Sec. 4. Said Commissioners Court is hereby authorized to allow such automobile expense to any officers or employee in the performance of their official duties, as they may deem necessary.

Sec. 5. This Act shall control in the Counties of the class to which it applies; but it shall not repeal any other laws regulating the payment of salaries of officers covered hereby except to the extent of conflict with such prior laws.

[Acts 1951, 52nd Leg., p. 689, ch. 396.]

Art. 3912e-4d. Counties of 500,000 or More; District, County and Precinct Officers, Deputies and Employees

Salaries Fixed by Commissioners Court

Sec. 1. In all counties in this State having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, the Commissioners Court of such counties shall fix the salaries of county officials in the following manner:

Counties of 500,000 to 600,000

Sec. 2. In all counties in this State having a population of five hundred thousand (500,000) but not exceeding six hundred thousand (600,000) according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of the County Judge, Sheriff, County Clerk, District or Criminal District Attorney, Tax Assessor-Collector and District Clerk at Ten Thousand, Eight Hundred Dollars (\$10,800) per annum; the Judges of the County Courts at Law at Nine Thousand, Six Hundred Dollars (\$9,600) per annum; the County Commissioner at Eight Thousand, Four Hundred Dollars (\$8,400) per annum; and the County Treasurer at Eight Thousand, Two Hundred Dollars (\$8,200) per annum.

Amendment of Order or Budget

Sec. 3. The Commissioners Court in such counties is hereby authorized and shall amend the present order of said court fixing the maximum salaries of said officials and to amend the budget for the fiscal year, 1953, from and at the effective date of this Act for the balance of the said fiscal year in order to grant any increases in salaries authorized by this Act. Provided, however, that nothing, except as herein provided shall be construed as in any manner modifying or changing the provisions of the present rule or any amendments thereto provided for the preparation of the County Budget.

Counties of 600,000 or More; County Judge and County Commissioners

Sec. 4. In all counties of this State having a population of six hundred thousand (600,000) or more according to the last preceding Federal Census, the County Judge and Commissioners of such counties shall be paid an annual salary in equal

monthly installments as follows: County Judge, Thirteen Thousand, Five Hundred Dollars (\$13,500); County Commissioners, Nine Thousand, Six Hundred Dollars (\$9,600).

**Sheriff; District and County Attorneys and Clerks;
Tax Assessor and Collector**

Sec. 5. In all of said counties the Commissioners Court of such counties shall fix the salaries of the Sheriff, Criminal District Attorney, District Attorney, County Attorney, County Clerk, District Clerk, and Tax Assessor and Collector at not less than Nine Thousand, Nine Hundred Dollars (\$9,900) nor more than Eleven Thousand, Eight Hundred Dollars (\$11,800) per annum payable in equal monthly installments; provided, however, that the total salary received by the Tax Assessor and Collector, including all additional fees and compensation, shall not exceed Fifteen Thousand, Eight Hundred Dollars (\$15,800) in the aggregate.

**Judges of County Courts at Law, County Criminal
Courts and Probate Courts**

Sec. 6. In all of such counties the Commissioners Court of such counties shall fix the salaries of the County Courts at Law and the Judges of the County Criminal Courts at not less than Eight Thousand, Two Hundred Dollars (\$8,200) nor more than Ten Thousand, Six Hundred Dollars (\$10,600) and the salaries of the Judges of the Probate Courts at not less than Eight Thousand, Two Hundred Dollars (\$8,200) nor more than Ten Thousand, Eight Hundred Dollars (\$10,800). Each of such salaries payable in equal monthly installments.

Justices of the Peace and Constables

Sec. 7. In all of such counties, the Commissioners Court of such counties shall fix the salaries of the Justices of the Peace and the Constables at not to exceed Eight Thousand, Eight Hundred Dollars (\$8,800) per annum, to be paid in equal monthly installments; provided, however, that the Justices of the Peace and Constables whose precincts lie wholly or in part in cities having a population of four hundred and thirty thousand (430,000) or more according to the last preceding Federal Census shall receive not less than Seven Thousand, Five Hundred Dollars (\$7,500) per annum.

Judicial and Administrative Services of District Judges

Sec. 8. In all of such counties, the Judges of the several District Courts in such counties shall each receive from county funds for all judicial and administrative services required of them an annual salary or allowances of Four Thousand, Five Hundred Dollars (\$4,500) to be paid by the Commissioners Court in equal monthly installments. Such additional compensation shall be in addition to the salaries payable out of State funds; provided, however, that the annual aggregate salary of said District Judges from both State and County sources shall not ex-

ceed Thirteen Thousand, Five Hundred Dollars (\$13,500).

Deputies, Clerks and Employees

Sec. 9. The Commissioners Court of such counties shall fix the salaries of all Deputies, Clerks, and other employees including road and bridge employees as well as the number of Deputies, Clerks, and other employees including road and bridge employees to be allowed all District, County and Precinct Officers. In fixing the salaries of all Deputies, Clerks and other employees including road and bridge employees, the Commissioners Court shall always take into consideration the duties and responsibilities of said Deputies, Clerks, and other employees; provided, however, in the office of the County Auditor the County Auditor shall prepare a list of the number of assistants sought to be appointed, their duties, and the salaries to be paid each, and shall certify the list to the District Judges, and they shall carefully consider the application for the appointment of said assistants and may make all necessary inquiries concerning the qualifications of the persons named, the positions sought to be filled and the reasonableness of the salaries requested, and if, after such considerations, a majority of the District Judges shall approve the appointments sought to be made or any number thereof, they shall prepare a list of the appointments so approved and the salaries to be paid each and certify said list to the Commissioners Court of said county, and the Commissioners Court shall thereupon order the amount paid from the general fund of the county upon the performance of the services; and said Court shall appropriate adequate funds for the purpose.

Automobile Expense

Sec. 10. Said Commissioners Courts are hereby authorized to allow such automobile expense to any officer or employee in the performance of his official duties as they may deem necessary.

**Salaries in Lieu of Other Compensation; Other
Laws Not Repealed**

Sec. 11. The salaries and other compensation contained in this Act shall be in lieu of all other salaries and compensation now received by any District, County or Precinct Officer of such counties; provided, however, that nothing in this Act shall be construed to repeal, alter or amend any of the provisions of Senate Bill No. 271, Chapter 363, page 620 of the Acts of the Fifty-second Legislature, 1951,¹ or of the provisions of Senate Bill No. 426, Chapter 366, page 699 of the Acts of the Fifty-first Legislature, 1949,² except in so far as such Acts are in conflict with or limited by the provisions of this Act.

[Acts 1953, 53rd Leg., p. 1050, ch. 435. Amended by Acts 1954, 53rd Leg., 1st C.S., p. 92, ch. 42, § 1.]

¹ Amending Penal Code (1925) art. 1436-1, § 57 (transferred; see, now, art. 6687-1, § 57).

² Article 5139.

Art. 3912e-5. Additional Salary to County Judge in Counties of 105,000 to 125,000 as Member of Juvenile Board

In all counties having a population of not less than one hundred five thousand (105,000) nor more than one hundred twenty-five thousand (125,000) according to the last preceding or any future Federal Census, the County Judge shall receive the sum of Fifteen Hundred (\$1500.00) Dollars annually in addition to his salary now or hereafter provided by law, such addition in salary to be paid such County Judge as a member of the Juvenile Board provided by Article 5139, Revised Civil Statutes, 1925; such additional salary shall be paid in twelve (12) equal installments out of the General Funds of such county, upon the order of the Commissioners' Court.

[Acts 1941, 47th Leg., p. 549, ch. 345, § 1.]

Art. 3912e-5a. Repealed by Acts 1957, 55th Leg., p. 183, ch. 81, § 3

Art. 3912e-5b. Additional Compensation to Lubbock County Judge as Member of Juvenile Board

Sec. 1. The County Judge of Lubbock County, Texas, may be allowed the additional compensation of Fifteen Hundred Dollars (\$1500) per annum for serving as a member of the County Juvenile Board which shall be paid in twelve (12) equal monthly installments out of the General Fund of such County.

Sec. 2. This Act shall be cumulative of the existing laws and shall not be construed as repealing any law fixing the compensation of the County Judge of Lubbock County, Texas.

[Acts 1955, 54th Leg., p. 1238, ch. 495.]

Art. 3912e-5c. Additional Compensation for Bexar County Judge as Member of Juvenile Board

Sec. 1. The County Judge of Bexar County, Texas, shall be allowed the additional compensation in the sum of Four Thousand, Five Hundred Dollars (\$4,500) per annum for serving as a member of the Bexar County Juvenile Board which shall be paid in twelve (12) equal monthly installments out of the General Fund of such County, and which additional compensation shall be in addition to all other salary or compensation now paid to such County Judge.

Sec. 2. This Act shall be cumulative of all existing general laws of this State and shall not be construed as repealing any such law fixing the compensation of the County Judge of Bexar County, Texas.

[Acts 1957, 55th Leg., p. 183, ch. 81.]

Art. 3912e-5d. Additional Compensation for Tarrant County Judge as Member of Juvenile Board

As compensation for the added duties imposed upon him as a member of the Tarrant County Juve-

nile Board, the County Judge of Tarrant County shall be allowed additional compensation of Two Thousand, Three Hundred Dollars (\$2,300) annually, to be paid in twelve (12) equal monthly installments out of the general fund of the county. Such compensation shall be in addition to all other compensation now provided or allowed by law for the County Judge of Tarrant County. The Commissioners Court of Tarrant County shall provide the necessary funds for payment of the additional salary herein provided.

[Acts 1961, 57th Leg., p. 672, ch. 311, § 1.]

Art. 3912e-5e. Additional Compensation for Brazoria County Judge as Member of Juvenile Board

(a) The Commissioners Court of Brazoria County may supplement the salary of the County Judge, as compensation for his services as a member of the Juvenile Board, in an amount not to exceed \$3,500 per year, to be paid in 12 equal monthly installments out of the general fund or other appropriate fund of Brazoria County.

(b) The supplemental salary authorized by this Section is in addition to all other salary or compensation now paid or authorized to be paid to the County Judge from any source.

[Acts 1965, 59th Leg., p. 874, ch. 430, § 1.]

Art. 3912e-6. Salaries of Officers in Counties of 100,000 to 190,000 to be Computed at Maximum Allowable Under Laws Existing August 24, 1935

The Commissioners Courts in all counties of Texas having a population of not less than one hundred thousand (100,000) and not more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, in fixing the annual salary that shall be paid an officer named in Section 13 of Chapter 465 of the Acts of the Second Called Session of the Forty-fourth Legislature, where such officer's salary is determined in compliance with the laws which existed on August 24, 1935, and is based upon population, shall compute and fix the salary of each of such officers at the maximum amount of which could have been paid each of such officers under the laws existing on August 24, 1935, according to the Federal Census of 1940 and thereafter according to the last preceding Federal Census; provided the Commissioners Courts in said counties are authorized to amend the present order of said Court fixing the maximum salary of said officers for the fiscal year 1941 from and after the effective date of this Act for the balance of said fiscal year, according to the Federal Census of 1940, and thereafter according to the last preceding Federal Census.

[Acts 1941, 47th Leg., p. 597, ch. 366, § 1.]

Art. 3912e-7. Salaries of Certain Officers in Counties of 100,000 to 190,000

The Commissioners Courts in all counties of Texas having a population of not less than one hundred thousand (100,000) and not more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, in fixing the annual salary that shall be paid an officer named in Section 13 of Chapter 465 of the Acts of the Second Called Session of the Forty-fourth Legislature, where such officer's salary is determined in compliance with the laws which existed on August 24, 1935, and is based upon population, shall compute and fix the salary of each of such officers at the maximum amount which could have been paid each of such officers under the laws existing on August 24, 1935, according to the Federal Census of 1940 and thereafter according to the last preceding Federal Census; provided the Commissioners Courts in said counties are authorized to amend the present order of said Court fixing the maximum salary of said officers for the fiscal year 1941 from and after the effective date of this Act for the balance of said fiscal year, according to the Federal Census of 1940 and thereafter according to the last preceding Federal Census.

[Acts 1941, 47th Leg., p. 1326, ch. 597, § 1.]

Art. 3912e-8. Counties Over 190,000; Salaries of County Attorneys; Assistants; Stenographers

Sec. 1. County Attorneys in counties having a population of more than one hundred ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, general or special, where there is no resident District Attorney or Criminal District Attorney shall receive a salary not to exceed Seventy-four Hundred (\$7400.00) Dollars per annum. All such salaries shall be paid out of the Officers' Salary Fund.

Sec. 2. County Attorneys in counties to which this bill applies are hereby authorized to appoint not exceeding nine (9) assistants, and fix their salary rate at not to exceed the following amounts; one First Assistant, not to exceed Six Thousand (\$6,000.00) Dollars per annum; two assistants at not to exceed Fifty-five Hundred (\$5500.00) Dollars per annum each; four assistants at not to exceed Forty-six Hundred (\$4600.00) Dollars per annum each; two assistants at not to exceed Thirty-six Hundred (\$3600.00) Dollars per annum each. He may employ three investigators and fix their salaries at not to exceed Thirty-six Hundred (\$3600.00) Dollars per annum each. He may employ two court reporters and fix their salaries at not to exceed Three Thousand (\$3,000.00) Dollars each. He may employ two stenographers and fix their salaries at not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum each. He may employ one chief clerk and fix his salary at not to exceed Thirty-six Hundred (\$3600.00) Dollars per annum. All such salaries mentioned in Sections 1 and 2 shall be payable from

the Officers' Salary Fund, if adequate; if inadequate, the Commissioners Court shall transfer necessary funds from the General Fund of the county to the Officers' Salary Fund. In addition to the salaries provided for the investigators herein, each of such investigators may be allowed a sum not to exceed Fifty (\$50.00) Dollars per month for repair and maintenance expense for automobile owned and maintained by such investigator, and used by him in investigation of crime; such allowance to be paid monthly by the county upon warrants drawn upon the Officers' Salary Fund or the General Fund, as the case may be, upon written claim of such investigator, showing that said automobile was in official use; and such claim shall bear the approval of the County Attorney, and shall be paid as provided by law for other claims.

Sec. 3. Should such County Attorney be of the opinion that the number of assistants or stenographers above provided is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his position, with the advice and approval of the Commissioners Court he may appoint additional assistants and stenographers or other employees, as hereinafter limited, and fix their salaries as follows: one additional assistant County Attorney, with a salary not to exceed Forty-five Hundred (\$4500.00) Dollars per annum; one additional assistant County Attorney with a salary not to exceed Thirty-six Hundred (\$3600.00) Dollars per annum. He may employ two additional stenographers and fix their salaries at not to exceed Twenty-one Hundred (\$2100.00) Dollars per annum each.

[Acts 1945, 49th Leg., p. 505, ch. 307, § 1. Amended by Acts 1947, 50th Leg., p. 90, ch. 61, § 1.]

Art. 3912e-9. Salaries of Certain Officers in Counties of 300,000 to 500,000

Sec. 1. The provisions of this Act shall apply to and control in each of the counties in this state having a population of not less than 300,000, nor more than 500,000, according to the last preceding Federal Census.

Sec. 2. The County Judge, Sheriff, District Attorney, Criminal District Attorney, District Clerk, County Clerk, and the Assessor-Collector of Taxes of such counties shall each receive a salary of Seventy-seven Hundred (\$7700.00) Dollars per annum. The County Auditor of such counties shall receive a salary of Seventy-four Hundred (\$7400.00) Dollars per annum, in lieu of any and all compensation now provided by law; provided that any salary or compensation now provided by law to be paid such County Auditors out of any special funds, including compensation rendered navigation, levee, drainage, road or school districts, shall be charged and collected, but shall be paid into the general fund of such counties. The County Treasurer of such counties shall each receive a salary of Forty-two Hundred (\$4200.00) Dollars per annum. The Judges of the County Courts-at-Law and the County Crimi-

nal Courts of said counties shall each receive a salary of Sixty-three Hundred (\$6300.00) Dollars per annum. All such salaries shall be paid out of the officers' salary fund or the general fund of such counties, as the case may be.

Sec. 3. The County Treasurer, upon the approval of the Commissioners Court, shall be allowed to appoint one (1) assistant at a salary not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum, and a second assistant at a salary not to exceed Twenty-one Hundred (\$2100.00) Dollars per annum. Said assistants shall be appointed by the Treasurer and shall take the usual oath of office, and in addition thereto, shall give such surety bond as may be required by the County Treasurer or by the Commissioners Court. Said assistants shall have authority to do and perform in the name of the Treasurer such acts of a clerical or ministerial character as may be required of them by the County Treasurer. All of said salaries enumerated in this section shall be paid from the general fund of such counties.

Sec. 4. The Commissioners Court of each of said counties shall grant an increase in the employees' salary budget and amend said budget for the necessary amount for all of said county offices named in Sections 1 and 2 above, equal to a fifteen (15%) per cent increase in the salary of all the employees, deputies and assistants for all of said offices, based on the pay roll of the particular office as of March, 1945. The salaries of the officials named in this Act shall not be increased beyond the salaries fixed in this Act. Said increase in salaries shall be paid from the general fund or officers salary fund, or road and bridge fund of such counties.

Sec. 5. The County Commissioner of such counties shall each receive a salary of Fifty-five Hundred (\$5500.00) Dollars per annum and such salaries shall be paid out of the Road and Bridge Funds or the General Fund of such counties, as the case may now be.

Sec. 6. All Justices of the Peace and Constables of such counties who are compensated on a fee basis as provided by law shall be entitled to retain annual fees and/or salary of Forty-seven Hundred Fifty (\$4750.00) Dollars each; provided, however, that all fees and commissions, whether current or delinquent, which are collected by the incumbent during his tenure of office shall be applied first to the payment of his deputies, authorized expenses of his office, and to make up the maximum compensation provided for in this section. No such officers shall be entitled to receive for any purpose any fees or commissions that are collected after he ceases to hold such office.

Sec. 7. This Act shall not repeal any of the provisions of Chapters 169 and 585, 47th Legislature, Regular Session, page 240, 1309 (1941) now appearing as Article 3912-e, Section 19(f-1) and (h-2), Vernon's Annotated Civil Statutes. The fifteen (15%) per cent increase in salary herein provid-

ed for shall be in addition to the salaries of employees, deputies and assistants provided for in said Acts.

Sec. 8. Section 1 of Chapter 81, Acts 45th Legislature, Regular Session, page 151 (1937), now appearing as Article 3912e-1, Vernon's Annotated Civil Statutes, and all other laws in conflict herewith be, and the same are hereby repealed, insofar as the same are in conflict with the provisions of this Act, but not otherwise.

Sec. 9. The salary of the County Engineer of such county shall not exceed Fifty-two Hundred Fifty (\$5250.00) Dollars per annum, said salary to be fixed by the Commissioners Court and paid out of the road and bridge fund of such counties.

Sec. 10. The salary of the County School Superintendent of such counties shall be Five Thousand Fifty (\$5050.00) Dollars per annum, said salary to be paid out of the school equalization fund.

Sec. 11. It is further provided that the minimum wage to be paid any road and bridge employee of such counties shall be not less than Fifty (50¢) cents per hour.

Sec. 12. If any section, paragraph, clause or sentence in this Act is declared to be unconstitutional, the same shall not effect the remaining portions of this Act. It is further the intention of the Legislature, in the event this Act shall be declared unconstitutional, that the salaries and compensations of the employees, deputies and assistants of the public officers named in this Act and the maximum amount of salaries and compensations which may be paid to said employees, deputies and assistants, shall remain the same as may now be fixed by existing law.

[Acts 1945, 49th Leg., p. 510; ch. 312.]

Repeal

Acts 1949, 51st Leg., p. 1068, ch. 552, § 2, repeals that part of section 2 of this article setting the compensation of county auditors. See art. 1645, note.

Art. 3912e-10. Repealed by Acts 1947, 50th Leg., p. 943, ch. 402, § 3

Art. 3912e-11. Counties of 300,000 to 500,000, Salaries of Certain Officers In

Sec. 1. The provisions of this Act shall apply to and control in each of the counties in this State having a population of not less than three hundred thousand (300,000), nor more than five hundred thousand (500,000) inhabitants, according to the last preceding or any future Federal Census.

Sec. 2. The County Judge, Sheriff, District Attorney, Criminal District Attorney, District Clerk, County Clerk, and the Assessor-Collector of Taxes of such counties shall each receive a salary of Seven Thousand, Seven Hundred Dollars (\$7,700) per annum. The County Auditor of such counties shall receive a salary of Seven Thousand, Four Hundred

Dollars (\$7,400) per annum, in lieu of any and all compensation now provided by law to be paid such County Auditors out of any special funds, including compensation rendered navigation, levee, drainage, road or school districts, shall be charged and collected, but shall be paid into the General Fund of such counties. The County Treasurer of such counties shall each receive a salary of Four Thousand, Two Hundred Dollars (\$4,200) per annum. The Judges of the County Courts-at-Law and the County Criminal Courts of said counties shall each receive a salary of Six Thousand, Three Hundred Dollars (\$6,300) per annum. Justices of the Peace and Constables of such counties whose offices are located in the Courthouse of such counties and whose precincts shall contain not less than two hundred thousand (200,000) inhabitants, according to the last or any future Federal Census, and who shall be compensated on a salary basis, shall receive a salary of Four Thousand, Seven Hundred and Fifty Dollars (\$4,750) per annum. All such salaries shall be paid out of the Officers Salary Fund or the General Fund of such counties as the case may be.

Sec. 3. The County Treasurer, upon the approval of the Commissioners Court, shall be allowed to appoint one (1) assistant at a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, and a second assistant at a salary not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum. Said assistants shall be appointed by the Treasurer and shall take the usual Oath of Office, and in addition thereto, shall give such surety bond as may be required by the County Treasurer or by the Commissioners Court. Said assistants shall have authority to do and perform in the name of the Treasurer such acts of a clerical or ministerial character as may be required of them by the County Treasurer. All of said salaries enumerated in this Section shall be paid from the General Fund of such counties.

Sec. 4. The Commissioners Court of each said county shall grant an increase in the employees' salary budget and amend said budget for the necessary amount for all of said County Officers named in Sections 1, 2 and 9, hereof, equal to a fifteen per cent (15%) increase in the salary of the employees, deputies and assistants for all of said offices, based on the pay roll of the particular office as of March 1945. The salaries of the Officials named in this Act shall not be increased beyond the salaries fixed in this Act. Said increase in salaries shall be paid from the General Fund or Officers Salary Fund, or Road and Bridge Fund of such counties.

Sec. 5. The County Commissioners of such counties shall each receive a salary of Five Thousand, Five Hundred Dollars (\$5,500) per annum and such salaries shall be paid out of the Road and Bridge Funds or the General Funds of such counties, as the case may be.

Sec. 6. (a) All Justices of the Peace and Constables of such counties who are compensated on a

fee basis as provided by law, shall be entitled to retain annual fees of Four Thousand, Seven Hundred and Fifty Dollars (\$4,750) each; provided, however, that all fees and commissions, whether current or delinquent, which are collected by the incumbent during his tenure of office shall be applied first to the payment of his deputies, authorized expenses of his office, and to make up the maximum compensation provided for in this Section. No such Officer shall be entitled to received for any purpose any fees or commissions that are collected after he ceases to hold such office.

(b) All Justices of the Peace and Constables of such counties who are compensated on a salary basis, whose offices are located in the Courthouse of such counties and whose precincts shall contain not less than two hundred thousand (200,000) inhabitants, according to the last or any future Federal Census, shall receive the annual salary provided in Section 2, hereof. All other Justices of the Peace and Constables in said counties who are being compensated on a salary basis, shall be paid in accordance with the provisions of Article 3912-e, Section 19(c), Vernon's Annotated Civil Statutes.

Sec. 7. This Act shall not repeal any of the provisions of Chapters 169 and 585, Forty-seventh Legislature, Regular Session, Page 240, 1309 (1941), now appearing as Article 3912-c, Section 19(f-1) and (h-2) Vernon's Annotated Civil Statutes. The fifteen per cent (15%) increase in salary herein provided for shall be in addition to the salaries of employees, deputies and assistants provided for in said Acts, but in no event shall the salary of any employee, deputy or assistant be increased beyond a maximum of Four Thousand, Two Hundred Dollars (\$4,200) per year except the deputies, assistants and employees of the District Attorney or Criminal District Attorney, whose salaries are now fixed by law as greater than such maximum of Four Thousand, Two Hundred Dollars (\$4,200) per year.

Sec. 8. Section 1 of Chapter 81, Acts, Forty-fifth Legislature, Regular Session, page 151 (1937) now appearing as 3912e-1, Vernon's Annotated Civil Statutes, and all other laws in conflict herewith be, and the same are hereby repealed, in so far as the same are in conflict with the provisions of this Act, but not otherwise.

Sec. 9. The salary of the County Engineer of such county shall not exceed Five Thousand, Two Hundred and Fifty Dollars (\$5,250) per annum, said salary to be fixed by the Commissioners Court and paid out of the Road and Bridge Fund of such counties.

Sec. 10. The salary of the County School Superintendent of such counties shall be Five Thousand and Fifty Dollars (\$5,050) per annum, said salary to be paid out of the School Equalization Fund.

Sec. 11. It is further provided that the minimum wage to be paid any Road and Bridge Fund employee of such counties shall be not less than fifty cents (50c) per hour.

Sec. 12. This Act is amendatory of Senate Bill No. 246, Acts, Forty-ninth Legislature, Regular Session, page 510, now appearing as Article 3912e-9 Vernon's Annotated Civil Statutes, and all provisions of said Act in conflict herewith are hereby repealed, but not otherwise.

Sec. 13. If any section, paragraph, clause or sentence in this Act is declared to be unconstitutional, the same shall not affect the remaining portions of this Act. It is further the intention of the Legislature, in the event this Act shall be declared unconstitutional, that the salaries and compensation of the employees, deputies and assistants of the public officers named in this Act and the maximum amount of salaries and compensations which may be paid to said employees, deputies and assistants, shall remain the same as may now be fixed by existing law.

[Acts 1947, 50th Leg., p. 545, ch. 322.]

Art. 3912e-12. Counties of Less Than 20,000; Salary Basis; Fixing of Salaries

In all counties of this State having a population of less than twenty thousand (20,000), according to the last preceding Federal Census, and in which counties the Commissioners Courts have determined that the county officials shall be compensated on a salary basis, such Commissioners Courts are authorized to fix the salaries of county officials in such counties, their deputies, clerks and assistants. Said compensation shall be paid in monthly or semimonthly installments, as said Court may determine. Provided, however, that no salary fixed herein by such Commissioners Court shall be in an amount to exceed Five Thousand, Four Hundred Dollars (\$5,400) for the County Officers and in an amount of Three Thousand, Six Hundred Dollars (\$3,600) for Deputies, Assistants, and Clerks; provided, further that no salary shall be set at a figure lower than that paid for the Calendar Year 1946.

[Acts 1947, 50th Leg., p. 772, ch. 381, § 1.]

Art. 3912e-13. Counties of 300,000 to 500,000; Appointment and Compensation of Deputies, Assistants and Employees

Sec. 1. In all counties in this state having a population of more than three hundred thousand (300,000) inhabitants and less than five hundred thousand (500,000) inhabitants, according to the last preceding Federal Census, whenever any district or county officer, with the exception of District Attorneys and Criminal District Attorneys, shall require the services of deputies, assistants, and employees in the performance of his duties he shall apply to the Commissioners Court for authority to appoint such deputies, assistants, and employees, stating by sworn application the number needed, the position to be filled, the duties to be performed, and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions, and compensation to be collected by said office during the fiscal year and

the probable disbursements which shall include all salaries and expenses of said office; and said court shall make its order authorizing the appointment of such deputies, assistants, and clerks and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said court may be proper; provided that in no case shall the Commissioners Court or any member thereof attempt to influence the appointment of any person as deputy, assistant, or clerk in any office. Upon the entry of such order the officers applying for such deputies, assistants, and employees shall be authorized to appoint them. The compensation which may be allowed to the deputies, assistants, or clerks above named for their services shall be as follows:

First assistant or chief deputy not less than Three Thousand Six Hundred (\$3,600.00) Dollars per annum; one assistant or deputy not less than Three Thousand (\$3,000.00) Dollars per annum; other assistants, deputies, and employees not to exceed Two Thousand Four Hundred (\$2,400.00) Dollars per annum each; provided that bailiffs serving Criminal District Courts shall be paid not less than One Hundred Seventy-five (\$175.00) Dollars per month each; and heads of departments in county or district offices shall receive not less than Twenty-five Hundred (\$2500.00) Dollars per annum each. No payment shall be made to any deputy, assistant or employee for any service performed prior to the authorization of his appointment and until he shall have subscribed to the constitutional oath of office, and such appointment and oath have been filed with the County Clerk for record. The amounts allowed to be paid to deputies, assistants and employees shall be paid after rendition of service out of said Officers' Salary Fund as provided for by law.

Sec. 2. In addition to the compensation as provided in Section 1, the Commissioners Court of each of said Counties shall grant an increase in the employees' salary budget and amend said budget for the necessary amount for all of said county offices named in Section 1 above, equal to a fifteen (15%) per cent increase in the salary of all the employees, deputies, and assistants for all of said offices, based on the pay roll of the particular office as of March, 1945. The salaries of the officials named in this Act shall not be increased beyond the salaries fixed in this Act. Said increase in salaries shall be paid from the general fund or officers' salary fund, or road and bridge fund of such counties.

[Acts 1947, 50th Leg., p. 943, ch. 402.]

Art. 3912e-14. Counties of Over 350,000; Assistants of District Attorneys and Criminal District Attorneys

Sec. 1. In all counties having a population of three hundred and fifty thousand (350,000) or more, according to the last preceding Federal Census, if the District Attorney or Criminal District Attorney be of the opinion that the amount of the salaries, the

number of assistants, stenographers, investigators, or other employees now provided by law for his office is not adequate for the proper investigation and prosecution of crime and the efficient performance of the duties of his office, he may, with the advice and approval of the Commissioners Court, increase the salaries heretofore authorized by law, appoint additional assistants, stenographers, investigators, or other employees and fix their salaries.

Sec. 2. Before such increases in salaries or additional appointments shall become effective, they shall be approved by the Commissioners Court and County Auditor of such county. All of the salaries shall be paid from the Officers' Salary Fund if adequate; if inadequate, the Commissioners Court may pay such salaries out of the General Fund, the Jury Fund, or any other funds available for the purpose. Provision for the payment of such additional sums may be made by supplemental budget as now provided by law, if not otherwise provided for.

Sec. 3. This Act shall be cumulative of all laws in force on its effective date or subsequently enacted with respect to reports, auditing, accounts, budgets, and approval and disapproval of claims for salaries, compensation or other expenses, and all such laws shall remain in full force and effect, except as otherwise especially provided herein. The County Auditor, as the Budget Officer of said counties and the Commissioners Court, shall prepare supplemental budget of said County to make proper provision for the payment of the increases in salaries or payment of salaries of additional authorized employees in accordance with the provisions of law regulating the budget.

[Acts 1949, 51st Leg., p. 189, ch. 106.]

Art. 3912e-15. Counties of 301,000 to 398,000; Compensation of Employees, Deputies and Assistants

Sec. 1. The provisions of this Act shall apply to and control in each of the counties of this State having a population of not less than three hundred and one thousand (301,000) inhabitants, nor more than three hundred and ninety-eight thousand (398,000) inhabitants according to the last preceding or any future Federal Census, and to justice precincts in such counties having a population of not less than two hundred thousand (200,000) inhabitants according to the last preceding or any future Federal Census.

Sec. 2. The effective date of this Act shall be January 1, 1950.

Sec. 3. This Act shall apply to the employees, deputies and assistants of the following named offices of said counties, to wit: District Judges, District Attorney or Criminal District Attorney, District Clerk, County Judge, Sheriff, Tax Assessor-Collector, County Clerk, County Treasurer, County Commissioners, County Auditor, and to Justices of the Peace and Constables of such counties whose

offices are located in the Courthouse of such counties and whose precincts shall contain not less than two hundred thousand (200,000) inhabitants according to the last preceding or any future Federal Census and who are compensated on a salary basis.

Sec. 4. The County Commissioners Court shall grant to each of the offices named in this Act a minimum budget appropriation for deputy clerk hire of not less than the payroll for March, 1949, of said office multiplied by twelve (12) months plus an additional fifteen per cent (15%).

Sec. 5. Each and every employee who is on the payroll of any of said offices when this Act becomes effective shall receive a fifteen per cent (15%) increase in salary provided said employee was on any part of the March, 1979, payroll of said office.

Sec. 6. The officials of the offices named in this Act must submit to the County Commissioners Court the number of positions and salary of each position which are necessary to perform the duties of said office and the County Commissioners Court shall approve said positions and salaries provided the total of said positions and salaries does not exceed the annual budget appropriation for deputy clerk hire for said office.

Sec. 7. Should any portion, paragraph, Section, sentence, clause, phrase or word in this Act be unconstitutional or void, it shall not affect any other portion of this Act. The Legislature expressly declares the provisions of this Act to be severable.

[Acts 1949, 51st Leg., p. 586, ch. 315.]

Art. 3912e-16. County Officers in Counties of 90,000 to 145,000; County Attorneys in Counties of 145,000 to 250,000

Sec. 1. In all counties in this State having a population of more than ninety thousand (90,000) persons according to the last preceding Federal Census, and not more than one hundred, forty-five thousand (145,000) population according to such Federal Census and with a taxable valuation for county purposes of not less than Eighty-five Million Dollars (\$85,000,000) according to the tax rolls as prepared by the tax assessor-collector of the respective counties for the year 1948, the county judge, county clerk, sheriff, tax assessor-collector, district clerk, the criminal district attorney or the county attorney performing the duties of a district attorney and the county attorney shall receive an annual salary of Six Thousand, Five Hundred Dollars (\$6,500) payable in equal monthly installments. The salary of such officers from the effective date of this Act, for the remainder of the year 1949, shall be paid on the same ratio basis as the remainder of the year bears to the total annual salary provided herein.

Sec. 2. In all counties in this State having a population of not less than one hundred, forty-five thousand (145,000) and not more than two hundred, fifty thousand (250,000) inhabitants according to the last preceding Federal Census, and with a taxable

valuation for county purposes of not less than Eighty-five Million Dollars (\$85,000,000) according to the tax rolls as prepared by the tax assessor-collector of the respective counties for the year 1948, the county attorney of such counties shall receive an annual salary of Seven Thousand, Four Hundred Dollars (\$7,400) payable in equal monthly installments from the Officers' Salary Fund in such counties.

Sec. 3. All such salaries shall be paid in twelve (12) equal installments per year and paid from funds now provided by law for payment of such officials.

Sec. 4. If any part, Section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have enacted, and does here now enact such remaining portions despite any such invalidity.

Sec. 5. This Act is not intended and shall not be considered or construed as repealing any laws or law now on the Statute book except those in conflict herewith, and to the extent of the conflict only, but in other respects shall be construed as being cumulative law.

[Acts 1949, 51st Leg., p. 960, ch. 528.]

Art. 3912e-17. Counties of 4,615 to 4,640; Compensation of District Officials

Sec. 1. In each county in the State of Texas having a population of more than four thousand, six hundred fifteen (4,615) and less than four thousand, six hundred forty (4,640) according to the last preceding Federal Census the Commissioners Courts of such counties are authorized to fix the salaries of district officials at a sum of not more than Eleven Thousand Dollars (\$11,000) per year.

Sec. 2. All such salaries shall be paid from funds now provided by law for such officials.

[Acts 1961, 57th Leg., p. 1173, ch. 528. Amended by Acts 1971, 62nd Leg., p. 1822, ch. 542, § 24, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 1970, ch. 608, § 1, eff. Aug. 30, 1971; Acts 1981, 67th Leg., p. 586, ch. 237, § 108, eff. Sept. 1, 1981.]

Section 2 of Acts 1971, 62nd Leg., p. 1970, ch. 608, provided: "As used in this Act, 'the last preceding Federal Census' means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes."

Art. 3912e-18. Counties of 12,500 to 12,600 or 13,300 to 13,350 or 9,940 to 10,100; Compensation of District Officials

In each county of the State of Texas having a population of not less than 12,500 and not more than 12,600, not less than 13,300 and not more than 13,350, or not less than 9,940 and not more than 10,100, according to the last preceding federal census, the district officials are to be compensated as determined by the Commissioners Courts in an

amount not to exceed Ten Thousand Dollars (\$10,000), provided no salary shall be set at a figure lower than that actually paid on June 16, 1961.

[Acts 1961, 57th Leg., p. 1111, ch. 502, § 1. Amended by Acts 1971, 62nd Leg., p. 1828, ch. 542, § 48, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 587, ch. 237, § 109, eff. Sept. 1, 1981.]

Art. 3912e-19. Counties of 14,600 to 14,625; Compensation of District Officials

In each county of the State of Texas having a population of not less than 14,600 and not more than 14,625, according to the last preceding federal census, the district officials are to be compensated as determined by the Commissioners Courts in an amount not to exceed Eight Thousand, Five Hundred Dollars (\$8,500), provided no salary shall be set at a figure lower than that actually paid on August 28, 1961.

[Acts 1961, 57th Leg., p. 1174, ch. 529, § 1. Amended by Acts 1971, 62nd Leg., p. 1852, ch. 542, § 138, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 587, ch. 237, § 110, eff. Sept. 1, 1981.]

Art. 3912e-20. Counties of 4,500 to 4,600; Compensation of District Officials

Sec. 1. In each county in the State of Texas having a population of more than four thousand, five hundred (4,500) persons according to the last preceding federal census and not more than four thousand, six hundred (4,600) persons according to such federal census; the Commissioners Courts of such counties are authorized to fix the salaries of district officials at a sum of not less than the salary paid for the calendar year of 1962, nor more than Eight Thousand, Five Hundred Dollars (\$8,500) per year.

Sec. 2. All such salaries shall be paid from funds now provided by law for such officials.

[Acts 1963, 58th Leg., p. 49, ch. 31. Amended by Acts 1971, 62nd Leg., p. 1838, ch. 542, § 88, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 587, ch. 237, § 111, eff. Sept. 1, 1981.]

Art. 3912e-21. Counties of 24,600 to 24,700; Compensation of Officials and Employees

Sec. 1. In every county in the State of Texas, having a population of not less than twenty-four thousand, six hundred (24,600) and not more than twenty-four thousand, seven hundred (24,700), according to the last preceding federal census, the Commissioners Courts are authorized to fix the salaries of district officials at a sum of not less than the salary paid on March 29, 1963, nor more than Ten Thousand Dollars (\$10,000) per year. Chief deputies, deputies, clerks, assistants, secretaries, custodians and general employees may be paid salaries not to exceed Six Thousand, Five Hundred Dollars (\$6,500) annually.

Sec. 2. All salaries adjusted under provisions of Section 1 of this Act shall be paid from funds now

provided by law for such elected and appointed officials and all employees in all counties under provisions of this Act.

[Acts 1963, 58th Leg., p. 52, ch. 34. Amended by Acts 1971, 62nd Leg., p. 1829, ch. 542, § 51, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 587, ch. 237, § 112, eff. Sept. 1, 1981.]

Art. 3912e-22. Counties of 128,400 to 130,000; Compensation of Officials

Sec. 1. In each county in the State of Texas having a population of at least 128,400 and not more than 130,000 according to the last preceding federal census, the Commissioners Court shall fix the salaries of the county and district officials named in Section 2 of this Act at not more than \$12,000 per year; provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act.

Sec. 2. This Act applies to the salaries of judges of the county courts at law.

[Acts 1967, 60th Leg., p. 1238, ch. 561, eff. Aug. 28, 1967. Amended by Acts 1971, 62nd Leg., p. 1843, ch. 542, § 104, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 588, ch. 237, § 113, eff. Sept. 1, 1981.]

Art. 3912e-23. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3912e-24. Counties of 190,000 to 205,000; Deputies, Administrative Assistants, and Clerks of Officers

Secs. 1, 2. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Sec. 3. In any county having a population of not less than 190,000 and not more than 205,000, according to the last preceding Federal Census, the Commissioners Court may employ and fix the number, as well as the salaries, of the deputies, administrative assistants, and clerks of any district, county, or precinct officer, including any member of the Commissioners Court, in an amount not to exceed \$14,000 per year except that to the extent that Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 3912k, Vernon's Texas Civil Statutes), conflicts with this section, that law prevails.

[Acts 1969, 61st Leg., 2nd C.S., p. 192, ch. 34, §§ 1 to 3. Amended by Acts 1971, 62nd Leg., p. 2843, ch. 930, §§ 1 to 3, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 588, ch. 237, §§ 114, 145, eff. Sept. 1, 1981.]

Art. 3912e-25. District and County Clerks in All Counties; Automobile Expense Allowance

The Commissioners Court of any county in this State may provide a county owned automobile or a reasonable personal automobile allowance for the district clerk and the county clerk to cover expenses

incurred by the clerks or their deputies in the course of performing official duties.

[Acts 1971, 62nd Leg., p. 1796, ch. 530, § 1, eff. Aug. 30, 1971.]

Arts. 3912e-26 to 3912e-28. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3912f-1. Salaries of Sheriffs and Deputies in Counties of 27,235 to 27,300; Appointment of Deputies

Sec. 1. In all counties of the State of Texas having a population of not less than twenty-seven thousand, two hundred and thirty-five (27,235) and not more than twenty-seven thousand, three hundred (27,300), according to the last preceding Federal Census, in which there are no District Attorneys, the Commissioners Courts of such counties shall, from and after effective date of this Act, compensate the Sheriffs of such counties upon an annual salary basis and shall fix the salaries of such Sheriffs in such counties at not less than Three Thousand, Three Hundred Dollars (\$3,300) and not more than Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable in twelve (12) equal monthly installments, out of the Officers Salary Fund of such counties, by warrant drawn upon said fund.

Sec. 2. The Sheriffs of such counties are hereby authorized and empowered to appoint at least one Deputy Sheriff and one special Deputy Sheriff; the powers and duties of the special Deputy Sheriff shall be the same as those of other Deputy Sheriffs and, in addition, his special duty shall be to assist such Sheriffs in all matters arising in and connected with the efficient conduct of said office, including the finger printing, photography work, and investigation work of said office. The Commissioners Courts of such counties shall, from and after effective date of this Act, compensate such Deputy Sheriffs and such special Deputy Sheriffs upon an annual salary basis and shall fix the salary of such special Deputy Sheriff at not exceeding One Thousand, Two Hundred Dollars (\$1,200) per annum, payable in twelve (12) equal monthly installments out of the Officers Salary Fund in such counties by warrant drawn upon said fund by the Commissioners Courts. The compensation of the Deputy Sheriff shall likewise be fixed at an annual salary of not exceeding One Thousand Dollars (\$1,000), payable in twelve (12) equal monthly installments in like manner as provided for the payment of the salaries of special Deputy Sheriffs, hereinabove set out.

Sec. 3. This Act is not intended and shall not be considered or construed as repealing any law or laws now on the Statute books except those in conflict herewith and to the extent of the conflict only, but in other respects shall be construed as being cumulative thereof.

[Acts 1939, 46th Leg., Spec.L., p. 749.]

Art. 3912f-2. Salary of Chief Deputy in Office of Sheriff, Tax Collector and Assessor in Counties of 6,000 to 6,200 Population

Sec. 1. From and after the effective date of this Act in all counties in this State having a population of not less than six thousand (6,000), and not more than six thousand, two hundred (6,200) according to the last Federal Census, and where the duties of Sheriff, Tax Collector and Assessor are performed by one official, the Commissioners Court is hereby authorized to pay the chief deputies of such officers in such counties a sum not exceeding Two Thousand, One Hundred Dollars (\$2,100) per annum, payable in equal monthly installments.

Sec. 2. The salaries hereinabove stipulated shall be paid in whole or in part from such funds as the Commissioners Court may designate.

[Acts 1939, 46th Leg., Spec.Laws, p. 733.]

Art. 3912f-3. Salaries of Sheriffs and Deputies in Counties of 25,600 to 25,889 in Which There Are No District Attorneys

Sec. 1. In all counties of the State of Texas having a population of not less than twenty-five thousand, six hundred (25,600) and not more than twenty-five thousand, eight hundred and eighty-nine (25,889), according to the last Federal Census, in which there are no district attorneys, the Commissioners Courts of such counties shall, from and after effective date of this Act, compensate the sheriffs of such counties upon an annual salary basis and shall fix the salaries of such sheriffs in such counties at not less than Thirty-three Hundred Dollars (\$3300) and not more than Thirty-six Hundred Dollars (\$3600) per annum, payable in twelve (12) equal monthly installments, out of the Officers Salary Fund of such counties, by warrant drawn upon said fund.

Sec. 2. The sheriffs of such counties are hereby authorized and empowered to appoint at least one deputy sheriff and one special deputy sheriff; the powers and duties of the special deputy sheriff shall be the same as those of other deputy sheriffs and, in addition, his special duty shall be to assist such sheriffs in all matters arising in and connected with the efficient conduct of said office, including the finger printing, photography work, and investigation work of said office. The Commissioners Courts of such counties shall, from and after effective date of this Act, compensate such deputy sheriffs and such special deputy sheriffs upon an annual salary basis and shall fix the salary of such special deputy sheriffs at not exceeding One Thousand, Two Hundred Dollars (\$1,200) per annum, payable in twelve (12) equal monthly installments out of the Officers Salary Fund in such counties by warrant drawn upon said fund by the Commissioners Courts. The compensation of the deputy sheriffs shall likewise be fixed at an annual salary of not exceeding One Thousand Dollars (\$1,000), payable in twelve (12)

equal monthly installments in like manner as provided for the payment of the salaries of special deputy sheriffs, hereinabove set out.

Sec. 3. This Act is not intended and shall not be considered or construed as repealing any law or laws now on the statute books except those in conflict herewith and to the extent of the conflict only, but in other respects shall be construed as being cumulative thereof.

[Acts 1941, 47th Leg., p. 546, ch. 342.]

Art. 3912f-4. Salaries of Sheriffs and Deputies in Counties of 43,900 to 44,000 Population

In all counties having a population of not less than forty-three thousand, nine hundred (43,900) and not more than forty-four thousand (44,000) according to the last preceding Federal Census the sheriff of such counties shall receive an annual salary not to exceed Six Thousand, Five Hundred Dollars (\$6,500). The chief deputy sheriff of such counties shall receive an annual salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600). All other deputy sheriffs of such counties shall receive annual salaries not to exceed Three Thousand Dollars (\$3,000).

[Acts 1949, 51st Leg., p. 1196, ch. 606, § 1.]

Arts. 3912f-5, 3912f-6. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3912f-7. Longevity Pay for Deputy Sheriffs in Counties of Not Less Than 150,000

(a) The commissioners court of each county in this state with a population of not less than 150,000, according to the last preceding federal census, shall provide longevity pay for each commissioned deputy of the sheriff's department in accordance with this Act.

(b) Each commissioned deputy shall receive, in addition to his regular compensation, longevity pay of not less than \$5 per month for each year of service in the department. Years of service in excess of 25 do not count for the purposes of this subsection.

(c) The longevity pay provided by this Act becomes effective in a county at the beginning of the first fiscal year immediately following the time this Act becomes applicable to the county.

[Acts 1973, 63rd Leg., p. 757, ch. 332, § 1, eff. Aug. 27, 1973. Amended by Acts 1977, 65th Leg., p. 1091, ch. 400, § 1, eff. Aug. 29, 1977.]

Section 2 of the 1977 amendatory act provided:

"In counties required for the first time to provide longevity pay for deputy sheriffs because of this amendatory Act, the requirement is not mandatory until the first day of the first county fiscal year beginning after this Act takes effect."

Art. 3912g. Increase of Compensation of Precinct, County and District Officers and Employees

Sec. 1. The Commissioners Court in each county of this State is hereby authorized, when in their judgment the financial condition of the county and the needs of the officer justify the increase, to enter an order increasing the compensation of the precinct, county and district officers, or either of them, in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1948, whether paid on fee or salary basis; provided, however, the members of the Commissioners Court may not raise the salaries of any of such Commissioners Court under the terms of this Act without raising the salary of the remaining county officials in like proportion.

Sec. 2. The Commissioners Court in each county of this State is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputies, assistants and clerks of any district, county or precinct officer justify the increase, to enter an order increasing the compensation of any such deputy, assistant or clerk in an additional amount not to exceed thirty-five (35%) per cent of the sum allowed under the law for the fiscal year of 1948.

Sec. 3. All of such officers who were paid on a fee basis during the fiscal year of 1948, and who are now to be paid on a salary basis, shall be paid an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year of 1935, and not more than the maximum sum allowed such officer under the laws existing on August 24, 1948, together with the twenty-five (25%) per cent increase allowed by this Act within the discretion of the Commissioners Court.

Sec. 4. Before the Commissioners Court shall be authorized to change the salary of the public officials provided for in this Act, said Court shall publish at least once a week for three (3) consecutive weeks in a newspaper in the respective county, notice of their intention to make changes of salaries of those affected.

Sec. 5. The provisions of this Act shall be cumulative of all other laws pertaining to salaries of county and precinct officers and their deputies and assistants.

Sec. 6. If any section, subsection, paragraph, or portion of this Act is held invalid, such holding shall not affect the validity of the remaining portions of the Act; and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity.

[Acts 1949, 51st Leg., p. 601, ch. 320.]

Art. 3912h. Salaries in Counties of 398,000 or More

Sec. 1. In all counties having a population of three hundred and ninety-eight thousand (398,000) or more, according to the last preceding or any future Federal Census, the provisions of this Act shall control as to the amounts of the salaries to be paid the officers named herein. All such salaries shall be fixed by the Commissioners Court of such counties, within the limitations herein provided, not oftener than once each year, by an order made and entered in the minutes of said Court. The salaries of all of such officers shall be determined and fixed at the same time. Such salaries shall be payable in monthly installments out of such funds as may be lawfully available for the purpose as provided in the order of the Commissioners Court.

Sec. 2. The County Judge, the Sheriff, the District Attorney or Criminal District Attorney, as the case may be, the District Clerk, the County Clerk and the Assessor and Collector of Taxes in such counties shall receive a salary of not less than Seven Thousand, Seven Hundred Dollars (\$7,700) and not more than Nine Thousand, Nine Hundred Dollars (\$9,900) each per annum. The compensation fixed for the Sheriff or Constable shall be exclusive of any reward received for the apprehension of any criminal fugitive from justice and rewards received for the recovery of stolen property.

Sec. 3. The County Treasurer of such counties shall receive an annual salary of not less than Three Thousand, Nine Hundred Dollars (\$3,900) nor more than Five Thousand Dollars (\$5,000) per annum for his services in handling county funds. Where such Treasurer also acts as treasurer of any navigation district, or drainage districts, he shall receive and be entitled to retain such compensation from such districts as may be provided by law regulating such districts, in addition to his salary for acting as Treasurer of the county.

Sec. 4. Judges of any County Courts at Law and County Criminal Courts irrespective of any slight variation in the names of such courts, in such counties shall each receive a salary of not less than Six Thousand, Five Hundred Dollars (\$6,500) and not more than Eight Thousand, Two Hundred and Fifty Dollars (\$8,250) per annum.

[Acts 1949, 51st Leg., p. 760, ch. 408. Amended by Acts 1949, 51st Leg., p. 1179, ch. 593, § 1.]

Art. 3912i. Maximum Salaries of Justices of the Peace and Constables; Precinct Officers; Certain Counties

Counties of Less Than 20,000

Sec. 1. In each county in the State of Texas having a population of less than twenty thousand inhabitants according to the last preceding federal census where the precinct officials are compensated on a salary basis, the Commissioners Courts shall fix the salaries of the officials named in this Act at

not more than Five Thousand Dollars (\$5,000.00) per annum.

Counties of 20,000 to 46,000

Sec. 2. In each county in the State of Texas having a population of at least twenty thousand and not more than forty-six thousand inhabitants according to the last preceding federal census, the Commissioners Courts shall fix the salaries of the precinct officials named in this Act at not more than Six Thousand Dollars (\$6,000.00) per annum.

Counties of 46,000 to 98,000

Sec. 3. In each county in the State of Texas having a population of at least forty-six thousand and one and not more than ninety-eight thousand inhabitants according to the last preceding federal census, the Commissioners Courts shall fix the salaries of the precinct officials named in this Act at not more than Seven Thousand Dollars (\$7,000.00) per annum.

Counties of 98,000 to 195,000

Sec. 4. In each county in the State of Texas having a population of at least ninety-eight thousand and one and not more than one hundred ninety-five thousand inhabitants according to the last preceding federal census, the Commissioners Courts shall fix the salaries of the precinct officials named in this Act at not more than Eight Thousand Dollars (\$8,000.00) per annum.

Sec. 5. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Act Inapplicable to Counties of Over 600,000

Sec. 6. The provisions of this Act shall not apply to any county having a population in excess of six hundred thousand inhabitants, according to the last preceding federal census.

Justices of the Peace and Constables; Applicability of Act

Sec. 7. The provisions of this Act shall be applicable only to Justices of the Peace and Constables.

Funds from Which Salaries Payable

Sec. 8. The salaries of the officials named in this Act shall be paid out of the Officers' Salary Fund and/or general fund of the respective counties.

Amount of Salaries; Fixing; Construction of Act

Sec. 9. The Commissioners Courts shall not be required to fix the salaries in all precincts at equal amounts, but shall have discretion to determine the amount of salaries to be paid each Justice of the Peace and each Constable in the several precincts on an individual basis without regard to the salaries paid in other precincts or to other officials. In arriving at the compensation to be paid the officials governed by the provisions of this Act the Commissioners Courts shall consider the financial condition

of their respective counties and the duties and needs of their officials, but in no event shall any Commissioners Court set the salary of any official at a figure in excess of the maximum compensation prescribed for the officials of that county by this Act, save and except as hereinafter provided, to wit:

(1) In any county where the number of Justices of the Peace holding office and performing the duties of such office is less than the maximum number of Justices of the Peace authorized by the Constitution of Texas, the Commissioners Courts may increase the maximum salary of the Justice or Justices so performing the duties of the offices, and of the Constable or Constables serving as bailiff or bailiffs for such Justice or Justices, an additional amount not to exceed ten percent (10%) of the maximum salary applicable to such office for each such constitutionally authorized Justice of the Peace not holding such office and not performing the duties of such office, provided that under no circumstances shall any Justice of the Peace or Constable under this subsection be paid more than twenty-five percent (25%) over and above the maximum salary herein applicable to such office; except that in any county having a population of more than forty-six thousand (46,000) inhabitants according to the last preceding Federal Census and having not more than four Justices of the Peace holding office and performing the duties of such office any Justice of the Peace who is licensed to practice law in the State of Texas and who maintains in the courthouse or other county building at the county seat an office which is open for the transaction of the business of such office during the same hours as the principal offices in the courthouse of such county may be paid under this subsection not more than the following percent over and above such maximum salary herein applicable to such office, to wit: in any such county having a population of not more than ninety-eight thousand (98,000) inhabitants according to the last preceding Federal Census, forty percent (40%); in any such county having a population of at least ninety-eight thousand and one (98,001) and not more than one hundred ninety-five thousand (195,000) inhabitants according to such census, thirty-five percent (35%); and in any such county having a population of more than one hundred ninety-five thousand (195,000) inhabitants according to such census, thirty percent (30%).

(2) In the event there are any Justices of the Peace or Constables in the State of Texas who are now being paid salaries in excess of the amount permissible under the provisions of this Act, this Act shall not be construed to require a reduction in the salaries being paid such officials so long as the present incumbents of such offices continue to hold such offices and perform the duties thereof, including both the present term for which they were elected and any terms for which they are re-elected; but in such cases, when the present incumbents of such offices vacate such offices for any reason, their successors in such offices shall receive not to

exceed the maximum salaries fixed and determined in accordance with the provisions of this Act.

Fees and Commissions; Payment into County Treasury

Sec. 10. All of the fees and commissions earned and collected by the officials named in this Act shall be paid into the County Treasury in accordance with the provisions of Section 61 of Article XVI of the Constitution of Texas, except the Justices of the Peace may have and retain, in addition to the salaries fixed by the Commissioners Courts, all fees, commissions, gifts, or payments made to them for performing marriage ceremonies, for acting as registrar for the Bureau of Vital Statistics, and for acting as ex officio notary public.

Commissioners Court; Authority to be Exercised only at Regular Meetings

Sec. 11. The Commissioners Court shall not exercise the authority vested in said court by virtue of this Act, except at regular meeting of said court and after ten (10) days notice published in a paper of general circulation in the county to be affected thereby of the intended salaries to be raised and the amount of such proposed rate.

Sec. 12. [Repealed conflicting laws].

Sec. 13. [Severability provision].

Sec. 14. [Emergency clause].

Increase in Maximum Compensation

Sec. 15. The Commissioners Court in each county in the State is hereby authorized to increase the maximum compensation of each officer enumerated in this Act, as amended, in an additional amount not to exceed twenty percent (20%) of the maximum sum authorized by said Act, as amended; provided that no increased compensation shall be authorized pursuant to this Act except at a regular meeting of said Court following publication of notice at least two times, one time a week, in a newspaper of general circulation in such county, of the salaries intended to be raised at such meeting and the amount of such proposed raise.

[Acts 1957, 55th Leg., p. 231, ch. 110. Amended by Acts 1965, 59th Leg., p. 1287, ch. 591, § 1; Acts 1967, 60th Leg., p. 147, ch. 76, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1105, ch. 486, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1660, ch. 469, § 1, eff. May 27, 1971; Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.]

Art. 3912j. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3912k. County and Precinct Officials and Employees Who Are Paid Wholly From County Funds; Compensation, Expenses and Allowances

Salaries, Etc., to be Set by Commissioners Court

Sec. 1. Except as otherwise provided by this Act and subject to the limitations of this Act, the com-

missioners court of each county shall fix the amount of compensation, office expense, travel expense, and all other allowances for county and precinct officials and employees who are paid wholly from county funds, but in no event shall such salaries be set lower than they exist at the effective date of this Act.

Justices of the Peace; Courtrooms and Offices; Supplies and Equipment

Sec. 1a. In addition to the compensation and expenses provided for in Section 1 of this Act, the commissioners court of each county may furnish, and equip with necessary telephone, equipment, and supplies, a suitable courtroom and office space for each justice of the peace in the county.

Elected Officers: Restrictions

Sec. 2. (a) The salaries, expenses, and other allowances of elected county and precinct officers shall be set each year during the regular budget hearing and adoption proceedings on giving notice as provided by this Act.

(b) There is hereby created in each county a salary grievance committee composed of:

(1) the county judge, who shall be chairman of the committee but who shall not be entitled to vote;

(2) the sheriff, the county tax assessor-collector, the county treasurer, the county clerk, the district clerk, and the county attorney or criminal district attorney; and

(3) three residents of the county selected as provided by Subsection (c) of this Section; or if one person holds more than one of the offices described in Subdivision (2) of this subsection or if one or more of those offices is not filled in the county, a number sufficient to establish the total voting membership of the committee at nine members.

(4) Notwithstanding any other Section or subsection of this Act, the commissioners court may vote to have all nine members of the salary grievance committee be residents of the county selected as provided by Subsection (c) of this Section. Such vote by the commissioners court, if any, shall be held on the second Monday in January of each year.

(c) The public members of the committee shall be selected at the meeting of the commissioners court held on the second Monday in January of each year. Before that meeting, the clerk of the commissioners court shall prepare slips with a name on each slip corresponding to the names of all persons who served on grand juries in the county during the preceding calendar year. At the meeting, the slips shall be folded, placed in an appropriate receptacle, mixed, and drawn at random by the county judge until he has drawn a number equal to the number of public members required to constitute the committee. The county judge shall then announce the names on the slips drawn, and those persons shall be deemed appointed to the committee on accept-

ance submitted in writing to the clerk. If any person refuses or is unable to serve, a replacement shall be selected at the next regular or called meeting of the commissioners court by random selection of a slip from the remaining slips containing the names of grand jurors for the preceding year, with the process repeated as necessary to constitute the required membership of the committee. The public members of the committee shall serve for the year ending with the appointment of their successors the following January. A vacancy in the public membership of the committee shall be filled for the unexpired portion of the term by random selection of a slip from the remaining slips at a meeting of the commissioners court.

(d) The commissioners court of each county prior to filing of the annual budget with the clerk of the county court shall give written notice to each elected county and precinct officer of his salary and personal expenses to be included in the budget.

(e) Any elected county or precinct officer who is aggrieved by the setting of his salary or personal expenses may within 5 days of his notification request a hearing before the salary grievance committee. The request shall be in writing, shall state the change in his salary or personal expenses he desires, and shall be delivered to the chairman of the committee. The chairman shall announce the time and place of the hearing, which shall be within 10 days after receipt of the request. If after a public hearing the committee by a vote of six of its voting members decides to recommend a change in the salary or personal expenses of the person requesting the hearing, it shall prepare its recommendation in writing and deliver it to the commissioners court, which shall consider the recommendation at its next meeting. A written recommendation signed by all nine members and delivered to the commissioners court shall be entered into the budget prior to filing and shall become effective in the next budget year.

(f) The authority given to the salary grievance committee is specifically limited to increasing items concerning salaries or personal expenses of county and precinct officers. Nothing in this Act shall be interpreted to allow the committee to set policy of the county or add new items to a proposed county budget.

Official Shorthand Reporters

Sec. 3. (a) In addition to transcript fees, fees for statements of facts, and other expenses necessary to the office authorized by law, the official shorthand reporter of each district or domestic relations court shall be paid a salary set by order of the judge of that court; provided that such salary shall be no lower than the salary on the effective date of this Act. If a judicial district is composed of more than one county, each county shall pay a portion of the salary equal to the proportion that its population bears to the total population of the judicial district.

(b) Any increase in the salary of a shorthand reporter to become effective in 1972 or any subsequent calendar year must be ordered by the judge, and the order submitted to the commissioners court of each county in the district, not later than September 1 immediately preceding the adoption of the county budget for the following year. A commissioners court in its discretion may allow an extension of this time limit.

(c) An official shorthand reporter may not be paid a salary more than 10 percent in excess of the salary paid to him during the preceding budget year, except with the approval of the commissioners court of each county in the judicial district.

(d) A person initially appointed to succeed an official shorthand reporter may be paid a salary not to exceed the salary paid to the person he succeeds.

Procedures Heretofore Established Unaffected

Sec. 4. Nothing in this Act is intended to affect the lawful procedures and delegations of authority heretofore established in any county for the purpose of setting the salary of county and precinct employees.

Fees and Commissions

Sec. 5. All of the fees and commissions earned and collected by the officials named in this Act shall be paid into the county treasury in accordance with the provisions of Section 61, Article XVI, of the Constitution of Texas. No provision of this Section shall apply to official shorthand reporters.

Notice and Public Hearing Required

Sec. 6. The commissioners court shall not exercise the authority provided by Section 2 of this Act except at regular meeting of the court and after 10 days' notice published in a paper of general circulation in the county of the intended salaries, expenses, and allowances to be raised and the amount of the proposed raises.

Exceptions

Sec. 7. Nothing in this Act applies to compensation, expenses, or allowances of:

- (1) district attorneys, wholly paid by state funds, or their assistants, investigators, or other employees;
- (2) persons employed under Section 10, Article 42.12, Code of Criminal Procedure, 1965, as amended;
- (3) any county auditor or his assistants or employees or any county purchasing agent or his employees or assistants;
- (4) judges of all courts of record and presiding judges of commissioners courts in counties having a population of 1,700,000 or more, according to the last preceding Federal Census.

Repealer

Sec. 8. To the extent that any local, special, or general law, including Acts of the 62nd Legislature, Regular Session, 1971, prescribes the compensation, office expense, travel expense, or any other allowance for any official or employee covered by this Act, that law is repealed.

Effectiveness of Act

Sec. 9. This Act is effective for salaries, expenses, and allowances paid beginning January 1, 1972.

Severability Clause

Sec. 10. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 2019, ch. 622, eff. Jan. 1, 1972. Amended by Acts 1973, 63rd Leg., p. 423, ch. 188, § 1, eff. May 25, 1973; Acts 1979, 66th Leg., p. 1039, ch. 468, § 1, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 1741, ch. 336, § 1, eff. Aug. 29, 1983.]

Section 1 of Acts 1979, 66th Leg., p. 970, ch. 434, amended art. 2326j-13a, relating to compensation of court reporters of the 23rd and 130th judicial districts; section 2 of that act provided:

"Section 3, Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3912k, Vernon's Texas Civil Statutes), applies to the 130th Judicial District."

Art. 3912l. Secretarial Personnel of District, County or Precinct Officers

The commissioners court of any county is hereby authorized, when in their judgment the financial condition of the county and the staff needs of a district, county, or precinct officer justify doing so, to enter an order to hire and provide compensation for adequate secretarial personnel of any district, county, or precinct officer.

[Acts 1975, 64th Leg., p. 381, ch. 170, § 1, eff. May 8, 1975.]

Art. 3912m. Withholding Compensation of County Officers Who Elect Not to be Paid**Definition**

Sec. 1. In this Act, "county payroll officer" means the county auditor or other appropriate county officer who issues paychecks to county personnel.

Nonpayment of Compensation

Sec. 2. (a) If an elected county officer files an affidavit with the county clerk stating that the officer elects not to be paid for his services, the county payroll officer may not issue a paycheck to the officer.

(b) After the affidavit is filed, the county payroll officer shall take measures to stop payment of a paycheck that was issued to the officer before the affidavit was filed and that has not been presented for payment.

Payroll Records

Sec. 3. The county payroll officer shall make an entry in the payroll records of the county to show each pay period for which the officer is not paid.

Payroll Taxes

Sec. 4. The county payroll officer shall seek to recover for the county any payroll taxes paid on the officer's compensation that is not paid.

[Acts 1983, 68th Leg., p. 5290, ch. 973, eff. June 19, 1983.]

CHAPTER TWO. ENUMERATION

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Art. 3913. Certain State Officers

The Secretary of State, Land Commissioner, Comptroller, State Treasurer, Commissioner of Agriculture, Banking Commissioner, State Librarian, and the Attorney General, shall furnish to any person who may apply for the same a copy of any paper, document or record in their respective offices, or with a certificate under seal, certifying to any fact or facts contained in the papers, documents or records of their offices unless such paper, document or record is deemed by Statute to be confidential or privileged; provided neither of said officers shall demand nor collect any fee from any officer of the state for copies of any papers, documents or records in their offices, or for any certificate in relation to any matter in their offices, when such copies are required in the performance of any of the official duties of such office.

Each of said officers, and all other officers of the state and heads of state departments hereinafter required to collect fees enumerated below, shall deposit all fees received for any service named in this Article in the State Treasury to the credit of the General Revenue Fund, provided, however, that the Banking Commissioner shall deposit such fees received in the manner provided by Section 8 of Chapter 139, Acts of the 52nd Legislature, 1951,¹ and provided further, that the Texas Employment Commission shall deposit such fees in accordance with Federal law, and provided further, that any fees collected under this Article by the State Librarian shall be retained by the Texas Library and Historical Commission.

Each officer named above and all other officers of the state and heads of state departments shall cause to be collected the following fees for the services mentioned, except as otherwise provided by law:

For copies, other than photostatic or photo-copy, of any paper, document or record in their offices, in the English language, for each page or fraction thereof, One Dollar and Fifty Cents (\$1.50);

For copies, other than photostatic or photo-copy, of any paper, document or record in their offices in any other language than the English, for each page or fraction thereof, Two Dollars (\$2);

For each translated copy of any paper, document or record in their offices, Three Cents (3¢) per word, provided that no charge shall be less than Five Dollars (\$5);

For the copy of any plat or map in their offices, such fee as may be established by the officer in whose office the same is made, to be determined with reference to the amount of labor, supplies and materials required;

For each copy by photostatic or other photo process, One Dollar (\$1) per page, provided that the State Librarian may charge a fee for this service in an amount to be determined by the Library and Historical Commission with reference to the amount of labor, supplies and materials required;

For examination or search of records in their offices when the state or any county has no interest, for each one-half (1/2) hour or fraction of one-half (1/2) hour spent in such examination or search, One Dollar (\$1).

For each sealed certificate affixed to any of the above, One Dollar (\$1).

[Acts 1925, S.B. 84. Amended by Acts 1961, 57th Leg., p. 449, ch. 222, § 1; Acts 1965, 59th Leg., p. 909, ch. 446, § 1.]

¹ Article 3921a.

Art. 3914. Secretary of State

Sec. 1. The Secretary of State is authorized and required to charge for the use of the State the following other fees:

(1) For a notary public commission, Ten Dollars (\$10).

(2) For each official certificate, Five Dollars (\$5).

(3) For a certified copy of a record in this office, One Dollar (\$1) per page and One Dollar (\$1) for certification.

Sec. 2. The Secretary of State may charge Two Dollars (\$2) for a search of records in the office of the Secretary of State if written evidence of the search is required.

Sec. 3. The fees established by the State Purchasing and General Services Commission under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), apply to uncertified copies of records in the office of the Secretary of State.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 204, ch. 120, § 1; Acts 1961, 57th Leg., p. 463, ch. 230, § 1; Acts 1977, 65th Leg., p. 1291, ch. 509, § 1, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 317, ch. 69, § 11, eff. Sept. 1, 1983.]

Section 2 of the 1977 Act provided:

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

Section 15 of the 1983 amendatory act provides:

"This Act applies only to a fee becoming due on or after the effective date of this Act. A fee becoming due before the effective date of this Act is governed by the law in effect when the fee became due, and that law is continued in effect for that purpose."

Art. 3915. Certain Foreign Corporations

All foreign building and loan associations shall pay to the Secretary of State the following fees: for filing each application for admission to do business in this State, fifty dollars; for each certificate of authority and annual renewal of the same, twenty-five dollars; and an annual franchise tax of two hundred and fifty dollars. The fee required to be paid by any foreign corporation for a permit to do the business of loaning money in this State shall in no event exceed one thousand dollars.

[Acts 1925, S.B. 84.]

Art. 3916. Disposition of Fees

All fees mentioned in the two preceding articles shall be paid in advance into the office of the Secretary of State, and shall be by him paid into the State Treasury monthly.

[Acts 1925, S.B. 84.]

Art. 3916A. Fee for Expedited Handling

(a) The secretary of state is authorized to set and collect a fee for:

(1) the expedited handling of a certified record search pursuant to Chapter 9 or 35, Business & Commerce Code or Article 1.07C, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, not to exceed \$5; and

(2) the expedited filing or reviewing of a document relating to a profit or nonprofit corporation, professional corporation or association, cooperative association, or limited partnership, not to exceed \$10.

(b) Fees under Subdivision (2) of Subsection (a) of this article shall be collected in advance. All fees shall be deposited in the State Treasury to the credit of the General Revenue Fund.

[Acts 1979, 66th Leg., p. 441, ch. 201, § 1, eff. Aug. 27, 1979.]

Sections 2 and 3 of the 1979 Act provided:

"Sec. 2. Notwithstanding the requirements of Article 3916A, Revised Civil Statutes of Texas, 1925, as added by this Act, the secretary of state may deposit fees collected for expedited handling of certified record searches and for expedited filing or reviewing of documents for the remainder of the biennium ending August 31, 1979, in the Secretary of State Operating Expense Account and may use the funds as provided by legislative appropriation for use of that account.

"Sec. 3. Any imposition, collection, and expenditure of a fee for expedited handling of a certified record search or for expedited filing or reviewing of a document by the secretary of state prior to the effective date of this Act is hereby validated."

Art. 3916B. Nonpayment of Fees

Text as added by Acts 1981, 67th Leg., p. 848, ch. 297, § 33

The secretary of state may revoke the filing of any document filed by or on behalf of a corporation with the office of the secretary of state if the secretary of state determines that the filing fee for the document has not been paid or was paid by an instrument that was dishonored when presented by the state for payment. The secretary of state shall return the document and give notice of revocation to the filing party by regular mail. Failure to give or receive notice does not invalidate the revocation.

[Acts 1981, 67th Leg., p. 848, ch. 297, § 33, eff. Aug. 31, 1981.]

For text as added by Acts 1981, 67th Leg., p. 1815, ch. 404, § 1, see art. 3916B, post

Art. 3916B. Refund

Text as added by Acts 1981, 67th Leg., p. 1815, ch. 404, § 1

If the secretary of state deposits into the State Treasury a fee that is not due the state or a fee in an amount that exceeds the amount due the state, the fee or the excess is subject to refund.

[Acts 1981, 67th Leg., p. 1815, ch. 404, § 1, eff. June 11, 1981.]

For text as added by Acts 1981, 67th Leg., p. 848, ch. 297, § 33, see art. 3916B, ante

Art. 3917. Attorney General

The Attorney General shall be entitled to the following fees:

For each affirmance of judgment in cases to which the State may be a party involving pecuniary liabilities to the State, ten per cent on the amount collected if under one thousand dollars, and five per cent for all above that sum, to be paid out of the money when collected.

For all cases involving the forfeiture of charters, heard on appeal before the Supreme Court or Courts of Civil Appeals, five hundred dollars.

In a case in which the State is entitled to recover penalties or damages, the Attorney General is entitled to recover and collect reasonable attorney's fees and court costs on behalf of the State.

[Acts 1925, S.B. 84. Amended by Acts 1983, 68th Leg., p. 4175, ch. 658, § 1, eff. June 19, 1983.]

Section 2 of the 1983 amendatory act provides:

"This Act does not apply to a cause of action that accrued before the effective date of this Act. Such a cause of action is governed by the law as it existed on the date the cause of action accrued, and that law is continued in effect for this purpose."

Art. 3918. Repealed by Acts 1983, 68th Leg., p. 406, ch. 81, § 21(p), eff. Sept. 1, 1983

Section 21(q) of the 1983 repealing act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

See, now, Natural Resources Code, § 31.064.

Art. 3919. Repealed by Acts 1961, 57th Leg., p. 449, ch. 222, § 2

Art. 3920. Repealed by Acts 1951, 52nd Leg., p. 868, ch. 491, § 4

Art. 3921. Banking Commissioner

The Banking Commissioner shall charge and receive the following fees:

For each application for charter for a state bank or bank and trust company, a fee applicable alike to all such applications which shall be prescribed and may be periodically adjusted by the Banking Section of the Finance Commission of Texas, shall be paid when the application is filed. For each amendment or supplement to a state bank or bank and trust company charter, a fee of One Hundred and Fifty Dollars (\$150) shall be paid when said amendment or supplement is filed, and if the amendment results in an increase in authorized capital stock of the corporation in excess of Ten Thousand Dollars (\$10,000) it shall be required to pay additional fee of Ten Dollars (\$10) for each additional Ten Thousand Dollars (\$10,000) or fractional part thereof of the capital increase, after the first, provided such fee shall not exceed Twenty-Five Hundred Dollars (\$2,500).

[Acts 1925, S.B. 84. Amended by Acts 1951, 52nd Leg., p. 233, ch. 139, § 7; Acts 1969, 61st Leg., p. 883, ch. 297, § 1, eff. May 22, 1969.]

Art. 3921a. Disposition of Fees and Revenues Collected by Banking Department

Notwithstanding anything to the contrary contained in any other law of this State, all fees, penalties and other revenues which are collected by the Banking Department of Texas shall be retained and held by said Department, and no part of such fees, penalties and other revenues shall ever be paid into the General Revenue Fund of this State.

[Acts 951, 52nd Leg., p. 233, ch. 139, § 8.]

Art. 3922. Railroad Commission

The Railroad Commission of Texas shall be authorized to charge fees for copies of all papers furnished by it, except such as may be furnished to some department of the State government, as follows:

For copies of any paper, document or record in its office, including certificate and seal, to be applied by the secretary, for each one hundred words, fifteen cents; provided, that this article shall not be construed to authorize the charging of such fees for railroad companies or other persons for tariff sheets for their own use, which such tariff sheets are in force.

The fees so charged and collected shall be accounted for by the secretary of the Railroad Commission and paid into the Treasury as provided in Article 3913.

[Acts 1925, S.B. 84.]

Art. 3923. Clerk of Supreme Court; Deposits to Cover Costs

(A) The Clerk of the Supreme Court shall receive the following fees and costs:

1. For the filing of records, applications, motions, briefs, and other necessary and proper papers; for the docketing and docket and minute book entries; for issuing notices, citations, processes, mandates; and for the performance of other proper and necessary clerical duties in cases before the court, he shall receive the fee set out opposite each class of the following cases:

- (a) Application for writ of error \$ 50
- (b) If application for writ of error is granted, an additional fee of \$ 75
- (c) Motion for leave to file petition for writ of mandamus, prohibition, injunction, and other like proceedings originating in the Supreme Court \$ 50
- (d) If motion for leave to file petition for writ of mandamus, prohibition, injunction, certiorari, or other like proceeding be granted, an additional fee of \$ 75
- (e) Certified questions from the Court of Appeals to the Supreme Court \$ 75

- (f) In cases appealed to the Supreme Court from the District Court by direct appeal..... \$100
- (g) Each and every other proceeding filed in the Supreme Court..... \$ 75
- 2. Administering an oath or affirmation and giving certificate thereof, with seal . \$ 5
- 3. Making copies of any papers of record in offices, including certificate and seal, a minimum charge of \$5, or 50 cents per page if in excess of 10 pages.

Provided the Supreme Court may by order or rule fix a reasonable fee for any official service performed by its Clerk not otherwise provided herein.

The Supreme Court shall provide by order or rule for the making of deposits to cover the costs in cases before the court as classified above, but nothing herein shall be construed as requiring a deposit in any case in which the petitioner, relator, or appellant in the Supreme Court is exempt from the giving of a bond.

(B) The Clerk of the Supreme Court shall receive a fee of \$10 for the issuance of an attorney's license or certificate, affixed with seal. The fee so collected shall be held by the clerk and expended by the court or under its direction for the purpose of preparation and issuance, including mailing, of said license or certificate.

[Acts 1925, S.B. 84. Amended by Acts 1947, 50th Leg., p. 350, ch. 198, § 1; Acts 1971, 62nd Leg., p. 1411, ch. 390, § 1, eff. Aug. 30, 1971; Acts 1981, 67th Leg., p. 787, ch. 291, § 58, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 1817, ch. 407, § 1, eff. Aug. 31, 1981.]

Art. 3923a. Other Services by Clerk of Supreme Court; Fees; Disposition

Sec. 1. The Clerk of the Supreme Court for every service not otherwise provided by law shall receive such fees as may be allowed by the Court, not to exceed the fees allowed by law for services requiring a like amount of labor.

Sec. 2. Such fees, when collected, shall be accounted for by the Clerk, and paid into the State Treasury as provided by law for other fees collected by him.

[Acts 1939, 46th Leg., p. 328.]

Art. 3924. Clerks of Courts of Appeals

The Clerks of the Courts of Appeals shall receive the following fees in civil cases:

- 1. For the filing of records, applications, motions, briefs and other necessary and proper papers; for the docketing and docket and minute book entries; for issuing notices, citations, processes and mandates; for preparing transcript on application for writ of error to Supreme Court of Texas; and for the performance of other proper and necessary clerical duties in cases before the Court, they shall

receive the fee set out opposite each class of the following cases:

- (a) In cases appealed to and filed in the Court of Appeals from the district and county courts within its Supreme Judicial District..... \$50.00
- (b) Motion for leave to file petition for writ of mandamus, prohibition, injunction and other like proceedings originating in the Court of Appeals 20.00
- (c) If motion for leave to file petition for writ of mandamus, prohibition, injunction and other like proceedings be granted, an additional fee of 30.00
- (d) Motion to file or to extend time to file record on appeal from district or county court 5.00
- 2. Administering an oath or affirmation and giving certificate thereof with seal 5.00.
- 3. Making copies of any papers of record in offices, including certificate and seal, a minimum charge of \$5.00, or \$1.00 per page if in excess of five pages.
- 4. Comparing and certifying any document with the original of any papers, judgments or orders on file or of record in their offices, a minimum charge of \$5.00, or \$1.00 per page if in excess of five pages.

Provided the Supreme Court may by order or rule fix a reasonable fee for any official service performed by the Clerks of the Courts of Appeals not otherwise provided herein.

The Supreme Court shall provide by order or rule for the making of deposits to cover the costs in cases before the Courts of Appeals as classified above, but nothing herein shall be construed as requiring a deposit in any case in which the petitioner, relator, appellant, or movant in the Courts of Appeals is exempt from the giving of a bond.

[Acts 1925, S.B. 84. Amended by Acts 1949, 51st Leg., p. 142, ch. 86, § 1; Acts 1981, 67th Leg., p. 787, ch. 291, § 59, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 4088, ch. 644, § 1, eff. Aug. 29, 1983.]

Sections 2 and 3 of the 1983 amendatory act provide:

"Sec. 2. Fifty percent of the fees collected under the provisions of Article 3924, Revised Statutes, as amended, shall be deposited in a special fund in the State Treasury to be used exclusively for necessary expenses incurred for the continuing professional education of the justices and staff of the Courts of Appeals depositing such fees as approved by the chief justice of that court. The expenditure of said funds shall be upon a warrant drawn upon the State Treasury by the Office of Court Administration for the foregoing purposes.

"Sec. 3. For the state fiscal years ending August 31, 1984, and August 31, 1985, there is hereby appropriated to the Office of Court Administration 50 percent of the fees collected under provisions of this Act to be used exclusively for necessary expenses incurred for the continuing professional education of the justices and staff of the Courts of Appeals depositing such fees, as provided for in Section 2 of this Act."

Art. 3925. County Judge

The county judge shall receive the following fees in probate matters:

Probating a will	\$2.00
Granting letters testamentary, of administration or of guardianship50
Each order of sale50
Each approval and confirmation of sale ..	.50
Each decree refusing order of sale or refusing confirmation of sale50
Each decree of partition and distribution ..	2.00
Each decree approving or setting aside the report of commissioner of partition and distribution	2.00
Each decree removing an executor, administrator or guardian to be paid by such executor, administrator or guardian	1.00
Each fiat or certificate50
Each continuance10
Each order, not otherwise provided for ..	.50
Administering oath or affirmation with certificate and seal.....	.50
Administering oath or affirmation without certificate and seal.....	.25

Art. 3926. Repealed by Acts 1971, 62nd Leg., p. 2351, ch. 714, § 1, eff. June 8, 1971

Art. 3926a. Fees Set by Commissioners Court

(a) The commissioners court of each county may set reasonable fees to be charged for services by the offices of sheriffs and constables.

(b) A commissioners court may not set fees higher than is necessary to pay the expenses of providing the services.

[Acts 1981, 67th Leg., p. 1001, ch. 379, § 1, eff. Sept. 1, 1981.]

Section 2(a) of the 1981 Act provides:

"Fees provided for sheriffs and constables in other laws in conflict with the provisions of this Act are repealed to the extent they conflict with this Act.

Section 3(b) of the 1981 Act provides:

"Until a commissioners court prescribes different fees pursuant to Article 3926a, Revised Civil Statutes of Texas, 1925, the fees charged by a sheriff or constable are those provided by the law in effect on August 31, 1981. Fees charged by a sheriff or constable for services performed before the effective date of this Act are governed by the law in effect at the time the services were performed."

Art. 3927. District Clerk

The clerks of the district courts shall receive the following fees for their services:

(1) The fees in this Subsection shall be due and payable, and shall be paid at the time suit or action is filed.

For each suit filed, including appeals from inferior courts	\$25.00
For each cross action, intervention, contempt action or motion for new trial filed ..	\$15.00
For issuing each subpoena, including one (1) copy thereof, when requested at the time a suit or action is filed.....	\$4.00

For issuing each citation or other writ or process not otherwise provided for, including one (1) copy thereof, when requested at the time a suit or action is filed

For issuing each additional copy of any process, not otherwise provided for, when requested at the time a suit or action is filed.....

(2) The fees in this Subsection shall be due and payable at the time or times of performance or request for performance of services; shall be an obligation of the party to the suit or action initiating the request, and shall be additional to the fees provided for in Subsection (1) of this Act; provided, however, that the District Clerk may accept bond or bonds as security therefor.

For issuing each subpoena not provided for in Subsection (1), including one (1) copy thereof

For issuing each citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, writ of sequestration not provided for in Section 1, or any other writ or process not otherwise provided for, including one (1) copy thereof when required by law

For issuing each additional copy of any writ or process not otherwise provided for

For searching the files or records, fees may be charged:

a. To locate any one cause when the person requesting same does not furnish the docket number of said cause, or

b. To ascertain the existence or nonexistence of any instrument or record in his office

For issuing certificate to any fact or facts contained in the records of his office

For issuing deposition each one hundred (100) words

For issuing interrogatories with certificate and seal, per page or portion thereof ..

For abstracting judgment

For approving each bond

For making a copy, other than a photocopy, of all records, judgments, orders, pleading, or papers on file or of record in his office, whether certified or not, for any person applying for same, including the certificate and seal, per page or portion thereof

[Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 641, ch. 387, § 1; Acts 1945, 49th Leg., p. 662, ch. 368, § 3; Acts 1957, 55th Leg., p. 1293, ch. 433, § 1; Acts 1969, 61st Leg., p. 1970, ch. 667, § 1, eff. Sept. 1, 1969; Acts 1977, 65th Leg., p. 608, ch. 219, § 1, eff. May 24, 1977; Acts 1979, 66th Leg., p. 667, ch. 295, § 1, eff. Aug. 27, 1979.]

Art. 3927a. Construction of Act.

This Act shall not be construed as amending or repealing any existing law concerning the exemption of the State of Texas or any political subdivision of the State of Texas from liability for costs or deposits therefor.

[Acts 1957, 55th Leg., p. 1293, ch. 433, § 2.]

Art. 3927b. Repealed by Acts 1979, 66th Leg., p. 15, ch. 7, § 1, eff. March 5, 1979**Art. 3927c. Additional Filing Fee—Adoptions**

The clerk of the district court, or other court having jurisdiction of a suit affecting the parent-child relationship under Title 2, Family Code,¹ shall on the filing of any suit affecting the parent-child relationship in which the adoption of a child is sought, collect an additional fee of \$15. The clerk shall send the fees collected under this article to the Texas Department of Human Resources. The Texas Department of Human Resources shall deposit the fees received under this article to the credit of a special fund in the state treasury. The legislature may appropriate the money in the special fund only for the operation of the central record file under Section 11.17, Family Code, and for the administration of the central registry under Chapter 49, Human Resources Code.

[Acts 1983, 68th Leg., p. 1788, ch. 342, § 6, eff. Jan. 1, 1984.]

¹ Family Code, § 11.01 et seq.

Art. 3928. Other Fees of District Clerk

The District Clerk shall also receive the following fees:

1. Whenever in any suit a certified or uncertified copy of any petition or any other instrument, judgment or order is necessary in the District Court, it shall be lawful for the plaintiff or defendant to prepare such copy and submit the same to the District Clerk, who shall be entitled to a fee of Ten (10c) Cents per page, for his services in comparing same with the original. If a certified copy is necessary, he shall attach his certificate of true copy, and for such service he shall receive One (\$1.00) Dollar for each certificate and seal.

2. In matters relating to estates of deceased persons and minors, when the same are transacted in the District Court he shall receive the same fees that are allowed therefor to County Clerks.

3. For the care and preservation of the records of his office, keeping the necessary indexes, and other labor of the like kind, to be paid out of the County Treasury on the order of the Commissioners' Court, such sum as said Court shall determine.

4. If a clerk serves process by certified or registered mail, the clerk shall charge the same fee that sheriffs and constables are authorized by Section 1, Chapter 696, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 3933a, Vernon's

Texas Civil Statutes),¹ to charge for service of process.

5. For such other duties prescribed, authorized, and/or permitted by the Legislature for which no fee is set by the Legislature, reasonable fees shall be charged.

[Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 641, ch. 387, § 2; Acts 1973, 63rd Leg., p. 1634, ch. 593, § 1, eff. Aug. 27, 1973; Acts 1979, 66th Leg., p. 667, ch. 295, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 756, ch. 288, § 2, eff. Sept. 1, 1981.]

¹ Repealed; see, now, Art. 3926a.

Art. 3928a. Disposition of and Accounting for Fees Received by District Clerk

In those counties where the District Clerk is compensated on a fee basis, the Clerk shall receive such fees and account for such as fees of office; and in those counties where the District Clerk is compensated on a salary basis, such fees shall be collected and paid into the officer's salary fund as now or hereafter provided by law.

[Acts 1941, 47th Leg., p. 641, ch. 387, § 3.]

Art. 3929. Clerks Assessing Damages

No district or county clerk shall receive any compensation for assessing damages in any case.

[Acts 1925, S.B. 84.]

Art. 3930. County Clerk and County Recorders

County clerks and county recorders are hereby authorized and required to collect the following fees for services rendered by them to all persons, firms, corporations, legal entities, governmental agencies and/or governmental representatives:

Fees for County Clerk and County Recorder Records and Miscellaneous Services

(1) For filing, or filing and registering, including indexing, each instrument, document, legal paper, or record (excepting notaries public records, marriage records, vital statistics records, and those instruments, documents, legal papers and records filed in the county civil courts records, or in the county criminal courts records, or in the probate courts records, and those instruments, documents, legal papers and records filed and recorded in the real property records in the office of the county clerk, and those instruments the filing fee for which is fixed in the Business & Commerce Code), authorized, permitted, or required, to be filed, or filed and registered, in the personal property, chattels and personal records in the office of the county clerk and county recorder, a fee or fees, as follows:

(a) For each such instrument, document, legal paper, or record, a fee, which shall be in addition to any and all specific fee or fees provided for in any and all other statute or statutes, of \$2.00

(2) For filing and recording, including indexing not more than five (5) names, each instrument, document, legal paper, or record (excepting map records, condominium records, notaries public records, marriage records, vital statistics records, and those instruments, documents, legal papers and records filed in the county civil courts records, or in the county criminal courts records, or in the probate courts records, or in the personal property, chattels and personal records in the office of the County Clerk) authorized, permitted, or required, to be filed and recorded in the real property records in the office of the county clerk and county recorder, a fee, or fees, as follows, which fee, or fees, shall be in addition to any specific fee, or fees, provided for in any other statute, or statutes:

- (a) For the first page, a fee of \$3.00
- (b) Plus, for each additional page, or part of a page, on which there are visible marks of any kind, a fee of \$2.00
- (c) Plus a fee for each 8½" × 14", or part thereof, of attachment or rider, to be charged for each such attachment or rider, of \$2.00
- (d) Plus, for each additional name that has to be indexed in excess of a total of five (5) names indexed for all records in which an instrument, document, paper or record must be indexed, a fee of \$0.25
- (e) Provided, however, that a county clerk and county recorder who files, registers, or records by copying the instrument manually, and not by a photocopy, photostatic or microphotographic process, in his discretion may substitute, in lieu of the per page fee prescribed by this Act, for each page of such a legal instrument, document or paper having more than 500 words on it, a fee per one hundred words of \$0.20

(3) For issuing each certified copy (except certified copy of map records and condominium records), notice, statement, license where the fee for issuing the license is not specifically provided by statute, or any other instrument, document, or paper authorized, permitted, or required, to be issued by said county clerk or county recorder, except as otherwise provided in Section 1, of this Act:

For each page, or part of a page, a fee, to be paid in cash at the time each order is placed, of \$1.00
plus \$1.00 for the county clerk's certificate.

However, nothing in this Act shall be construed to limit or deny to any person, firm, or corporation, full and free access to any papers, documents, proceedings and records referred to in this Act, the right of such parties to read and examine the same, and to copy information from any microfilm or other photographic image, or other copy thereof

under reasonable rules and regulations of the county clerk at all reasonable times during the hours the county clerk's office is open to the public, and without making payment of any charge, being hereby established and confirmed.

(4) For issuing each certified copy of birth certificate or death certificate a fee in the same amount as the fee charged under Rule 54a, Article 4477, Revised Statutes, as amended, by the state registrar of vital statistics and the local registrar of births and deaths.

(5) For approving bond, except notarial bonds and bonds required to be approved in County Civil Courts, County Criminal Courts and Probate Courts, a fee, to be paid at the time of said approval, of \$3.00

(6) For all clerical work in having appointment of notary public made, administering oaths and qualifying the notary public, and approving, filing and recording notarial bond, a fee (does not include the fee for the Secretary of State), to be paid at the time the executed oath and bond is filed, of \$4.00

(7) For issuing each marriage license, including all and every service relating thereto and including, but not limited to, preparing the application, filing health certificates, administering oaths, filing waivers and orders of county judge, issuing license and recording all papers including the return of the license, a total fee, to be paid at the time the license is issued, of \$7.50

(8) For registering a brand, including indexing, search, and issuing the certificate, a fee of \$5.00

(9) For administering each oath, with or without a seal of clerk, except oaths required to be administered in duties as Clerk of County Civil Courts, County Criminal Courts and Probate Courts, a fee of \$1.00

(10) For such other duties prescribed, authorized, and/or permitted by the Legislature for which no fee is set by this Act, reasonable fees shall be charged.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 662, ch. 368, § 5; Acts 1957, 55th Leg., p. 477, ch. 228; Acts 1967, 60th Leg., p. 1789, ch. 681, § 1, eff. Aug. 28, 1967; Acts 1977, 65th Leg., p. 763, ch. 291, § 1 eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1183, ch. 543, § 1, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 3255, ch. 563, § 1, eff. Aug. 29, 1983.]

Repeal of Fee Provisions

Acts 1967, 60th Leg., p. 1789, ch. 681, § 2 provided: "Article 3930a, Revised Civil Statutes of Texas, 1925, as added by Section 1, Chapter 495, Acts of the 57th Legislature, Regular Session, 1961, is repealed; and the fees provided for County

Clerks in all other laws, or parts of laws, in conflict with the provisions of this Act are hereby repealed as to County Clerks only, including but not limited to: Section 10(b), Chapter 340, Acts of the 49th Legislature, Regular Session, 1945 (Article 912a-10, Vernon's Texas Civil Statutes); Sections 1 through 7, Chapter 465, Acts of the 44th Legislature, 2nd Called Session, 1935, as amended (Article 3912e, Vernon's Texas Civil Statutes); Subsection D, Section 18, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927, as amended (Rule 51aD, Article 4477, Vernon's Texas Civil Statutes); Article 4524, Revised Civil Statutes of Texas, 1925; Article 4546, Revised Civil Statutes of Texas, 1925, as amended; Article 4562, Revised Civil Statutes of Texas, 1925, as amended; Article 5333, Revised Civil Statutes of Texas, 1925; Section 4 and 4b, Chapter 85, General Laws, Acts of the 43rd Legislature, Regular Session, 1933, as amended (Article 5506a, Vernon's Texas Civil Statutes); Article 5926, Revised Civil Statutes of Texas, 1925; Article 6636, Revised Civil Statutes of Texas, 1925, as amended; Article 6641, Revised Civil Statutes of Texas, 1925; Article 6644, Revised Civil Statutes of Texas, 1925, as amended; Section 9, Chapter 48, Acts of the 48th Legislature, Regular Session, 1943 (Article 6899-1, Vernon's Texas Civil Statutes); Article 6927, Revised Civil Statutes of Texas, 1925; Article 7328, Revised Civil Statutes of Texas, 1925, as amended; Section 12, Chapter 506, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 7345b, Vernon's Texas Civil Statutes); Article 7362, Revised Civil Statutes of Texas, 1925; Section 1, Chapter 15, page 243, General Laws, Acts of the 46th Legislature, Regular Session, 1939 (Article 7363a, Vernon's Texas Civil Statutes); and Article 7517, Revised Civil Statutes of Texas, 1925."

Art. 3930a. Repealed by Acts 1967, 60th Leg., p. 1788, ch. 680, § 2, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1790, ch. 681, § 2, eff. Aug. 28, 1967

Art. 3930a-1. County Clerks and County Recorders—Other Services

(1) In addition to the fees authorized and required by Article 3930 of this title, as amended, county clerks and county recorders are authorized and required to collect the fees specified by this article for services rendered by them to all persons, firms, corporations, legal entities, governmental agencies, and governmental representatives. Unless otherwise specified, each fee shall be collected at the time the service is rendered.

(2) A total fee of \$7.50 shall be collected for services rendered in connection with the execution of each declaration of informal marriage under Section 1.92 of the Family Code.

[Acts 1969, 61st Leg., p. 2707, ch. 888, § 5, eff. Jan. 1, 1970. Amended by Acts 1977, 65th Leg., p. 765, ch. 291, § 2, eff. Aug. 29, 1977.]

Art. 3930(b). County Clerks and Clerks of County Courts

Sec. 1. County clerks and clerks of county courts are hereby authorized and required to collect the following fees for services rendered by them to all persons, firms, corporations, legal entities, governmental agencies and/or governmental representatives:

A. Fees for County Civil Court Dockets

(1) For each cause or action, or docket in County Civil Courts: for filing, or filing and registering, or filing and recording, and for docketing and including taxing costs for each and all applications, complaints, petitions, returns, documents, papers, legal instruments, records and/or proceedings; for issuing, including the recording of the return thereon, each and all citations, notices, subpoenas, commissions to take depositions, executions while the docket is still open, garnishments before judgments, orders, writs, processes, or any and all other instruments, documents or papers authorized, permitted or required to be issued by said county clerk or said clerk of county courts on which a return must be recorded; for all attendances in court as clerk of court; for impaneling a jury; for swearing witnesses; for approving bonds involved in court actions; for administering oaths; and for all other clerical duties in connection with such county civil court docket:

(a) For each original cause or suit in a County Civil Court, including, but not limited to, appeals from Justice of the Peace Courts or Corporation Courts and transfers of causes or suits from other jurisdictions, a fee to be due and payable, to be paid by the plaintiff or plaintiffs, or appellant or appellants, at the time said cause or suit is filed, started or initiated, which fee is to be paid but one time in each cause or docket, or suit, and which fee excludes the items listed in Paragraphs B, C, D, and E of this Section 1:

(i) For causes or dockets involving damages, debts, specific performance of contracts and agreements, pleas of privilege, appeals from Justice of the Peace Courts and Corporation courts, for appeals from driver's license suspension, and other causes of action not otherwise listed in this Paragraph A(1)(a): a fee of \$30.00
 (ii) For eminent domain, or condemnations: a fee of \$30.00
 (iii) For garnishments after judgment: a fee of \$15.00

(b) For each interpleading, or cross-action, or any other action other than the original action, in a cause or suit in a County Civil Court, a fee to be due and payable, and to be paid by the party or parties starting or initiating each such interpleading, or other action, or cross-action, at the time of starting or initiating each such cross-action or interpleading, or other action, which fee is to be paid but one time for each such cross-action, or interpleading, or other action, but excluding items in Paragraphs B, C, D and E of this Section 1: a fee of \$30.00

B. Fees for Probate Court Dockets

(1) For each cause or action, or docket in Probate Courts: for filing, or filing and registering, or filing and recording, and for docketing and including taxing costs for each and all applications, wills, complaints, petitions, returns, documents, papers, legal instruments, records and/or proceedings; for issuing, including the recording of the return thereon, each and all citations, notices, subpoenas, commissions to take depositions, orders, writs, processes, or any and all other instruments, documents, or papers authorized, permitted or required to be issued by said county clerk or said clerk of probate courts on which a return must be recorded; for all attendances in court as clerk of court; for swearing witnesses; for approving bonds involved in court actions; for administering oaths; and for all other clerical duties in connection with such probate court docket:

(a) For each original cause or action in a Probate Court, a fee to be due and payable and to be paid by the party or parties starting or initiating said cause or estate action, or with the permission of the court, payable at the time of qualifying of the legal or personal representative of such cause or estate action, or when a Veterans' Administration Chief Attorney is attorney of record in a cause, payable when the legal or personal representative of such cause or estate action receives funds with which to make such payment, for such services for the period of time as shown, and which fee excludes the items listed in Paragraphs A, B(1)(b), B(1)(d), C, D, and E of this Section 1:

(i) For probating will with independent executor; for administration with will attached, for administration of an estate, for guardianship or receivership of an estate, for muniment of title, a fee from the starting or initiating such cause of action until either an order approving the inventory and appraisal is filed or until the inheritance or estate tax receipt is filed, whichever first occurs: a fee of \$35.00

(ii) For community survivors: a total fee of \$20.00

(iii) For small estates: a total fee of . . . \$10.00

(iv) For affidavits of heirship, including filing of affidavit, after approval by Judge, in Small Estates Records in the Recorder's Office: a total fee of \$10.00

(v) For mentally ill: Total costs for all services listed in Article 5547-13, Article 5547-14, and Article 5547-15, Vernon's Civil Statutes of Texas, shall be in the amount of \$40.00

(b) For each probate docket remaining open after the filing of the order approving the inventory and appraisal or after the filing of the inheritance or estate tax receipt, whichever occurs first, the following fees shall be paid in cash at the time filed, which fee shall be separate and apart from other fees listed in Paragraphs A, B, C, D, and E of this Section 1 hereof:

(i) For filing, or filing and recording, of each instrument of writing, legal document, paper or record in an open Probate Docket after the filing of the order approving the inventory and appraisal or after the filing of the tax receipt, whichever is applicable a fee:

(1) For the first page of \$3.00

(2) For each page or part of a page thereafter of \$2.00

(ii) For approving and recording each bond relating only to an open Probate Docket after the filing of the order approving the inventory and appraisal or after the filing of the tax receipt, whichever is applicable, a fee of \$3.00

(iii) For administering each oath relating to an open Probate Docket after the filing of the order approving the inventory and appraisal or after the filing of the tax receipt, whichever is applicable, a fee of \$2.00

(c) For each adverse action or contest, other than the filing of a claim against an estate, in a cause or docket in a probate court, a fee to be due and payable and to be paid by the party or parties starting or initiating such adverse action or contest, but excluding other items listed in Paragraphs A, B, C, and D of this Section 1, of \$25.00

(d) For filing and entering each claim against an estate in the claim docket, a fee to be paid by claimant at the time of filing such claim, of \$2.00

C. Where no cause is pending, as is contemplated in Section 1, Paragraphs A and B hereof, the clerk shall charge as follows for the hereinafter listed services, for issuing (including recording of the returns thereon), each citation, notice, commission to take depositions, execution, order, writ, process, or any other instrument, document, or paper

authorized, permitted or required to be issued by said county clerk or said clerk of county courts on which a return must be recorded:

(i) For issuing each such instrument, document, or paper, including the original and one copy and the recording of the return, a fee, to be paid at the time each order is placed, of..... \$4.00

(ii) For issuing for the same docket at the same time more than one set of one original and one copy of the same instrument, document, or paper, including recording the return thereon, a fee, per set, to be paid at the time the order is placed, of \$4.00

D. For issuing each certificate, certified copy, notice, statement, transcript, or any other instrument, document, or paper authorized, permitted, or required, to be issued by said county clerk or clerk of county courts on which there is no return to be recorded:

For each page, or part of a page, a fee, to be paid at the time each order is placed, of \$1.00 plus \$1.00 for the clerk's certificate.

However, nothing in this Act shall be construed to limit or deny to any person, firm, or corporation, full and free access to any papers, documents, proceedings, and records referred to in this Act, the right of such parties to read and examine the same, and to copy information from any microfilm or other photographic image, or other copy thereof under reasonable rules and regulations of the county clerk at all reasonable times during the hours the county clerk's office is open to the public, and without making payment of any charge, being hereby established and confirmed.

E. For issuing each Letter Testamentary, Letter of Guardianship, Letter of Administration and each Abstract of Judgment a fee of..... \$2.00

F. For filing and keeping "Wills Held for Safekeeping", a fee, to be paid at the time said wills are filed, of..... \$5.00

Sec. 2. If the final judgment has not been entered for a docket, or cause, in a county civil court on the date this Act becomes effective, the amount of costs for such docket, or cause, accruing to such effective date shall be paid in full before final judgment is filed or recorded, and no further costs shall accrue in each such docket, or cause, after said effective date, except that the fees specified in Paragraphs A(1)(a)(iii), A(1)(b), C, D, and E of Section 1, for items and services therein specified shall apply after said effective date to each of such dockets, or such causes, and shall be paid in accordance with the provisions of said paragraphs. If the final judgment has not been entered for a docket, or cause, or estate action, in a probate court on the

date this Act becomes effective, the amount of costs for such docket, or cause, or estate action, accruing to such effective date shall be paid in full, and no further costs shall accrue, prior to the next anniversary date of such docket, or cause, or estate action, except that the fees specified in Section 1, Paragraphs B(1)(b), B(1)(c), B(1)(d), and C, D, and E of Section 1, for items and services therein specified shall apply after said effective date to such dockets, or such causes, or such estate actions, and shall be paid in accordance with the provisions of said paragraphs. Any deposit balance or balances left after applying all costs accrued through the date this Act becomes effective, including the adjustments stipulated hereinabove, for a docket, or cause, shall be refunded without delay and all further fees and charges shall be paid for at the time of filing, or issuing, or otherwise becoming due and payable. Said clerk shall continue to collect, at the time said fees or costs accrue, or are earned, or are payable, all fees, or costs, authorized, or required, to be collected by said clerk, including, but not limited to: law library fees, county judge's fees, county judge's commissions, jury fees, and fees for state officials.

Sec. 3. If a county clerk or the clerk of a county court serves process by certified or registered mail, the county clerk or clerk of the county court shall charge the same fee that sheriffs and constables are authorized by Section 1, Chapter 696, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 3933a, Vernon's Texas Civil Statutes),¹ to charge for service of process.

[Acts 1967, 60th Leg., p. 1785, ch. 680, eff. Aug. 28, 1967. Amended by Acts 1977, 65th Leg., p. 765, ch. 291, § 3, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 757, ch. 288, § 3, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2341, ch. 574, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 500, ch. 101, § 1, eff. Sept. 1, 1983.]

¹ Repealed; see, now, art. 3926a.

Acts 1967, 60th Leg., p. 1785, ch. 680, §§ 2, 3, provided:

"Sec. 2. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of conflict only, including but not limited to Article 3930a, Revised Civil Statutes of Texas, 1925; and Sections 13, 14, and 15, Chapter 243, Acts of the 55th Legislature, Regular Session, 1957 (Articles 5547-13, 5547-14, and 5547-15, Vernon's Texas Civil Statutes).

"Sec. 3. If any provision, or provisions, of this Act or the application thereof to any person, or circumstances, is held invalid, such invalidity shall not affect other provisions, or applications, of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Section 2 of the 1983 amendatory act provides:

"This Act takes effect September 1, 1983, and applies only to fees payable on or after that date. Fees that became payable before the effective date of this Act are covered by the law as it existed at the time the fees became payable, and the prior law is continued in effect for that purpose."

Art. 3930(c). Specifications for Legal Papers for Filing and for Recording

Sec. 1. (a) Each legal paper offered or presented to a county clerk and county recorder for filing or for recording other than fees authorized in Article 3930(b), Revised Civil Statutes of Texas, 1925,

should meet the requirements specified in Subsections (b) through (g) of this section.

(b) A page is defined as one side of a sheet of paper, no more than 8½ inches wide and 14 inches long, of sufficient weight and substance that printing or typing or handwriting thereon will not smear or "bleed-through," and the paper shall be suitable otherwise for reproducing from it a readable record by photocopy or photostatic or microphotographic process or processes used in the offices of county clerks.

(c) A clearly identifying heading, similar to the headings on most commercially supplied printed forms, shall be placed at the top of the first page to identify the type or kind of legal paper.

(d) Printing and typing and handwriting shall be clearly legible.

(e) Names shall be legibly typed or printed immediately under each signature.

(f) All photostats, photocopies, and other types of reproduction shall have black printing, typing, or handwriting on a white background, commonly known as positive prints.

(g) Riders and attachments shall not be larger than the size of the page as defined in this article. Not more than one rider or attachment shall be included in or attached to a page.

Sec. 2. (a) The filing fee or recording fee for each page of a legal paper which is offered or presented for filing or for recording to a county clerk or county recorder and which fails to meet the requirements for, or which is deficient in, one or more of the items specified in Section 1 of this article, shall be equal to twice the regular filing fee or recording fee provided by statute for that page.

(b) When a page of a legal paper has more riders or attachments than one, the filing fee or recording fee for each attachment in excess of one is twice the regular filing fee or recording fee provided by statute.

(c) When a page of a legal paper has one or more riders or attachments larger than the size of a page as defined in Section 1(b) of this article, the filing fee or recording fee for each oversized attachment is twice the regular filing fee or recording fee provided by statute for the attachment.

Sec. 3. Nothing contained in this article shall be construed as authorizing any county clerk or county recorder to refuse to record any legal paper for the reason that it is deficient in one or more of the items specified in Section 1 of this article.

Sec. 4. The provisions of this article shall be effective from and after January 1, 1978.

[Acts 1977, 65th Leg., p. 768, ch. 291, § 4, eff. Jan. 1, 1978.]

Art. 3931. County Clerk: Preserving Records

At each term of his court the county judge shall inquire into and examine the amount of labor actually and necessarily performed by the clerk of his court in the care and preservation of the records of his office, in making and keeping necessary indexes thereto, and other labor of a like class, and allow said clerk a reasonable compensation therefor, not to exceed the fees allowed him by law for like services, and not to exceed one hundred dollars annually, to be paid out of the county treasury upon the sworn account of such clerk, approved in writing thereon by the county judge.

[Acts 1925, S.B. 84.]

Art. 3932. County Clerk: Ex-officio Services

For all ex-officio services in relation to roads, bridges and ferries, issuing jury script, county warrants, and taking receipts therefor, services in habeas corpus cases, making out bar dockets, keeping records of trust funds, filing and docketing all papers for Commissioners' Court, keeping road overseers' books and list of hands, recording all collection returns of delinquent insolvents, recording county treasurer's reports, recording reports of justices of the peace, recording reports of animals slaughtered, and services in connection with all elections, and all other public services not otherwise provided for to be paid upon the order of the Commissioners' Court out of the treasury, the county clerk shall receive such sum as the Commissioners' Court may determine under the provisions of Article 3895, to be paid quarterly. No county clerk shall be compelled to file or record any instrument of writing permitted or required by law to be recorded until the payment or tender of payment of all legal fees for such filing or recording has been made. Nothing herein shall be held to include papers or instruments filed or recorded in suits pending in the county court.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20, § 6.]

Art. 3933. Repealed by Acts 1967, 60th Leg., p. 1811, ch. 693, § 2, eff. June 17, 1967

Art. 3933a. Repealed by Acts 1981, 67th Leg., p. 1001, ch. 379, § 2(b), eff. Sept. 1, 1981

See, now, art. 3926a.

Art. 3934. Sheriff: Other Compensation

Sheriffs shall also receive the following compensation:

1. For all process issued from the Supreme Court or Courts of Civil Appeals, and served by them, the same fees as are allowed them for similar service upon process issued from the district court.

2. Repealed by Acts 1945, 49th Leg., p. 244, ch. 179, § 4.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 244, ch. 179, § 4.]

Art. 3935. Justice of the Peace

Justices of the peace are required to collect the following fees for services rendered by them to all persons, firms, corporations, legal entities, governmental agencies, or governmental representatives:

A. Fee before entry of judgment:

For each original cause or action, cross-action, third-party action or intervention in the justice civil courts: for filing, or filing and registering, or filing and recording, and for docketing and including taxing costs for each and all applications, complaints, petitions, returns, documents, papers, legal instruments, records or proceedings; for issuing, including the recording of the return thereon, each and all citations, notices, subpoenas, commissions to take depositions, orders, writs, processes, or any and all other instruments, documents or papers authorized, permitted or required to be issued by the justices of the peace on which a return must be recorded; for causing juries to be summoned and swearing them, and receiving and recording jury verdicts; for swearing witnesses; for approving bonds involved in court actions; for administering oaths; for rendering and recording judgment; and for all other clerical duties in connection with such justice of the peace court docket: a fee of \$7.00

The fee is due and payable, and is to be paid by the plaintiff or plaintiffs, or the party or parties initiating the action, cross-action, third-party action, intervention, or other action, at the time of starting each action, cross-action, third-party action, intervention, or other action, and is to be paid but one time for each action, cross-action, third-party action, intervention, or other action.

B. Fees after entry of judgment:

For making and certifying a transcript of the entries on their dockets, and filing the transcript, together with the original papers in the case, in the proper court, in each case of appeal or certiorari, a fee of \$2.00
 For issuing abstract of judgment, a fee of 1.00
 For issuing and recording a return thereon, for each execution, order of sale, writ of restitution, or other writ or process not otherwise herein provided for, a fee of 2.00

For issuing each certificate, certified copy, notice, statement, or any other instrument, document, or paper authorized, permitted, or required to be issued by the justices of the peace on which there is no return to be recorded:

For each page or part of a page, a fee, to be paid at the time each order is placed, which shall not exceed the costs for copies as designated by the State Board of Control in accordance with Section 9(a), Article 6252-17a, Vernon's Texas Civil Statutes.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 666, ch. 368, § 6; Acts 1977, 65th Leg., p. 655, ch. 245, 1, eff. Aug. 29, 1977.]

Art. 3935a-1. Expense Allowance to Justice of Peace in Counties of 355,000 or More

In all counties containing a population of three hundred and fifty-five thousand (355,000) or more inhabitants, according to the last preceding Federal Census, the Commissioners Court of each of such counties may make a reasonable allowance, not to exceed Fifty Dollars (\$50) a month, for the operation of the automobiles in connection with his official duties, to be paid from the General Fund of each of such counties to each Justice of the Peace, whose courtroom is located in the county courthouse at the county seat of each of such counties, in addition to any and all other expenses now authorized by law to be defrayed by such counties for such Justices of the Peace.

[Acts 1939, 46th Leg., Spec.Laws, p. 752, § 1.]

Art. 3936. Repealed by Acts 1937, 45th Leg., p. 437, ch. 224, § 2

Art. 3936a. Constables Fees in Counties of More Than 200,000 and Less Than 300,000 With City of More Than 10,000

Constables whose precincts lie in counties having a population of more than 200,000 and less than 300,000 by the last preceding Federal Census, and whose precincts lie in whole or in part in an incorporated city or town having a population of more than 10,000 by the last preceding Federal Census, who execute process and perform services in civil and criminal actions shall receive the same fees allowed to Sheriffs for the same services, and provided further that like fees shall be paid by the county in all criminal cases where the defendant is convicted or pleads guilty; and such Constable shall present to the Commissioners' Court of his county a written account specifying each criminal action in which he claims such fee, certified to by the Justice of the Peace to be correct and filed with the County Clerk. The Commissioners' Court shall approve such account for such amount as they may find to be correct and order a draft to be issued upon the County Treasurer in favor of such Constable for the amount so approved.

[Acts 1935, 44th Leg., p. 421, ch. 170, § 1.]

Art. 3936b. Fees of Justices of the Peace and Constables in Counties of 11,980 to 12,100

In counties containing not less than eleven thousand, nine hundred and eighty (11,980) inhabitants, and not more than twelve thousand, one hundred (12,100) inhabitants, according to the last preceding Federal Census, the Justices of the Peace and Constables in such counties may retain annual fees to the amount of One Thousand, Five Hundred Dollars (\$1,500); provided that if the current fees of such Justices of the Peace and Constables collected in any year be more than the amount needed to pay the amounts above specified, the same shall be deemed excess fees and shall be disposed of as follows: Said Justices of the Peace and Constables shall retain one-third of such excess fees until such one-third, together with the amount hereinabove specified, amounts to the sum of One Thousand, Eight Hundred Dollars (\$1,800).

[Acts 1937, 45th Leg., p. 172, ch. 88, § 1.]

Art. 3936c. Salary of Constable and Justice of the Peace in Counties of 25,500 to 26,200 Having Military Camp and City of 14,000 to 14,500

From and after the effective date of this Act in all counties in this State having a population of not less than twenty-five thousand, five hundred (25,500) and not more than twenty-six thousand, two hundred (26,200), and containing a city having a population of not less than fourteen thousand (14,000) and not more than fourteen thousand, five hundred (14,500), according to the last preceding Federal Census, within the boundaries of which is located a military camp, the salary of the constable and justice of peace shall each be not less than Twenty-seven Hundred Dollars (\$2700) plus one-third of all fees collected above such amount. The salary of each shall be paid in the manner and in accordance with existing laws governing the office of justice of peace and constable.

[Acts 1941, 47th Leg., p. 440, ch. 273, § 1.]

Art. 3936c-1. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3936d. Justice of the Peace; County Containing Main Unit of Texas Prison System; Maximum Fees

Hereafter in any county in the State of Texas, where the main unit of the Texas Prison System is located, the Justice of the Peace shall be allowed to retain sufficient fees of office, provided said office makes the same, until said fees reach the sum of Two Thousand, Five Hundred Dollars (\$2,500) per year, and in the event that said fees of office of said Justice of the Peace reach the sum of Two Thousand, Five Hundred Dollars (\$2,500), he shall not be entitled to any excess fees.

[Acts 1947, 50th Leg., p. 459, ch. 260, § 1.]

Art. 3936e. Justice of the Peace; Salary in Certain Counties of 23,000 to 27,000

Sec. 1. In all counties having a population of not less than twenty-three thousand (23,000) and not more than twenty-seven thousand (27,000), according to the last preceding Federal Census, and having one or more cities with a population of not less than eleven thousand (11,000) according to said last preceding Federal Census, and which county has an assessed valuation for ad valorem tax purposes for the preceding year of not less than Twenty-five Million Dollars (\$25,000,000) according to the tax rolls of said county; and where it shall have been determined that precinct officers shall be compensated on an annual salary basis it shall be the duty of the Commissioners Court of such county to fix the salary allowed to such officers. Each of said officers shall be paid in money an annual salary in twelve (12) equal installments. In precincts where the election of two (2) Justices of the Peace is authorized by Law said annual salary of Justices of the Peace shall not exceed Two Thousand, Four Hundred Dollars (\$2,400); and in such precincts in such counties where the election of two (2) Justices of the Peace is authorized by Law, but where there is only one Justice of the Peace acting, the annual salary of such Justice of the Peace shall be fixed by said Commissioners Court not to exceed Three Thousand, Six Hundred Dollars (\$3,600).

Sec. 2. In addition to the said salary which may be allowed as provided in the preceding Section, such Justice of the Peace shall have and retain as unaccountable fees, all fees, commissions or payments for performing marriage ceremonies, and for acting as Registrar for the Board of Vital Statistics, and for acting as ex-officio notary public.

[Acts 1947, 50th Leg., p. 482, ch. 279.]

Arts. 3936e-1, 3936e-2. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981

Art. 3936f. Justices of the Peace and Constables; Maximum Fees in Counties of 20,700 to 20,800

Sec. 1. The maximum annual fees that may be retained by Justices of Peace and the Constables in counties containing more than twenty thousand, seven hundred (20,700) inhabitants and less than twenty thousand, eight hundred (20,800) inhabitants, according to the last preceding Federal Census, shall be for Justices of Peace Two Thousand, Four Hundred Dollars (\$2,400), and for Constables Two Thousand, Four Hundred Dollars (\$2,400), provided that in addition to said fees that may be retained by said officers, they may be allowed expenses, including office expenses, stenographic help and traveling expenses, not to exceed Six Hundred Dollars (\$600) for each of said officers, as may be fixed by the Commissioners Court of such county.

Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such

conflict, but it is not the intention of this Act to change or amend the law pertaining to any officers other than as stated herein, and this Act shall apply only to the certain counties as herein specified.

[Acts 1947, 50th Leg., p. 958, ch. 412.]

Art. 3936f-1. Justices of the Peace; Maximum Fees Kept and Disposition of Excess

Sec. 1. Repealed by Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.

Sec. 2. The Commissioners Court is hereby authorized and it shall be their duty to see that all justices of the peace can collect and keep on a fee basis, Four Thousand, Nine Hundred Dollars (\$4,900) per year, other fees exceeding this amount to be turned over to the county to be credited to the Road and Bridge Fund of that county.

[Acts 1961, 56th Leg., p. 1138, ch. 516. Amended by Acts 1971, 62nd Leg., p. 1820, ch. 542, § 17, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 599, ch. 237, § 145, eff. Sept. 1, 1981.]

Art. 3936g. Justices of the Peace and Constables; Counties with Eight District Courts and Four County Courts

In all counties in the State of Texas having at least eight (8) District Courts, at least two (2) of which are Criminal District Courts, and at least four (4) County Courts, at least two (2) of which are County Courts at Law and at least one (1) is a County Criminal Court, the salaries of all constables and justices of the peace shall be fixed by the Commissioners Court of such counties at any amount not to exceed Six Thousand, Five Hundred Dollars (\$6,500) per annum. Such salaries to be paid out of the General Fund of the county. Provided further that the salaries of the constables and justices of the peace of Precincts 1 and 7 in such counties shall not be less than Four Thousand, Seven Hundred and Fifty Dollars (\$4,750).

[Acts 1949, 51st Leg., p. 233, ch. 130, § 1.]

Art. 3936g-1. Justices of the Peace and Constables; Counties with Nine District Courts and Five County Courts; Automobile Allowance

In all counties in the State of Texas having at least nine (9) district courts, at least two (2) of which are criminal district courts, and at least five (5) county courts, at least two (2) of which are county courts-at-law and at least two (2) of which are county criminal courts, the Commissioners Court of such county shall allow the Justices of the Peace and Constables of such counties, whose precincts lie wholly or in part in cities having a population of more than four hundred and thirty-two thousand (432,000) inhabitants in such counties, according to the last preceding Federal Census, and all Investigators for the District Attorney in such counties, automobile expense allowance an amount to be determined by the Commissioners Court in each of

said counties, payable each month out of the General Fund of the county.

[Acts 1951, 52nd Leg., p. 239, ch. 140, § 1.]

Art. 3936h. Salaries of Justices of the Peace in Counties Containing City Over 432,000

In all counties of this State in which there is situated a city having a population in excess of four hundred and thirty-two thousand (432,000) inhabitants, according to the last preceding Federal Census, and in which the justices of the peace and constables are compensated on a salary basis, the Commissioners Courts of such counties shall fix the salaries of the justices of the peace and constables in justice precincts which are situated in or include a city or a part thereof, having a population in excess of four hundred and thirty-two thousand (432,000) inhabitants according to the last preceding Federal Census, at not less than Four Thousand, Five Hundred Dollars (\$4,500) and not more than Seven Thousand, Five Hundred Dollars (\$7,500) per annum. Said salaries shall be paid in twelve (12) monthly installments, provided, however, that the salaries of the justices of the peace and constables from the effective date of this Act for the remainder of the year 1951 shall be paid in the same ratio basis as the remainder of the year bears to the total annual salaries provided herein, and shall be paid in monthly installments.

[Acts 1949, 51st Leg., p. 571, ch. 308, § 1. Amended by Acts 1951, 52nd Leg., p. 354, ch. 222, § 1.]

Art. 3936i. Justices of the Peace in Counties of 30,000 Containing City of 16,000

Sec. 1. In all counties having a population of not less than thirty thousand (30,000) according to the last preceding Federal Census, and having an assessed valuation for ad valorem tax purposes for the preceding year of not less than Forty Million Dollars (\$40,000,000) according to the tax rolls of said counties, where it shall have been determined that Justices of the Peace shall be compensated on a salary basis, and where there is only one (1) Justice of the Peace acting in any precinct in which there may be a city of sixteen thousand (16,000) or more inhabitants according to the last preceding Federal Census, the Commissioners Court of any such county is hereby authorized to increase the compensation of any such Justice of the Peace in an additional amount not to exceed fifty per cent (50%) of the sum allowed under the law for the fiscal year of 1950; and in any such county in which there may be a city of sixteen thousand (16,000) or more inhabitants according to the last preceding Federal Census, and where there is only one Justice of the Peace acting in such county, the Commissioners Court is hereby authorized to increase the compensation of such Justice of the Peace in an amount not to exceed sixty per cent (60%) of said sum allowed under the law for the fiscal year of 1950, and is authorized to further increase the compensation of

such Justice of the Peace an additional one per cent (1%) of said sum allowed under the law for the fiscal year of 1950 for each One Million Dollars (\$1,000,000) valuation, or fractional part thereof, in excess of the assessed valuation of said county for ad valorem tax purposes for the fiscal year of 1950.

Sec. 2. In addition to said increased salary which may be allowed as provided in the preceding section, such Justices of the Peace shall have and retain as unaccountable fees, all fees, commissions or payments for performing marriage ceremonies, and for acting as Registrar for the Bureau of Vital Statistics, and for acting as ex officio Notary Public.

[Acts 1951, 52nd Leg., p. 1487, ch. 503.]

Art. 3936j. Justices of the Peace and Constables; Counties Over 350,000

Sec. 1. In all counties in this State having a population in excess of three hundred fifty thousand (350,000) inhabitants, according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of the Justices of the Peace and Constables who are compensated on a salary basis at any reasonable sum provided such salaries shall not exceed Eight Thousand, Eight Hundred (\$8,800.00) Dollars per annum each. Said salaries shall be paid in twelve (12) monthly installments, provided that the salaries of the Justices of the Peace and Constables from the effective date of this Act for the remainder of the year 1953 shall be paid in monthly installments on the basis of the annual salaries fixed by the Commissioners Court pursuant to this Act. The Commissioners Court shall not be required to fix the salaries in all precincts at equal amounts, but the Commissioners Court shall have discretion to determine the amount of salaries to be paid each Justice of the Peace and each Constable in the several precincts.

Sec. 2. The Commissioners Courts of such counties shall determine the number and fix the salaries of all deputies, clerks and other employees of such Justices of the Peace and Constables.

Sec. 3. Said Commissioners Court is hereby authorized to allow such monthly car allowance to such Justices of the Peace and Constables and to their deputies, clerks and other employees in the performance of their official duties as the Commissioners Court may deem necessary.

Sec. 4. In the event that any section, subsection, paragraph, sentence, clause, phrase, or word of this Act shall be held invalid or inoperative, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity.

[Acts 1953, 53rd Leg., p. 678, ch. 259.]

Art. 3936k. Justices of the Peace; Increase of Compensation by Commissioners Court

Sec. 1. The Commissioners Court in each county of this State having a population of one hundred fifty thousand (150,000) or under according to the last preceding Federal Census is hereby authorized, when in their judgment the financial condition of the county and the needs of the justices of the peace justify an increase, to enter an order increasing the compensation of such justices of peace to the amount which would comply with the above mentioned financial condition of the county and which order shall fall within the discretion of the Commissioners Court as the maximum sum to be allowed.

Sec. 2. The provisions of this Act shall be cumulative of all other laws pertaining to the compensation of justices of the peace.

Sec. 3. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

[Acts 1953, 53rd Leg., p. 690, ch. 265.]

Arts. 3937 to 3940. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Art. 3941. County Treasurer

The county treasurer shall receive commissions on the moneys received and paid out by him, said commissions to be fixed by order of the commissioners court as follows: For receiving all moneys, other than school funds, for the county, not exceeding two and one-half per cent, and not exceeding two and one-half per cent for paying out the same; provided, that he shall receive no commissions for receiving money from his predecessor nor for paying over money to his successor in office.

[Acts 1925, S.B. 84.]

Art. 3942. Treasurer: Other Commissions

The treasurers of the several counties shall be treasurers of the available public free school fund and also of the permanent county school fund for their respective counties. The treasurers of the several counties shall be allowed for receiving and disbursing the school funds one-half of one per cent for receiving, and one-half of one per cent for disbursing, said commissions to be paid out of the available school fund of the county; provided, no commissions shall be paid for receiving the balance transmitted to him by his predecessor, or for turning over the balance in his hands to his successor;

and provided, that he shall receive no commissions on money transferred.

[Acts 1925, S.B. 84.]

Art. 3943. Treasurer: Commissions Limited; Increase in Compensation

(a) The commissions allowed to any county treasurer shall not exceed Two Thousand Dollars (\$2,000) annually; provided, that in all counties in which the assessed value of the property of such counties shall be One Hundred Million Dollars (\$100,000,000) or more as shown by the preceding assessment roll, the treasurers thereof shall receive as their commissions a sum not exceeding Two Thousand, Seven Hundred Dollars (\$2,700) annually; provided, that in all counties having a population of not less than seventy-five thousand (75,000) inhabitants, and not more than eighty thousand (80,000) inhabitants, according to the last preceding Federal Census, in which counties, road or road and bridge bonds in the amount of Six Million Dollars (\$6,000,000) or more and flood protection bonds in the amount of One Million Dollars (\$1,000,000) or more have been voted by the people, the treasurers thereof shall receive as their commissions a sum not to exceed Two Thousand, Seven Hundred Dollars (\$2,700) annually; and, shall be allowed an assistant at a salary not to exceed One Thousand, Two Hundred Dollars (\$1,200) annually; provided, that in all counties having a population of one hundred and fifty thousand (150,000) inhabitants or more, and less than two hundred and ten thousand (210,000) inhabitants, according to the last preceding Federal Census, the treasurers thereof shall receive as their commissions a sum not exceeding Two Thousand, Seven Hundred Dollars (\$2,700) annually, and shall be allowed an assistant at a salary not to exceed One Thousand Dollars (\$1,000) per annum; provided, that in all counties containing a population of not less than forty-two thousand, one hundred (42,100) inhabitants nor more than forty-two thousand, two hundred and fifty (42,250) inhabitants, according to the last preceding Federal Census, and that in all counties containing a population of not less than forty-five thousand (45,000) inhabitants nor more than forty-seven thousand (47,000) inhabitants, according to the last preceding Federal Census, the commissions and compensation to be paid to the county treasurers in said Counties shall be Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable in twelve (12) equal monthly installments, and such compensation shall be fixed by the Commissioners Courts of said Counties.

(b) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the county treasurer justify the increase, to enter an order increasing the compensation of the county treasurer in an additional amount not to exceed twenty-five per cent (25%) of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year 1944 did not exceed

the sum of Three Thousand, Six Hundred Dollars (\$3,600).

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 341, ch. 230; Acts 1931, 42nd Leg., p. 833, ch. 346, § 1; Acts 1937, 45th Leg., p. 501, ch. 252, § 1; Acts 1941, 47th Leg., p. 527, ch. 323, § 1; Acts 1947, 50th Leg., p. 53, ch. 40, § 1.]

Art. 3943a. Additional Compensation of Treasurer in Certain Counties

Sec. 1. That in counties having a population of not less than two hundred fifty thousand (250,000), and where in such counties the County Treasurer prepares the payrolls and makes payment thereunder in cash, and acts as paymaster for the county, in addition to the duties of a custodian of a county fund, there shall be paid to such County Treasurer out of the General Funds of the county an added compensation now allowed to him by the law the sum of Twenty-five Dollars (\$25.00) per month, and be paid to him on the first day of each calendar month, provided said compensation from all sources shall not exceed the sum of Three Thousand Two Hundred Dollars (\$3,200.00) per year.

Sec. 2. The County Treasurer of such counties shall be authorized to employ an assistant at a salary not to exceed the sum of One Hundred Fifty (\$150.00) Dollars per month, to be paid out of the General Funds of the county.

[Acts 1931, 42nd Leg., p. 770, ch. 308. Amended by Acts 1933, 43rd Leg., p. 47, ch. 21.]

Art. 3943b. Compensation of Treasurer as Custodian of Road District Funds

In all counties in the State of Texas having a population of not less than one hundred and twenty-five thousand (125,000) nor more than one hundred and seventy-five thousand (175,000) inhabitants, according to the last Federal Census, and containing two (2) cities of more than forty thousand (40,000) inhabitants, according to the last Federal Census, and in which said counties there exists or is created any Road District or Road Districts under authority, Article 3, Section 52 of the Constitution of the State of Texas and/or Acts of the Thirty-ninth Legislature, First Called Session, Chapter 16, Page 23,¹ the County Treasurer in such counties shall receive as salary for acting as custodian of the funds of such Road District or Road Districts a sum not to exceed Six Hundred Dollars (\$600) per annum to be fixed and determined by the Commissioners Court of such county; such salary shall be in addition to all other salary and compensation received and allowed to the County Treasurer by law, and shall be paid out of any available fund of said Road District or Road Districts in equal monthly installments.

[Acts 1937, 45th Leg., p. 208, ch. 110, § 1.]

¹ Article 752a et seq.

Art. 3943c. Counties of 145,000 to 300,000; County Treasurer's Compensation; Assistant

The Commissioners Court in each county in the State of Texas, having a population of not less than one hundred forty-five thousand (145,000) inhabitants and not more than three hundred thousand (300,000) inhabitants according to the last preceding Federal Census, shall determine annually the salary to be paid to the County Treasurer at a reasonable sum not to exceed Three Thousand Nine Hundred (\$3,900.00) Dollars per annum. Where such Treasurer acts also as Treasurer of any Navigation and Drainage Districts, he is to receive and be entitled to retain such compensation from such Districts as is provided by Articles 8221 and 8148, Revised Civil Statutes of Texas, 1925. Said Treasurer shall be allowed to appoint one assistant at a reasonable salary not to exceed Two Thousand One Hundred (\$2,100.00) Dollars per annum. Said assistant shall have the authority to do and perform in the name of such County Treasurer such acts either clerical or ministerial in character as may be required of him by said County Treasurer. The maximum salary and compensation of said Treasurer shall not exceed Six Thousand (\$6,000.00) Dollars in the aggregate for any one calendar year.

[Acts 1947, 50th Leg., p. 438, ch. 244, § 1.]

Art. 3943d. Counties of 600,000 or More; County Treasurer's Compensation

That the commissioners court in each county in the State of Texas having a population of six hundred thousand (600,000) inhabitants or more according to the last preceding Federal Census, or any future Federal Census, shall determine annually the salary to be paid to the county treasurer at a reasonable sum of not less than Five Thousand Dollars (\$5,000) nor more than Eight Thousand Dollars (\$8,000) per annum, and the maximum salary and compensation of said treasurer shall not exceed Eight Thousand Dollars (\$8,000) in the aggregate for any one calendar year. Said treasurer shall be allowed to appoint such assistants as said commissioners court may deem necessary at reasonable salaries, to be determined by said commissioners court. Said assistants shall have the authority to do and perform in the name of such county such acts, either clerical or ministerial in character, as may be required of him by said county treasurer.

[Acts 1951, 52nd Leg., p. 207, ch. 122, § 1.]

Art. 3943e. Salary of County Treasurer

Sec. 1. In each county in the State of Texas having a population of less than twenty thousand (20,000) inhabitants according to the last preceding Federal Census, where all the county officers are compensated on a salary basis, the Commissioners Court shall determine annually the salary to be paid the county treasurer, provided that the annual salary to be paid to the county treasurer shall not be set

at any sum less than One Thousand, Eight Hundred Dollars (\$1,800) per annum.

Sec. 2. In each county in the State of Texas having a population of at least twenty thousand (20,000) and not more than fifty thousand (50,000) inhabitants according to the last preceding Federal Census, the Commissioners Court shall fix the salary of the county treasurer at any reasonable sum, providing such salary is not less than Two Thousand, Four Hundred Dollars (\$2,400) per annum.

Sec. 3. In each county in the State of Texas having a population of at least fifty thousand and one (50,001) and not more than one hundred thousand (100,000) inhabitants according to the last preceding Federal Census, the Commissioners Court shall fix the salary of the county treasurer at any reasonable sum, providing such salary is not less than Thirty-six Hundred Dollars (\$3600).

Sec. 4. In each county in the State of Texas having a population of at least one hundred thousand and one (100,001) and not more than three hundred thousand (300,000) inhabitants according to the last preceding Federal Census, the Commissioners Court shall fix the salary of the county treasurer at any reasonable sum, providing such salary is not less than Forty-two Hundred Dollars (\$4200).

Sec. 5. In each county in the State of Texas having a population of at least three hundred thousand and one (300,001) inhabitants, or more, according to the last preceding Federal Census, the Commissioners Court shall fix the salary of the county treasurer at any reasonable sum, providing such salary is not less than Forty-eight Hundred Dollars (\$4800).

[Acts 1951, 52nd Leg., p. 675, ch. 391.]

Art. 3944. County Surveyor

County surveyors shall receive the following fees:

Inspecting and recording the field-notes and plat of a survey for any tract of land over one-third of a league	\$3.00
One-third of a league	2.00
Less than one-third of a league	1.00
For recording surveys and plats required by law to be placed upon the map of a new county, for each 100 words20
Examination of papers and records in his office at the request of any person25
Copies of all field-notes and plats, or any other papers or records in his office, for each 100 words, including certificate20
Surveying any tract of land, including all expenses in making the survey, and returning the plat and field notes of the survey, for each English lineal mile actually run	3.00
Surveying any tract of land, including all expenses of making the survey, and returning the plat and field notes, when the distance actually run is less than one English lineal mile	2.50

For services in designating a homestead, to include pay for chain carriers, for each day's service..... \$5.00
 [Acts 1925, S.B. 84.]

Art. 3945. Notary Public

Notaries public shall receive the following fees:
 Protesting a bill or note for non-acceptance or non-payment, register and seal \$3.00
 Each notice of protest50
 Protesting in all other cases, for each 100 words50
 Certificate and seal to such protest50
 Taking the acknowledgment or proof of any deed or other instrument in writing, for registration, including certificate and seal50
 Taking an acknowledgment of a married woman to any deed or other instrument of writing authorized to be executed by her, including certificate and seal50
 Administering an oath or affirmation with certificate and seal50
 All certificates under seal not otherwise provided for50
 Copies of all records and papers in their office, including certificate and seal, if less than 200 words50

If more than 200 words, for each 100 words in excess of 200 words, in addition to the fee of fifty cents \$.25
 All notarial acts not provided for50
 Taking the depositions of witnesses, for each 100 words15
 Swearing a witness to depositions, making certificate therefor with seal, and all other business connected with taking such deposition50

[Acts 1925, S.B. 84. Amended by Acts 1959, 56th Leg., p. 986, ch. 461, § 1.]

Art. 3946. Repealed by Acts 1983, 68th Leg., p. 995, ch. 235, art. 1, § 7(1), eff. Sept. 1, 1983

Article 1, § 7(1) of the 1983 repealing act stated that the repeal of this article was to conform to Subchapter E of Chapter 13 of the Agriculture Code (§ 13.251 et seq.) as that subchapter was amended to conform to Acts 1981, 67th Leg., p. 344, ch. 135.

Art. 3946a. Repealed by Acts 1983, 68th Leg., p. 1045, ch. 235, art. 8, § 2(b), eff. Sept. 1, 1983

See, now, Water Code, § 50.059.

**TITLE 62
 FENCES**

Art. 3947 to 3954-4. Repealed.

Arts. 3947 to 3954. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Arts. 3954-1 to 3954-4. Repealed by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(5), eff. Sept. 1, 1977

Acts 1977, 65th Leg., ch. 871, repealing these articles, enacts the Natural Resources Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Natural Resources Code.

TITLE 63

FIRE ESCAPES

- Art.**
3955. Owner to Provide.
3956. Hotels, Theaters, etc.
3957. Offices and Plants.
3958. Warehouses and Mills.
3959. State, County, City and School Buildings.
3959a. Enforcement of Article 3959.
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3972. Injunction.
3972.1. Violation of Fire Escape Law.
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Art. 3955. Owner to Provide

The owner of each building, which is or may be constructed within this State, three or more stories in height or in case of schoolhouses two or more stories in height, constructed, used, or intended to be used in whole or in part as any of the following buildings, shall provide and equip such building with at least one adequate fire escape, and such additional fire escapes, as provided in the three succeeding Articles.

[Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 659, ch. 401, § 1.]

Art. 3956. Hotels, Theaters, etc.

For each hospital, seminary, college, academy, schoolhouse, dormitory, hotel, lodging house, apartment house, rooming house, boarding house, house for the accommodation of transient guests, lodge hall, theater, public place of amusement, or hall or place used for public gatherings, having a lot area in excess of five thousand square feet, there shall be provided one additional adequate fire escape for each five thousand square feet of such excess or fraction thereof if such fraction exceeds two thousand square feet.

[Acts 1925, S.B. 84.]

Art. 3957. Offices and Plants

For each office building, wholesale or retail mercantile establishment or store, work shop, or manufacturing establishment or industrial plant, having a

lot area in excess of six thousand square feet, there shall be provided one additional adequate fire escape for each six thousand square feet of such excess or fraction thereof if such fraction exceeds twenty-five hundred square feet.

[Acts 1925, S.B. 84.]

Art. 3958. Warehouses and Mills

For each warehouse, storage house or mill building, having a lot area in excess of eight thousand square feet, there shall be provided one additional adequate fire escape for each eight thousand square feet of such excess, or fraction thereof if such fraction exceeds thirty-five hundred square feet. The provisions of this title requiring the construction of standard fire escapes, shall not apply to grain elevators of steel, or steel and concrete construction, nor to wooden elevators where less than five persons are employed.

[Acts 1925, S.B. 84.]

Art. 3959. State, County, City and School Buildings

A. Each building which is or may be constructed within this State of three (3) or more stories in height, except a schoolhouse hereinafter provided for, which is owned by this State, or by any city or county, and in which building public assemblies are permitted or intended to be permitted, or in which sleeping apartments are permitted or intended to be permitted, on any floor above the first, shall be provided and equipped with at least one adequate fire escape if the lot area of such building shall not exceed five thousand (5000) square feet, and one additional adequate fire escape for each five thousand (5000) square feet, or fraction thereof if said fraction exceeds two thousand (2000) square feet in excess of the first five thousand (5000) square feet of lot area.

B. Each school building which is or may be constructed within this State of two (2) or more stories in height, which is owned by any school district, and in which schools of any kind are conducted, shall be provided and equipped with an adequate fire escape or fire escapes to the extent and in accordance with requirements as follows:

Definitions

The following terms, words, and phrases as used in subdivision B of this Article shall have the following meanings unless a different meaning is plainly required by the context:

a. "Story" means the space included between two (2) successive floor levels except that a basement shall be construed as a story only when the floor level immediately above the basement is ten (10) feet or more above grade line on one or more sides of the building.

b. Types of construction shall be, for purpose of application of this law, classified as follows: "Fireproof," "semi-fireproofed," and "ordinary" as defined in the latest edition of the Building Code Recommended By The National Board Of Fire Underwriters.

Number and Types of Fire Escapes Required

a. Any school building three (3) stories or more in height of "fireproof construction," "semi-fireproof construction," or "ordinary construction" shall have one fire escape for every two hundred and fifty (250) pupils or major fraction thereof housed in the building above the first floor.

b. Any school building two (2) stories in height of "ordinary" construction shall have one fire escape for every two hundred and fifty (250) pupils housed above the first floor, or major fraction thereof.

c. Fire escapes for school buildings heretofore constructed may be either of the interior type, specifications for which are now provided in Article 3966, Title 63, Revised Civil Statutes, 1925, or exterior type as in this amendment hereinafter described. Exterior type fire escapes shall be free from obstruction, shall be constructed so as to secure a safe exit for children, shall be conveniently accessible from each floor above first, and shall be of sufficient width and strength so that each step and landing may accommodate two (2) adult persons at the same time. The exits from each floor shall consist of doorways, the base of which shall be at the same level as the corresponding floor of such building and the landing of the fire escape to which it leads, provided the State Department of Education approves such to be a convenient and safe passage. Each such doorway shall be not less than three (3) feet wide nor less than six (6) feet six (6) inches high, and shall be fitted with panic hardware approved by the National Board of Fire Underwriters. If there shall be two (2) or more rooms or hallways, or room and hallway, adjoining and convenient to the landing of a fire escape, each such room or hallway shall have a doorway leading to such landing.

d. Fire escapes for new school building of three (3) stories or more in height, of "fireproof" construction, shall be interior, specifications for which are now provided in Article 3966, Title 63, Revised Civil Statutes, 1925.

New school buildings hereinafter constructed and existing school buildings heretofore constructed of two (2) stories and less in height, of "fireproof" or "semi-proof" construction, or having stairways and

hallways of either of these types shall not be required to have fire escapes.

New school buildings hereinafter constructed of two (2) stories or more in height of "ordinary" construction shall have interior types of fire escapes, specifications for which are now provided in Article 3966, Title 63, Revised Civil Statutes, 1925.

Description of Fire Escapes

a. Exterior fire escapes for the purpose of subdivision B of this amended Article shall be of the following construction, or similar ones approved by the National Board of Fire Underwriters.

(1) They shall be of incombustible materials throughout.

(2) They shall be designed for a live load of one hundred (100) pounds per square foot. The calculated live load shall be clearly stated on the plans submitted for approval.

(3) As a rule, fire escapes shall be supported by vertical steel columns. Where such construction is not possible because of conditions the use of steel brackets with bolts extending through the entire thickness of the wall may be approved.

(4) Landings and treads shall be of solid hatched steel plate or of steel gratings with interstices not exceeding three-fourths ($\frac{3}{4}$) inches and so designed that the accumulation of snow and ice will be reduced to a minimum.

(5) Guard rails shall be at least three (3) feet six (6) inches in height and shall be substantially constructed. They shall be faced with heavy wire mesh, or steel balusters or rails not more than nine and one-half ($9\frac{1}{2}$) inches o.c. may be used.

(6) There shall be handrails on each side of the stairs, securely attached to the guard rails or to the building walls. Handrails shall be two (2) feet four (4) inches to two (2) feet six (6) inches above the nosings.

(7) On present existing structures exterior type fire escapes, for the purpose of subdivision B of this amended Article, shall be an iron, steel or concrete stairway type fire escape, or an iron or steel straight chute type fire escape, or an iron or steel spiral chute type fire escape, or a combination of said three (3) types of fire escapes.

(8) Exterior type fire escapes, for the purpose of subdivision B of this amended Article, may be an iron or steel straight chute type fire escape or an iron or steel spiral chute type fire escape.

b. Design of interior fire escapes in addition to the specifications set out in Article 3966, Title 63, Revised Civil Statutes, 1925, shall be as follows:

(1) Stairs and landings shall be not less than three (3) feet six (6) inches long and not less than three (3) feet wide.

(2) Treads shall be not less than nine (9) inches wide plus a nosing of one (1) inch. Risers shall be not more than seven and one-fourth (7¼) inches.

(3) There shall be not more than a nine (9) foot six (6) inch rise in a single run. Longer runs shall be interrupted by landings at least as deep as the width of the stairs.

(4) Stairs shall extend continuously to the ground. Counter-balanced and swinging sections will not be approved.

c. Exists of exterior fire escapes shall be as follows:

(1) Doors leading to fire escapes shall open on landings at least the width of the doors.

(2) Exit doors shall swing outward, shall be at least three (3) feet no inches by six (6) feet six (6) inches, shall be glazed with wire glass, and shall have their bottoms level with the floors of the rooms or corridors and landings they serve. Windows are prohibited as means of access to fire escapes.

(3) Exit doors shall be secure only by panic hardware approved by the National Board of Fire Underwriters. Hooks, latches, bolts, locks, etc. are prohibited.

d. Windows located beneath or within ten (10) feet in any direction of fire escapes shall be glazed with wire glass.

[Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 659, ch. 401, § 2; Acts 1950, 51st Leg., 1st C.S., p. 112, ch. 43, § 1.]

Art. 3959a. Enforcement of Article 3959

The State Fire Marshal shall have general charge and supervision of the enforcement of the provisions of this Act,¹ and it is hereby made his duty and the duty of any Inspector of the State Fire Insurance Commission, and of the Chief of any Fire Department, and of the Fire Marshal of any city or town within this State, to enforce the provisions of this Act by all lawful means.

[Acts 1950, 51st Leg., 1st C.S., p. 112, ch. 43, § 2.]

¹ This article and article 3959.

Art. 3960. Officials to Provide

Each board, commission, official or person having charge or supervision of any building included in the preceding article, or having charge or supervision of the letting of contracts for the construction of such buildings, shall fully comply with the provisions of this title relating to providing and equipping such buildings with adequate fire escapes.

[Acts 1925, S.B. 84.]

Art. 3961. "Owner" Defined

The term "owner" within the meaning of this title, shall include persons, firms, associations, and private corporations.

[Acts 1925, S.B. 84.]

Art. 3962. "Story" Defined

The word "story" as used in this title, shall be construed to have its usual and ordinary meaning as applied to architecture, and in addition thereto shall be construed to include a basement of any building that extends five feet or more above grade line on one or more sides of such building, a balcony or mezzanine floor of any building, a roof of any building used as a roof garden, and an attic of any building used for any purpose.

[Acts 1925, S.B. 84.]

Art. 3963. "Adequate Fire Escape"

An "adequate fire escape" within the meaning of this title, is defined to be an exterior iron, steel or concrete stairway type fire escape, or an exterior iron or steel straight chute type fire escape, or an exterior iron or steel spiral chute type fire escape, or a combination of said three types, or an interior type fire escape enclosed with noncombustible material and having self-closing fireproof shutters on all door and window openings thereof. Each type of such fire escapes shall be so constructed and arranged as to permit exit upon such fire escape from each floor of the building above the first floor and shall provide a continual egress upon it from such building to grade, and the material, construction, erection and test of such fire escapes shall comply at least with the minimum specifications for each respective type thereof, as hereinafter set forth.

[Acts 1925, S.B. 84.]

Art. 3964. Location

All such fire escapes shall, consistent with accessibility, be located as far as possible from stairways, elevator hatchways and other openings in the floors, and where possible, they shall be located at the ends of hallways or corridors or unobstructed passageways, and as far as is consistent with the construction and location of the building.

[Acts 1925, S.B. 84.]

Art. 3965. Guide Signs and Exit Lights

In all such buildings there shall be installed and maintained therein in good condition at all times, at least one red light at each exit to each fire escape, and one guide sign at each hall or corridor intersection, and one additional guide sign for every twenty-five lineal feet of hallway or corridor leading to such fire escape. All exit lights shall have painted thereon the words "Fire Escape Exit," and all guide signs shall have painted thereon the words "Fire Escape," and an arrow or hand pointing to the nearest fire escape exit. It shall be unlawful for any person to obstruct any fire escape in any man-

ner that would prevent free access thereto or free use thereof, or to obstruct any hallway, corridor or entrance leading to such fire escape by means of any door provided with locks requiring a key to operate, or by partitions or by any objects of any kind whatsoever.

[Acts 1925, S.B. 84.]

Art. 3966. Minimum Specifications

The minimum specifications for the several types of adequate fire escapes required by this law are as follows:

Exterior Stairway Type:

(1) Shall consist of balconies and stairways on the exterior of the building and be constructed of iron, steel or reinforced concrete, and shall be in superimposed form, or straight run form, or superimposed form with intermediate balconies, or a combination of any such form and type.

(2) Balconies: Balconies for stairs in superimposed form attached to the building at two or more floors, shall equal in length the horizontal length of the stair runs, plus an amount at each end equal to the width of the stairs, and shall be as long as the width of the opening for exit in the building wall and shall be at least fifty inches wide inside of railings. Balconies for stairs in superimposed form with intermediate balconies attached to the building at two or more floors shall be not less in width than the combined width of the stairways connected therewith leading both up and down, and the landings at the head and the foot of the stairs shall be as deep as the width of the stairs, and shall be as long as the width of the opening for exit in the building wall. Balconies for stairs in straight run form shall be not less in width than the width of the stairs and as long as the width of the opening for exit in the building wall. The minimum unobstructed width of any exterior passageway in the entire fire escape, whether parallel to the building or at right angles to it, shall be twenty-four inches. The floors of iron or steel balconies shall be solid or of slats and if solid, shall have scoriated surface to prevent slipping and pitched not less than one-half inch in ten feet to secure drainage, or if of slats, shall be placed not more than three-quarters of an inch apart and secured in place with rivets or bolts. Material in floors shall be not less than three-sixteenths of an inch thick. Railing enclosures of all balconies shall be not less than two feet nine inches high, and if of vertical and horizontal slat or grill construction, no space shall have the horizontal width of more than eight inches, and if of truss construction the span of each panel shall not exceed three feet. No opening in railing enclosures on any construction shall exceed two square feet in area. All railing enclosures throughout their lengths shall be free from obstructions tending to break handholds and the passage space shall be smooth and free from obstructions or projections. All railing enclosures shall be designed to withstand a horizontal pressure of two hundred pounds per running

foot of railing without serious deflection. Balconies shall be anchored to building with bolts not less than one inch in diameter, extending through the wall and provided with wall bearing plate on the inside not less than five inches square and three-eighths inch thick or anchored by such bolts set in concrete or masonry or made integral in new buildings. Balconies shall never be placed above and not more than one foot below the top of the sill of the opening for exit in building wall, preferably level with sill. Concrete balconies shall comply with all requirements herein set forth and be made of reinforced concrete, the concrete to be one part cement, two parts sand and four parts stone or gravel. Railing enclosures of concrete balconies shall be as herein specified, or of reinforced concrete, with balusters spaced not over one foot apart.

(3) Stairs: The pitch of stairways shall not exceed forty-five degrees. Treads shall be not less than eight inches wide, exclusive of nosings, and not less than twenty-four inches long and placed so that the rise, either open or closed, shall not exceed eight inches and if solid shall have scoriated surface, and if made of slats they shall be placed not more than three-quarters of an inch apart and be well secured in place by bolts or rivets. Material in treads shall be not less than three-sixteenths of an inch thick. Railings shall be provided on both sides of stair, not less than two feet nine inches high as measured vertically from the center of the stair treads, and supported by balusters spaced not exceeding five feet apart. Intermediate rail shall be provided midway between top rail and stair stringers, or if intermediate rail is omitted, balusters shall be placed not over one foot apart. Railings on stairs shall permit not less than twenty-four inches unobstructed passageway, and shall be designed to withstand a horizontal pressure of two hundred pounds per running foot of railing without serious deflection. Concrete stairs shall comply with all requirements herein set forth and be made of reinforced concrete, concrete mixture to be as herein specified for concrete balconies. Railing enclosures of concrete stairs shall be as herein specified, or of reinforced concrete balustrade with balusters spaced not over one foot apart. Stairways shall be built stationary to grade where possible, and this shall be required in such buildings as schools and hospitals. Where fire escapes terminate over streets, alleys or private driveways, or like condition, and shall terminate in a hinged and counter-balanced section of stairway, the construction of such section of stair shall conform with the stationary parts of stairways and shall be so balanced that the weight of one person on third or fourth tread will lower same to landing. Bearings for such counter-balanced stairs shall be either bronze bushings or have sufficient clearance provided to prevent sticking on account of corrosion. No latch or lock shall be attached to the counter-balanced stair in up position but latch shall be provided to hold stair in down position when same has once been swung to ground. The connection between stair railings on the stationary part

and the counter-balanced part of stairways shall be designed to prevent probability of injury to persons using said fire escape. Where necessary a suitable opening shall be provided in any awning, roof or other intervening obstruction, to admit counter-balanced stair and permit passage of persons thereon.

(4) Roof Connection: Exterior stairway type fire escapes shall be connected with the roof of building to which attached. If the roof of the building is such that escape by way of the roof might be necessary the fire escape shall extend to the roof. If the connection is only for fire department use, it shall be made with a ladder of the goose neck type, the stringers of which shall be of material at least three-eighths of an inch thick and the rungs shall be at least three quarters of an inch in diameter, sixteen inches long and not exceeding fourteen inches apart. Said ladder shall be anchored to the wall.

(5) Clearance: The minimum clearance at all points on balconies and stairs as measured vertically shall be six feet six inches.

Exterior Chute Type:

(1) Shall consist of balconies and straight gravity chutes on the exterior of the building and constructed of iron or steel and placed at an angle not to exceed forty-five degrees and shall be in superimposed form, parallel to or at right angles to the building, or straight run form, parallel to or at right angles to the building, or a combination of these two forms.

(2) Balconies: Shall be the same as herein specified in subdivision two of specifications for exterior iron, steel or concrete stairway type fire escape.

(3) Chute: Shall be made of material of not less than number fourteen gauge iron or steel, blue annealed or equal, and shall be such as will take a smooth or polished surface. The chute shall be twenty inches wide and eighteen inches deep, inside dimensions, and free of obstructions or sharp edges throughout its length, and in cross section shall have concave bottom and straight sides. The top edges of the chute shall be stiffened and protected throughout its length with iron or steel angles, free from any sharp edges, and the angles of size necessary to carry the maximum loading possible and the chute shall be reinforced crosswise underneath with iron or steel angles. A landing of same material as the chute shall be provided at the lower end of the chute, and shall be of sufficient length, in proportion to the length of the chute and the concavity of its surface, to check the momentum attained through gravity and afford a safe stop. Such landing shall be six inches wider on each side than the chute, where wall construction will not interfere, and there shall be no sharp edges or ragged projections exposed, and said landing shall rest upon and be anchored to concrete base not less than six inches thick. All rivets exposed inside of chute and on top side of landing to be countersunk and ground down smooth. Intervening balconies, and the chute

also, shall be so constructed that a continuous gravity slide will be afforded from the top floor to the grade, and the chute shall be accessible at all floors.

Exterior Spiral Chute Type:

(1) Shall consist of balconies in superimposed form and spiral gravity chute on the exterior of the building and constructed of iron or steel.

(2) Balconies: To be the same as herein specified in subdivision two of specifications for exterior iron, steel or concrete stairway type fire escape.

(3) Chute: Slideway shall be made of material of not less than number sixteen gauge iron or steel, blue annealed or equal, and shall be such as will take a smooth or polished surface. The chute shall be not less than thirty inches wide inside, with the slideway banked at the outer edge to prevent a passenger being thrown against guard rail or enclosure, and enclosed by either a continuous wall or a guard rail, the material of which shall not be less than number eighteen gauge iron or steel and said guard rail shall be not less than thirty inches high. The entire slideway shall be free from obstructions or sharp edges and all rivets exposed inside to be countersunk and ground down smooth. The chute shall be constructed in helical or spiral form around a central column, resting on and anchored to concrete base not less than eighteen inches thick. The chute shall terminate not more than two feet above the grade and be so constructed and arranged that normal landing will be in a standing position. Intervening balconies, and the chute also, shall be so constructed that a continuous gravity slide will be afforded from the top floor to the grade, and the chute shall be accessible at all floors.

Interior Type:

(1) Shall be a stairway type constructed of iron, steel or concrete or straight chute type constructed of iron or steel or spiral chute type constructed of iron or steel, either of which types erected on the interior of the building to be enclosed with non-combustible material and all door and window openings in such enclosure protected with self-closing fire-proof shutters.

(2) Balconies or Landings: Balconies or landings to be the same construction as specified for balconies in subdivision two of specifications for exterior iron, steel or concrete stairway type fire escapes, except that such balconies shall permit not less than forty inches unobstructed passageway, and such balconies or landings shall be provided and erected on the interior of the enclosing walls on a level with the floors of the building to be served.

(3) Stairway Type: Stairs to be same construction as specified for stairs in subdivision three of specifications for exterior iron, steel or concrete stairway type fire escapes, except that such stairs shall permit not less than forty inches unobstructed passageway in all its parts. Stairs known as "spirals" or "winders" shall not be permitted.

(4) Straight chute type: The chute to be same as herein specified in subdivision three of specifications for exterior iron or steel straight chute type fire escape.

(5) Spiral chutes: The chute to be same as herein specified in subdivision three of specifications for exterior iron or steel spiral chute type fire escape.

(6) Access: They shall be accessible from all parts of the building which they are designed to serve, and all lobbies, halls and passageways on each floor leading to fire escapes and in connection therewith, shall be not less than thirty-six inches wide, and not less than six feet six inches high, and shall be level with the floor upon which it opens and serves. They shall be so constructed at lower end as to permit direct egress to the outside of the building at grade. All interior stairway type fire escapes shall be continuous starting at ground floor and shall never descend to any basement, and shall extend through roof of the building and terminate in a pent house constructed of non-combustible material with self-closing fire door as herein specified.

(7) Enclosing walls: The following materials may be used for enclosing walls of interior escapes:

(a) Brick or plain solid concrete not less than eight inches in thickness for the uppermost thirty feet, increasing four inches in thickness for each lower section of thirty feet or part thereof, or eight inches in thickness for the entire height when wholly supported at intervals not exceeding thirty feet.

(b) Reinforced stone or gravel concrete not less than five inches in thickness for the uppermost thirty feet, increasing two inches in thickness for each lower section of thirty feet or part thereof, or three inches in thickness for entire height when supported at vertical intervals not exceeding twenty feet, and braced where necessary with lateral supports or suitable steel uprights.

(c) Reinforced cinder concrete not less than five inches in thickness for the entire height when supported at vertical intervals not exceeding fifteen feet, and braced where necessary with lateral supports or suitable steel uprights.

(d) Hollow terra cotta blocks laid in cement mortar not less than five inches thick over all, or hollow concrete blocks of either stone or cinder concrete mortar, not less than five inches thick over all, or solid or hollow blocks consisting of gypsum containing not more than twenty-five per cent by weight of cinders, asbestos fibre, wood chips or vegetable fibre, laid in gypsum plaster or cement mortar tempered with lime, not less than five inches thick over all, or metal lath on steel studding covered with Portland cement mortar or gypsum plaster of a finished thickness of not less than two inches in the case of solid partitions, nor less than three inches in the case of hollow partitions. All openings in such walls or partitions shall have substantial steel framing, the vertical members of which shall be securely attached to the floor construction above and below.

(8) Door and window openings: All door openings shall be protected by the use of automatic or self-closing fire doors of standard manufacture, bearing Underwriters label, and where automatic fire doors are used the same shall be enclosed in recess partitions. All doors shall be so arranged and equipped to remain in closed positions at all times and under all conditions except during actual use. All window openings shall have metal sash, bearing Underwriters label, and wire glass.

(9) Lighting: All interior fire escapes shall be provided with not less than one light at each landing equal to a ten watt electric globe, in a separate circuit from that of the building, arranged to operate should the regular lighting system of the building be disabled.

[Acts 1925, S.B. 84.]

Art. 3967. Painting

All fire escapes of any type constructed of iron or steel shall have at least two coats of good metallic paint when erected and shall be painted as frequently thereafter as may be necessary to preserve from rust or climatic influences and at least once every two years. The sliding surface of either the straight chute or spiral chute type fire escape shall be thoroughly cleaned and painted at least once each year.

[Acts 1925, S.B. 84.]

Art. 3968. Tests

Upon completion and before final approval of any fire escape of any of the types specified herein, both exterior and interior, such fire escape shall be tested by the erector by the application of a live load of one hundred and sixty pounds per square foot of area of balcony floor and stair treads, or a dead load of two hundred and forty pounds per square foot of area of balcony floor and stair treads, in either case simultaneously imposed upon each balcony and the stairways connected therewith leading both up and down. Sand, gravel, concrete blocks or any other suitable commodity may be used in applying these tests, but the load must be accurately weighed and applied as specific herein. By the dead load is meant a load placed in position in whole or in part by any mechanical means and without any person being on the fire escape at the time the test is made, and by live load is meant a load placed in position by mechanical means or by persons and with persons on the fire escape as part of the load at the time the test is made.

[Acts 1925, S.B. 84.]

Art. 3969. Affidavit

Such tests shall be conducted in the presence of the State Fire Marshal or a representative duly appointed by him, or the chief of any fire department, or the city fire marshal of an [any] city or town. If the State Fire Marshal or his representative or a chief of a fire department, or a city fire

marshal cannot be present to witness such test, such officials may permit the erector to furnish an affidavit setting forth that the minimum test herein specified has been made and that the fire escape has fully withstood said test and may accept such affidavit in lieu of the personal presence of such officials.

[Acts 1925, S.B. 84.]

Art. 3970. Completion Before Occupancy

All buildings constructed hereafter and within the provisions of this title providing for the equipment of buildings with fire escapes, shall be so provided and equipped, and otherwise meet all requirements of this law, before such buildings are occupied or used in whole or in part.

[Acts 1925, S.B. 84.]

Art. 3971. Inspection

All fire escapes, extensions and additions to fire escapes constructed and erected under the provisions of this law, shall be inspected by the State Fire Marshal, or any inspector of the State Insurance Commission, or the chief of the fire department of any city or town, or any city fire marshal, before being approved, and no fire escape, extension or addition shall be approved, unless the same conforms to and meets all the provisions of this law.

[Acts 1925, S.B. 84.]

Art. 3972. Injunction

The Attorney General, or the county attorney of any county in which any building is maintained in violation of any provision of this title, or the district attorney of any district in which such building is located, may proceed by suit or injunction against the owner, or person, board, commission or official having charge of such buildings, to enforce the provisions of this title. Such suit or injunction shall be brought in the name of this State in the district court of the county in which such building is located. Such suit or injunction may be prosecuted by the Attorney General, county or district attorney upon their own motion or upon the relation of any individual, or of any person mentioned in the preceding article. District courts and the judges thereof may issue mandatory injunctions and other writs against any such owner, person, board, commission or official, to enforce the provisions of this title. A disobedience of such injunction shall constitute a contempt of court and be punishable as now provided by law for contempts. Injunctions in such cases may be heard and granted either in term time or vacation, after the defendant has been given ten days notice of the time and place set for the hearing of same.

[Acts 1925, S.B. 84.]

Art. 3972.1. Violation of Fire Escape Law

Any owner of any building required by law to be equipped with adequate fire escapes, who shall fail

or refuse to comply with any provision of the statutes regulating fire escapes, or any person who shall obstruct any fire escape or hallway or entrance leading thereto, so as to prevent free access to or use of either, shall be fined not less than twenty nor more than fifty dollars. If such owner be a corporation, each officer or member of the board of directors, thereof, shall be subject to such fine. Each day's failure or refusal to comply with any provision of said law is a separate offense.

[1925 P.C.]

Acts 1923, 38th Leg., ch. 170, p. 361, §§ 6, 14, read as follows:

"Sec. 6. The term 'owner' within the meaning of this Act, shall include individual persons, firms, associations and private corporations.

"Sec. 14. The owner of any building within the provisions of this Act, who shall fail, neglect or refuse to comply with any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than twenty dollars (\$20.00), nor more than fifty dollars (\$50.00), and each day's failure, neglect or refusal to comply with any of the provisions of this Act shall constitute a separate offense."

Art. 3972.2. Violation by Agent

If the owner of any building within the provisions of said law be a non-resident of this State, and such owner fails, neglects or refuses to comply with any provision of said law, it shall be unlawful for any person within this State to represent such non-resident owner as an agent in the care, management, supervision, control, or renting of such building, and whoever violates this article shall be punished as provided in the preceding article. Each day that such agent so represents such non-resident owner is a separate offense.

[1925 P.C.]

Art. 3972b. Applicability

The provisions of Title 63, as amended, shall not be applicable and shall have no force or effect on construction in any city or town which has adopted and has in effect a nationally recognized model building code governing such construction if such building code in effect in any city or town requires at least one or more one-hour fire-resistive means of escape having a total width equivalent to or greater than the total exit width required by the present "Fire Escapes," Title 63, Articles 3955-3972, Revised Civil Statutes of Texas, 1925, as amended, in all structures of three or more stories.

[Acts 1975, 64th Leg., p. 1162, ch. 435, § 1, eff. Sept. 1, 1975.]

Section 2 of the 1975 Act added art. 3972c; §§ 3 to 5 thereof provided:

"Sec. 3. Notwithstanding Sections 1 and 2, any city may enact additional standards that are not in conflict with the provisions of this Act.

"Sec. 4. The provisions of this Act shall be severable, and if any section or part hereof shall be declared unconstitutional, void, or inoperative in any way, said declaration shall not affect the remaining sections or parts of this Act.

"Sec. 5. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

Art. 3972c. Compliance

Any construction heretofore completed in accordance with the provisions and requirements of a nationally recognized model building code shall be deemed for all purposes to have complied with all of the provisions and requirements contained in Title 63, as amended, if such building code in effect in any city or town requires at least one or more one-hour fire-resistive means of escape having a

total width equivalent to or greater than the total exit width required by the present "Fire Escapes," Title 63, Articles 3955-3972, Revised Civil Statutes of Texas, 1925, as amended, in all structures of three or more stories.

[Acts 1975, 64th Leg., p. 1163, ch. 435, § 2, eff. Sept. 1, 1975.]

Section 1 of the 1975 Act added art. 3972b; see notes under art. 3972b for text of §§ 3 to 5.

TITLE 63A**FIRE PROTECTION DISTRICTS****Art. 3972a. Inoperative**

This article, Acts 1951, 52nd Leg., p. 1197, ch. 495, providing for the creation, government, operation and maintenance of fire protection districts for the conservation of natural resources and properties within the state, outside of incorporated cities, towns and villages, is inoperative.

Section 21a provided that the Act "shall become operative when the Constitutional Amendment provided for in Senate Joint Resolution No. 8 is adopted by a vote of the qualified electors of this State and becomes effective."

S.J.R. No. 8, 52nd Leg., 1951, proposing an amendment to section 48-d of Article III of the Constitution, authorizing the legislature to provide for the creation of rural fire prevention districts, was not adopted by the qualified electors at the election held on November 13, 1951.

Arts. 3972b, 3972c.

Articles 3972b and 3972c were added to Title 63 by Acts 1975, 64th Leg., p. 1162, ch. 435, §§ 1, 2. See Title 63, ante.

TITLE 64**FORCIBLE ENTRY AND DETAINER****Art.**

3973 to 3994. Repealed.

Arts. 3973 to 3975b. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

Arts. 3976 to 3991. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3992. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

Art. 3993. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 3994. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

TITLE 65**FRAUDS AND FRAUDULENT CONVEYANCES****Art.**

3995 to 4004. Repealed.

Arts. 3995 to 3999. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2619, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce

Code, repealed articles 3995 to 3999 effective September 1, 1967.

See, now, Business and Commerce Code, §§ 24.01-24.05, 26.01.

Arts. 4000 to 4003. Repealed by Acts 1965, 59th Leg., p. 1, ch. 721, § 10-102, eff. June 30, 1965

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed articles 4000 to 4003 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation

of the 1965 Act or any prior action taken under it.

See, now, Business and Commerce Code, §§ 6.101 et seq., 9.201, 9.202.

Art. 4004. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2619, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 4004 effective September 1, 1967.

See, now, Business and Commerce Code, § 27.01.

TITLE 66

FREE PASSES, FRANKS AND TRANSPORTATION

- Art.**
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Art. 4005. Free Passes Prohibited

No steam or electric railway company, street railway company, interurban railway company or other chartered transportation company, express company, sleeping car company, telegraph company, telephone company or person or association of persons operating the same, nor any receiver or lessee thereof, nor any officer, agent or employee or receiver of any such company in this State shall knowingly haul or carry any property free of charge, or give or grant to any person, firm or association of persons a free pass, frank, privilege or substitute for pay or a subterfuge which is used or which is given to be used instead of the regular fare or rate of transportation or any authority or permit whatsoever to travel or to pass or convey or transport any person or property free, nor sell any transportation for anything except money, or for any greater or less rate than is charged all persons under the same conditions, over any railway or transportation lines or part of line in this State; or shall knowingly permit any person to transmit any message free in this State; or shall give any frank or right or privilege to transmit any message free in this State or property free of charge or for greater or less fare or rate than is charged other persons in

this State for similar service, except as hereinafter provided in this title.

[Acts 1925, S.B. 84.]

Art. 4005a. Free Pass Law

Any president, director, officer, employé or agent of any steam or electric railway company, street railway company, interurban railway company, or other chartered transportation company, express company, sleeping car company, telegraph or telephone company, who shall sell any transportation for anything except money or knowingly give, grant, issue, or cause to be issued, a free pass, a frank, a privilege, or any substitute for, or in lieu thereof, for the transportation of any person, article or thing, or the sending or transmitting any messages over wire or other means of transmitting messages in this State, shall be fined not less than five hundred nor more than two thousand dollars, and may, in addition thereto, in the discretion of the jury, be confined in the penitentiary not less than six months nor more than two years.

[1925 P.C.]

Art. 4006. Exceptions

The preceding Article shall not be held to prevent any steam or electric interurban railway, telegraph company, or chartered transportation company, or sleeping car company, or the receivers or lessees thereof, or persons operating same, or the officers, agents, or employees thereof, from granting or exchanging free passes or free transportation, franks, privileges, substitutes for pay, or other thing prohibited by the provisions of the preceding Article to any of the following named persons: The actual bona fide employees of any such person or corporation, company, association, or the members of their families; persons actually employed on sleeping cars and express cars; newsboys employed on trains; railway mail service employees, and their families; furloughed, pensioned, superannuated employees, and members of their families; the widows of deceased former superannuated and/or pensioned employees; persons who have been disabled or who have become infirm in the service of any such corporation, company, association, or person; the remains of any persons killed or who may have died in the employment of a common carrier; members of the family of persons killed while in the service of any such common carrier; the family or any person who was, for a period of ten (10) years

or more, an employee of such common carrier and who died while in the service of the same; ex-employees traveling for the purpose of entering the service of any such common carrier; post office inspectors; the chairman of bona fide members of grievance committees of employees; bona fide custom and immigration inspectors employed by the government; State Health Officer and one assistant; Federal health officers; county health officers; members of the Industrial Accident Board or any employee thereof; State Railroad Commissioners; Secretary of the Railroad Commission; Engineer of the Railroad Commission; Inspector of the Railroad Commission; Auditor of the Railroad Commission; State Game, Fish and Oyster Commissioners and the Executive Secretary and two (2) assistants; government representatives from the Texas fish hatcheries; shipments of fish for free distribution in the waters of this State; the necessary caretakers while en route and return of any shipments of live stock, poultry, fruit, melons, or other perishable produce; trip passes to indigent poor when application therefor is made by any religious or charitable organization; Sisters of Charity, or members of any religious society of like character; any Minister of religion on intrastate trips in this State; any citizen of the State who served in the War between the States of the Union, either on the Confederate side or on the Union side of said War; veterans of the Spanish-American War, and the wife or widow of any such citizen or veteran; veterans of the Texas Ranger force who served the State prior to the year 1900, and their wives or widows; delegates to different farmers' institutes, farmers' congresses, and farmers' union; delegates to State and district firemen's conventions from volunteer fire companies; managers of Young Men's Christian Associations, or other eleemosynary institutions while engaged in charitable work; the officers or employees of industrial fairs; provided that no more than four (4) officers or employees of any one fair or fair association shall receive free passage in any one year; persons injured in wrecks upon the road of any such company immediately after such injury, and the physicians and nurses attending such persons at the time thereof; persons and property carried in cases of general epidemic, pestilence, or other calamitous visitation at the time thereof or immediately thereafter; United States Marshals and no more than two (2) of the deputies of each such Marshal; State Rangers; the Adjutant General and Assistant Adjutant General of this State; members of the State Militia in uniform and when called into the service of the State; Sheriffs and no more than two (2) of their deputies; Constables and no more than two (2) of their deputies; Chiefs of Police or city marshals, whether elected or appointed; members of the Livestock Sanitary Commission of Texas and their inspectors not to exceed twenty-five (25) in number for any one year; and any other bona fide peace officer when his duty is to execute criminal process; bona fide policemen or firemen in the service of any city or town in Texas when such policemen or

firemen are in the discharge of their public duty; but this provision shall not be construed so as to apply to persons holding commissions as special policemen or firemen.

[Acts 1925, S.B. 84. Amended by Acts 1939, 46th Leg., p. 334, § 1; Acts 1941, 47th Leg., p. 15, ch. 8, § 1.]

Art. 4006a. Exceptions

The preceding article shall not apply in cases where the laws of this State provide that such companies as are referred to in said article, or the receivers or lessees thereof, or persons operating the same, or the officers, agents or employés thereof, may grant free passes, franks, privileges, or substitutes for pay to or for the persons, articles or things referred to and mentioned in said laws and said article.

[1925 P.C.]

Art. 4006b. Using Another's Pass

If any person shall present, or offer to use, in his own behalf, any permit or frank whatever, to travel, pass or to convey any person or property or message which has been issued to any other person, or shall, knowing that he is not entitled under the law, apply to any railway, express, telegraph or telephone company, officer, agent, lessee or receiver thereof, for any free pass, frank, privilege or a substitute for pay given or to be used instead of the regular fare or rate for transportation, or for any other consideration, except money, he shall be confined in jail not less than thirty days and not more than twelve months, and be fined not less than one hundred nor more than one thousand dollars.

[1925 P.C.]

Art. 4006-A. Free Transportation to Indian War Veterans

Article 4005 shall not be held to prevent any railway company or other companies mentioned therein from granting free transportation, franks, privileges, or passes to Indian War Veterans, subject to the same limitations as apply to other Veterans provided in Article 4006.

[Acts 1931, 42nd Leg., p. 335, ch. 202, § 1.]

Art. 4007. Definitions

The word "employee" as used in this title shall be held to include all officers, agents or employees, actually employed and engaged in the service of such corporation, company, association of persons, including its officers, bona fide ticket and freight agents, physicians, surgeons and general attorneys, and attorneys who appear in court to try cases and receive a reasonable annual salary therefor. The word "family" as used in this title shall include the wife, minor children and dependents of any such employé or person. The words "minister of religion" shall be construed to mean only those whose

principal occupation is that of a minister of religion, priest or rabbi.

[Acts 1925, S.B. 84.]

Art. 4008. Special Rates

Nothing in this title shall be held to prevent any corporation, association or person mentioned in the first article of this title from granting transportation at the rate of one cent per mile to veterans mentioned in the preceding article, or their wives or widows; honorably discharged soldiers, sailors, marines and Red Cross nurses of the late world war to or from the annual convention, Department of Texas American Legion; any minister of religion for intrastate trips, or from granting to ministers of religion reduced rates of one-half the regular fare, or to prohibit the making of special rates for special occasions or under special conditions, provided authority therefor shall first be obtained from the Railroad Commission of Texas; or to prohibit transportation between points wholly within this State at the reduced rate of one cent per mile while traveling on official business connected with their respective offices, the following named peace officers, to wit: Adjutant General of this State; State rangers; the sheriff of any county, his deputies to be designated by him; constables; chiefs of police and assistant chiefs and captains; city marshals, chief of the detectives of any county or city, and assistant detectives.

[Acts 1925, S.B. 84.]

Art. 4008a. Aged, Blind or Disabled Persons; Special Rates

Transportation companies which operate in the municipalities of this state may set special reduced rates or fares for persons who are 60 years of age or older or who are blind or disabled.

[Acts 1971, 62nd Leg., p. 88, ch. 50, § 1, eff. April 6, 1971. Amended by Acts 1973, 63rd Leg., p. 758, ch. 333, § 1, eff. June 12, 1973.]

Section 2 of the 1971 Act provided:

"To the extent that the provisions of this Act conflict with any other law, the provisions of this Act prevail."

Art. 4008b. Street Railways

All persons or corporations owning or operating street railways or motor buses in or upon the public streets of any city of not less than twenty thousand inhabitants are required:

1. To carry children of the age of twelve years or less for one-half the fare regularly collected for the transportation of adults.
2. To sell or provide for the sale of tickets in lots of twenty, each good for one trip over the line or lines owned or operated by such person or corporation, for one-half the regular fare collected for the transportation of adults, to students in actual attendance upon any academic, public or private school of grades not higher than the grades of the public high schools situated within, or adjacent to

the town or city in which such railway is located. Such tickets are required to be sold only upon the presentation by the student desiring to purchase them of the written certificate of the principal of the school which he attends showing that such student is in regular attendance upon such school and is within the grades herein provided. Such tickets are not required to be sold to such students and shall not be used except during the months when such schools are in actual session and such students shall be transported at half fare only when they present such tickets.

3. To transport, free of charge, children of the age of five years or less when attended by a passenger of above said age.

4. To accord to all passengers referred to in this Article the same rights as to the use of transfers issued by their own or other lines as are or may be accorded to passengers paying full fare.

Any such person or any officer or employee of any such corporation or other person who knowingly violates any provision of this Article, or any person who misrepresents the age or the grade of any person for the purpose of securing the reduced fare herein provided for, shall be fined not less than Twenty-five nor more than One Hundred Dollars.

[1925 P.C. Amended by Acts 1931, 42nd Leg., p. 828, ch. 343, § 1.]

Art. 4009. Free Transportation

Nothing in this title shall be construed to prohibit any express company from hauling or carrying free of charge any package or property of its actual bona fide officers, attorneys, agents and employees while in the service of such express company, nor to prevent any article being sent free to any orphan home or other charitable institution, nor to prohibit any telegraph or telephone company from transmitting free of charge any message of its bona fide officers, attorneys, agents or employees and their families while in the actual employment of such company or its receiver or lessee; provided the actual bona fide officers and employees upon annual salaries of railway telephone companies and telegraph companies are hereby permitted to exchange frank privileges and free transportation over their respective lines of railway and telegraph or telephone.

[Acts 1925, S.B. 84.]

Art. 4010. Advertising

Nothing in this title shall be construed to prevent any of the parties named in the first article hereof, publishers, editors or proprietors of newspapers or magazines, from making an exchange of mileage for advertising space in such newspaper or magazine, provided the contract between the railway companies and publishers, editors or proprietors of such newspapers or magazines shall be at the same rate as is charged the public generally for like service, providing that such contract shall be in

writing and shall not be operative until approved by the Railroad Commission of this State, and filed in the office of such Commission, subject at all times to a reasonable public inspection.

[Acts 1925, S.B. 84.]

Art. 4011. Discrimination as to Persons

If any corporation, company, association, or person mentioned in Article 4005 shall grant to any sheriff, constable, or marshal a free pass over its lines of railroad, it shall issue like free transportation to each and every sheriff, constable, or marshal who may make application therefor.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 239, ch. 87, § 1.]

Art. 4012. Evidence of Authority

Any veteran of any of the wars mentioned in this title, their wives, widows or members of their families, and any minister of religion, or any fireman, sister of charity or member of any religious society of like character, who desires to receive the benefits of free or reduced transportation as mentioned in this title shall present to the president, manager, officer, or person authorized to issue such transportation satisfactory evidence that he or she is entitled thereto, as herein provided. The officers entitled to the benefits of this law shall, when presenting themselves to the agent of any such railway or interurban railway company for the purchase of a ticket or to pay his fare, exhibit to such agent in case of the Adjutant General and State Rangers a certificate of the Secretary of State under seal, in case of sheriffs and constables and their deputies a certificate under seal of the county judge of the county where they hold office and in case of officers of a city or town a certificate under seal of the mayor of such city or town stating that such person is entitled to the reduced fare herein provided for. Sheriffs and constables shall designate in writing the two deputies entitled to the reduced rates herein provided for. If the sheriff or constable has designated two deputies who are entitled to such reduced rates, then no deputy of such sheriff or constable shall be entitled to free transportation under the provisions of the pass laws of this State.

[Acts 1925, S.B. 84.]

Art. 4013. Discrimination by Device

No corporation, company or person mentioned in the first article of this title shall directly or indirectly, by any special rate, rebate, drawback, or other device, demand, exchange, collect or receive from any person, firm, association or corporation a greater or less or different compensation for any service rendered or to be rendered, in the transportation of passengers, properties or messages, than it or he charges, demands, collects or receives from any other corporation, person, firm or association of persons doing business in this State for a like service under substantially similar circumstances and conditions except as is provided in this title, nor

shall grant any free transportation or franking privilege to any corporation or person except as provided in this title.

[Acts 1925, S.B. 84.]

Art. 4013a. Discrimination by Device

No steam or electric railway company, street railway company, interurban railway company, or other chartered transportation company, express company, sleeping car company, telegraph or telephone company, shall directly or indirectly, by any special rate, rebate, drawback, or other device or exchange, demand, charge or collect or receive from any person, firm, association of persons or corporation a greater or less or different compensation for any service rendered, or to be rendered, in the transportation of passengers, property or messages, than it charges, demands, collects or receives from any other person, firm, association of persons or corporation for doing for him, them or it, a like service, if the transportation or transmission is a like kind of traffic or service under substantially similar circumstances and conditions.

[1925 P.C.]

Art. 4014. Reports, etc.

Each corporation, company or persons subject to the provisions of this title shall, as and when requested by the Railroad Commission of Texas, furnish said Commission with any and all information which may at any time be requested by said Commission relating to free transportation or right thereto which has been given to travel, or to have property or messages transported or transmitted, free over the lines of any such corporation, company or person, and if requested by said Commission to give the name and address of such person or persons to whom said rights have been granted, either free or at a reduced rate; any corporation, company or person, who shall fail or refuse to comply with the request of the Railroad Commission of Texas, under the provisions of this Act, shall, for each such failure and refusal, be subject to a penalty not exceeding One Thousand (\$1,000.00) Dollars, to recover which suit shall be brought by the Attorney General of Texas under the direction of the Railroad Commission; provided, however, that each such corporation, company or person, who complies with the provisions of this Act, from and after January 1, 1931, shall not be required to furnish the reports provided for under Article 4014, Revised Civil Statutes of 1925, which is hereby amended.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 261, ch. 156, § 1.]

Art. 4015. Penalty

Any corporation, company, association of persons or any person named in the first article of this title violating any provision of this title, except Article 4014, shall forfeit and pay to the State of Texas a penalty of five thousand dollars for each violation, to be recovered in suit by the State, brought by the

Attorney General or by any county or district attorney under the direction of the Attorney General. [Acts 1925, S.B. 84.]

Art. 4015a. Unlawfully Using Free Pass

Any person, other than the persons excepted by law, who uses such free ticket, free pass or free transportation, frank or privilege over any railway or other transportation line or sleeping or express car, telegraph or telephone line mentioned in the preceding articles of this chapter, for any distance under the control and operation of either of said companies or under their authority, or shall knowingly or wilfully by any means or device whatsoever obtain, use or enjoy from any such company a less fare or rate than is charged, demanded, collected or received by any such company from any other person, firm, association of persons or corporations for doing for him, them or it, a like service, if the transportation or service is of a like kind of traffic or service under substantially similar circumstances and conditions, such person or such officer or agent who acts for such corporation or company thus favored, shall be fined not less than one hundred nor more than one thousand dollars.

[1925 P.C.]

Art. 4015b. Evading Law

Any director, officer, agent or any receiver, trustee, lessee or person acting for, or employed by, any company subject to the provisions of the preceding articles of this chapter, who alone, or with any other corporation, company, persons or party, shall wilfully do, or cause to be done, or shall wilfully suffer, or permit to be done, any act, matter or thing in said articles prohibited, or who shall aid or abet therein, or shall wilfully omit or fail to do any act, matter or thing in this Act required to be done, or shall cause or wilfully suffer or permit any act, matter or thing so directed, required by said articles to be done, not to be done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of said articles, or shall aid or abet therein, shall be fined not less than one hundred nor more than one thousand dollars; and, if the offense for which any person shall be convicted under this article shall be unlawful discrimination in rates, fares or charges for the transportation of passengers or property, or the transmission of messages, such person may, in addition to the fines hereinbefore provided for, at the discretion of the jury, be imprisoned in the penitentiary for not less than six months nor more than two years.

[1925 P.C.]

Art. 4015c. May be Compelled to Testify

In any investigation or prosecution under any provision of this chapter, the court or tribunal in which the same is pending may compel any person to attend and give testimony, and to produce such papers, books and documents as may be desired by the State. No person shall be exempt from giving

testimony therein, but no criminal action or proceeding shall be brought or prosecuted against such witness on account of any testimony so given or furnished by him.

[1925 P.C.]

Art. 4015d. Reduced Rate for Officers

Any steam railroad company or any electric interurban railroad company or any person or persons operating the same, or any receiver or receivers, or lessee or lessees thereof, shall be permitted to transport between points wholly within this State at the reduced rate of one cent per mile, while traveling on official business connected with their respective offices, the following named peace officers, to-wit: the Adjutant General; State Rangers; the sheriff of any county, his deputies to be designated by him; constables; chiefs of police and assistant chiefs and captains; city marshals, chief of the detectives of any county or city, and assistant detectives. Any such peace officer who shall procure transportation over any such railroad between points in this State under the provisions of this article and shall use the same for any other than official business connected with the duties of his office, or any person not entitled to the benefits of this law who shall falsely represent himself as entitled to such privileges and shall purchase or offer to purchase transportation over any such railroad company at the rate provided for herein, shall be fined not less than one hundred nor more than five hundred dollars, or be imprisoned in jail not exceeding six months, or both.

[1925 P.C.]

Art. 4015e. Collecting Fare from State or Political Subdivision by Officer or Employee Using Free Pass

Sec. 1. No officer or employee of the State of Texas, any county, city, town, or village, or of any municipality or political subdivision, using or accepting the benefits of any free pass or franking privilege of any railroad, interurban, motor bus or other transportation line, shall charge, or collect from the State of Texas, or from any county, city, town, village, municipality or political subdivision, the fare or charge which, otherwise, he would have paid to such railroad, interurban, motor bus or other transportation line, by reason of the trip for which such free pass or frank was used.

Sec. 2. Any officer or employee violating any provision of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding One Thousand (\$1,000.00) Dollars.

[Acts 1931, 42nd Leg., p. 267, ch. 161.]

Art. 4015f. Preference in Transportation

By the word "preference" as used in this article is meant any advantage, privilege, right, opportunity, precedence, choice, favor, priority, or gain that is or may be, or is sought or purposed to be accorded,

granted, given, allowed, permitted or extended to any person, place, or thing, as against any other person, place, or thing in the receipt, carriage, transportation, movement, placing, storing, handling, caring for or delivery of any freight, commodity or article, or any railroad car or by any common carrier in this State, or any agent or employé thereof. Any person who shall ask, solicit, demand, or receive, directly or indirectly, from any person, corporate or otherwise, any money, reward, favor, benefit, or other thing of value, or the promise of either, as a consideration for procuring or effecting, or with the intent of the person asking, soliciting,

demanding, charging or receiving the same, or the promise thereof, that such person can or will, seek or undertake to procure or effect any preference in the receipt, carriage, transportation, storing, movement, placing, handling, caring for, or delivery of any freight, commodity or article, or any railroad car by any common carrier in this State or any agent or employé thereof, shall be fined not less than one hundred nor more than one thousand dollars and be imprisoned in jail not less than thirty days nor more than six months.

[1925 P.C.]

TITLE 67

FISH, OYSTER, SHELL, ETC. [REPEALED]

Art.

4016 to 4075c. Repealed.

Arts. 4016 to 4026. Repealed by Acts 1975, 64th Leg., p. 1804, ch. 545, § 2(a)(2), eff. Sept. 1, 1975

Acts 1975, 64th Leg., p. 1405, ch. 545, repealing these articles, enacts the Parks and Wildlife Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Parks and Wildlife Code.

Art. 4026a. Repealed by Acts 1967, 60th Leg., p. 1959, ch. 730, § 15, eff. Sept. 1, 1967

Arts. 4026b to 4030. Repealed by Acts 1975, 64th Leg., p. 1804, ch. 545, § 2(a)(2), eff. Sept. 1, 1975

Acts 1975, 64th Leg., p. 1405, ch. 545, repealing these articles enacts the Parks and Wildlife Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Parks and Wildlife Code.

Arts. 4031, 4032. Repealed by Acts 1933, 43rd Leg., 1st C.S., p. 85, ch. 29, § 7

Art. 4032a. Repealed by Acts 1949, 51st Leg., p. 864, ch. 466, § 14

Art. 4032b to 4032c. Repealed by Acts 1975, 64th Leg., p. 1804, ch. 545, § 2(a)(2), eff. Sept. 1, 1975

Acts 1975, 64th Leg., p. 1804, ch. 545, repealing these articles, enacts the Parks and Wildlife Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Parks and Wildlife Code.

Arts. 4033, 4034. Repealed by Acts 1933, 43rd Leg., 1st C.S., p. 85, ch. 29, § 7

Arts. 4035 to 4043. Repealed by Acts 1975, 64th Leg., p. 1804, ch. 545, § 2(a)(2), eff. Sept. 1, 1975

Acts 1975, 64th Leg., p. 1405, ch. 545, repealing these articles, enacts the Parks and Wildlife Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Parks and Wildlife Code.

Art. 4044. Repealed by Acts 1933, 43rd Leg., 1st C.S., p. 85, ch. 29, § 7

Arts. 4045 to 4047. Repealed by Acts 1975, 64th Leg., p. 1804, ch. 545, § 2(a)(2), eff. Sept. 1, 1975

Acts 1975, 64th Leg., p. 1405, ch. 545, repealing these articles, enacts the Parks and Wildlife Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Parks and Wildlife Code.

Art. 4048. Repealed by Acts 1971, 62nd Leg., p. 1667, ch. 471, § 9, eff. May 27, 1971

See, now, Parks and Wildlife Code, § 76.101 et seq.

Arts. 4049 to 4075c. Repealed by Acts 1975, 64th Leg., p. 1804, ch. 545, § 2(a)(2), eff. Sept. 1, 1975

Acts 1975, 64th Leg., p. 1405, ch. 545, repealing these articles, enacts the Parks and Wildlife Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Parks and Wildlife Code.

TITLE 68

GARNISHMENT

Art.

4076. Who May Issue and When.
4077 to 4083. Repealed.
4084. Effect of Service of Writ.
4085 to 4092. Repealed.
4093. Effect of Such Sale.
4094, 4095. Repealed.
4096. Trial When Garnishee is Non-resident.
4097, 4098. Repealed.
4099. Current Wages.
4100, 4101. Repealed.

Art. 4076. Who May Issue and When

The clerks of the district and county courts and justices of the peace may issue writs of garnishment, returnable to their respective courts, in the following cases:

1. Where an original attachment has been issued.
2. Where the plaintiff sues for a debt and makes affidavit that such debt is just, due and unpaid, and that the defendant has not within his knowledge property in his possession within this State, subject to execution, sufficient to satisfy such debt; and that the garnishment applied for is not sued out to injure either the defendant or the garnishee.
3. Where the plaintiff has a valid, subsisting judgment and makes affidavit that the defendant has not, within his knowledge, property in his possession within this State, subject to execution, sufficient to satisfy such judgment.

[Acts 1925, S.B. 84.]

Art. 4077. Repealed by Rules of Civil Procedure (Sup.Ct. order July 26, 1960, eff. Jan. 1, 1961)

Arts. 4078 to 4083. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 4084. Effect of Service of Writ

From and after the service of such writ of garnishment, it shall not be lawful for the garnishee to pay to the defendant any debt or to deliver to him any effects; nor shall the garnishee, if an incorporated or joint stock company in which the defendant is alleged to be the owner of shares or to have an interest, permit or recognize any sale or transfer of such shares or interest; and any such payment or delivery, sale or transfer, shall be void and of no effect as to so much of said debt, effect, shares, or interest as may be necessary to satisfy the plaintiff's demand. The defendant may, at any time

before judgment, replevy any effects, debts, shares, or claims of any kind seized or garnisheed, by giving bond, with two or more good and sufficient sureties to be approved by the officer who issued the writ of garnishment, payable to the plaintiff, in double the amount of the plaintiff's debt, and conditioned for the payment of any judgment that may be rendered against the said garnishee in such suit, which when properly approved shall be filed among the papers in the cause in the court in which the suit is pending. In all proceedings in garnishment where the defendant gives bond as herein provided for, such defendant may make any defense which the defendant in garnishment could make in such suit.

[Acts 1925, S.B. 84.]

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 664, Vernon's Texas Rules of Civil Procedure.

Arts. 4085 to 4092. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 4093. Effect of Such Sale

Such sale shall be valid and effectual to pass to the purchaser all right, title and interest which the defendant had in such shares of stock, or in such company; and the proper officers of such company shall enter such sale and transfer on the books of the company in the same manner as if the same had been made by the defendant himself.

[Acts 1925, S.B. 84.]

Arts. 4094, 4095. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 4096. Trial When Garnishee is Non-resident

Should the garnishee be a foreign corporation, not incorporated under the laws of this State, and should its answer be controverted, the issues thus formed shall be tried in the court where the main suit is pending, or was tried; but if the garnishee whose answer is controverted, resided in some county other than the one in which the main case is pending or was tried, and is not a foreign corporation, then upon the filing of a controverting affidavit by any party to the suit, the plaintiff may file in any court in the county of residence of the garnishee having jurisdiction of the amount of the judgment in the original suit, a duly certified copy of the judgment in such original suit and of the proceedings in garnishment, including a certified copy of the plaintiff's application for the writ, the answer of the plaintiff, and the affidavit contro-

verting such answer. The court wherein such certified copies are filed shall try the issues made as provided by law.

[Acts 1925, S.B. 84.]

Arts. 4097, 4098. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 4099. Current Wages

No current wages for personal service shall be subject to garnishment; and where it appears upon

the trial that the garnishee is indebted to the defendant for such current wages, the garnishee shall nevertheless be discharged as to such indebtedness.

[Acts 1925, S.B. 84.]

Arts. 4100, 4101. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

TITLE 68A

GOOD NEIGHBOR COMMISSION OF TEXAS

Art.

4101-1. Expired.

4101-2. Good Neighbor Commission.

Art. 4101-1. Expired

Acts 1945, 49th Leg., p. 133, c. 91, created a *Good Neighbor Commission of Texas*. It provided for the appointment of members for a term of two years at the end of which period the act should cease to exist unless otherwise provided by law. The Good Neighbor Commission was continued by Acts 1947, 50th Leg., p. 1017, ch. 435. See art. 4101-2.

Art. 4101-2. Good Neighbor Commission

Creation of Commission; Members; Terms; Absence From Meetings

Sec. 1. There is hereby created the *Good Neighbor Commission of Texas* which shall be composed of nine (9) members, each of whom shall be a citizen of the United States and a resident of the State of Texas, and shall be appointed by the Governor with advice and consent of the Senate. Each member must have expertise in one or more of the following areas: international trade and tourism, industrial development, education and research, diplomacy, or Hispanic culture, law, sociology, economics, or language. Each two (2) years the Governor shall appoint three (3) members of this Commission for a term of six (6) years. No person shall be eligible to appointment to the Commission who has contributed more than \$1,000 on behalf of the political candidacy of the Governor who makes the appointments under this Act, or to any political action committee supporting such candidacy. The appointments made under this Act shall be made without regard to race, creed, sex, religion, or national origin. Failure by any member to attend at least one-half of the regularly scheduled meetings of the Commission will cause his position on the Commission to be automatically vacated.

Open Meetings; Administrative Procedure

Sec. 1a. The Commission shall comply with all provisions of the state open meetings act, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Application of Sunset Act

Sec. 1b. The Good Neighbor Commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is

abolished, and this Act expires effective September 1, 1991.

Vacancies; Quorum

Sec. 2. Vacancies in the membership of the Commission shall be filled, as in the first instance, for the unexpired term. Five (5) members of the Commission shall constitute a quorum for the transaction of business.

Executive Director; Staff; General Counsel

Sec. 3. (a) The Commission shall appoint an executive director who serves at the will of the Commission. The executive director is the executive head of the Commission and performs its administrative functions.

(b) The executive director may employ staff members necessary for administering the functions of the Commission.

(c) If the Commission employs a general counsel, the counsel shall be prohibited from lobbying for the agency employing such counsel.

Powers

Sec. 4. (a) The Commission shall have the power to:

(1) elect from its members a chairman and other such officers as it may be deemed desirable. All officers of the Commission shall serve as such only during the pleasure of the Commission;

(2) hold such meetings at such times as the Commission may designate;

(3) appoint committees from its membership and prescribe their duties;

(4) appoint consultants and committees to the Commission;

(5) make rules and regulations for its government and that of its officers and committees; and prescribe the duties of its officers, consultants and employees. If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, transmit to the Commission statements opposing adoption of a rule under this section, the rule may not take effect;

(6) provide information to individuals and governmental entities about the nations of the Western Hemisphere and their citizens and about Texans of Hispanic heritage for the purpose of advancing inter-American understanding and goodwill;

(7) provide language translation services to State agencies and other governmental entities and assist State agencies in disseminating information to the public about bilingual publications;

(8) sponsor and provide administrative guidance to the Pan American Student Forum for the purpose of encouraging the study and appreciation of the peoples and nations of the Western Hemisphere and the multilingual and multicultural traditions of this State;

(9) assist private, nonprofit organizations whose objectives are the establishment of friendly relations in inter-American affairs; and

(10) gather information, conduct investigations, and perform research relating to inter-American affairs and accept grants for this purpose.

(b) If requested to do so by the Governor, the Commission shall:

(1) gather information about matters of mutual interest to this State and the nations of the Western Hemisphere;

(2) maintain connections with the governors of nations of the Western Hemisphere and act as a source of information about State affairs for the consular corps stationed in this State;

(3) research, develop, or implement interstate compacts relating to relations between states sharing international borders or experiencing problems related to international borders;

(4) represent the Governor at public events, make arrangements for State officers to appear at public events, and receive dignitaries from Western Hemisphere countries;

(5) serve as protocol advisor or interpreter at meetings between State officers and officers of Western Hemisphere countries;

(6) gather information in cooperation with governmental entities and interagency task forces about the relationship between this State and Western Hemisphere countries or their citizens; and

(7) establish and maintain offices in Mexico to provide information to the people of Mexico about this State and to promote a mutually beneficial relationship between Mexico and this State.

(c) A member, executive director, or staff person of the Commission may not negotiate any agreement or contract with any individual or business entity from a foreign country or a foreign government unless the member, executive director, or staff person has the Commission's prior approval to do so. An agreement or contract negotiated in accordance with this subsection is valid only after approval by the Commission.

Offices; Reports

Sec. 5. The Commission shall maintain its office in the City of Austin and shall hold at least one

meeting each year in the City of Austin. On or before the first day of December of each year the Commission shall make in writing a complete and detailed report to the Governor and to the presiding officer of each House of the Legislature of its activities and shall include in the report an accounting of all funds received by the Commission, including funds received from the Pan American Student Forum or received for hospitality or special events.

Expenses

Sec. 6. Members of the Commission are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the Commission. Reimbursement to members shall be paid upon verified and itemized accounts approved by the chairman of the Commission. The necessary clerical and other expenses of the Commission shall be paid in like manner.

Assistance by Officers, Etc.; Payment of Expenses

Sec. 7. All officers, departments, and agencies of the State government shall, when requested by the Commission, render to it such assistance as it may require in the discharge of its duties. All expenses incident to the rendering of such assistance, other than the salaries of the officers or employees of such departments and agencies, shall be paid from the Fund made available to the Commission by appropriation.

Deposit of Funds; Audit

Sec. 7a. (a) Except as provided by Subsection (b) of this section, funds received by the Commission shall be deposited in the State Treasury to the credit of the General Revenue Fund.

(b) Funds received by the Commission from the Pan American Student Forum, including funds received as part of a Pan American Student Forum scholarship program, shall be deposited in financial institutions selected by the Commission. The Commission shall administer the funds to finance activities, including scholarship programs, of the Pan American Student Forum.

(c) The Commission's accounting books and records relating to funds deposited in financial institutions are subject to audit by the State auditor. The Commission shall furnish to the State auditor any information requested by the auditor for an audit.

[Acts 1947, 50th Leg., p. 1017, ch. 435. Amended by Acts 1965, 59th Leg., p. 213, ch. 86, § 1, eff. Sept. 1, 1965; Acts 1971, 62nd Leg., p. 707, ch. 72, § 1, eff. April 26, 1971; Acts 1977, 65th Leg., p. 1833, ch. 735, § 2.007, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1825, ch. 741, §§ 1, 2, eff. Sept. 1, 1979.]

Section 3 of the 1979 amendatory act provides:

"A person holding office as a member of the Good Neighbor Commission of Texas on the effective date of this Act continues to hold the office for the term for which the person was originally appointed."

TITLE 69
GUARDIAN AND WARD [REPEALED]

Arts. 4102 to 4329. Repealed by Acts 1955, 54th
Leg., p. 88, ch. 55, § 434

See, now, Probate Code in Volume 2.

TITLE 70

HEADS OF DEPARTMENTS

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CHAPTER ONE. SECRETARY OF STATE

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4330.	Appointment and Bond.
4330a.	Application of Sunset Act.
4331.	General Duties.
4331a.	Duties as to Records of Officers of Church Com- munications.
4331b.	Exchange of Reports.
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Art. 4330. Appointment and Bond

By and with the advice and consent of the Senate, the Governor shall appoint a Secretary of State who shall continue in office during the term of service of the Governor by whom he was appointed. Such appointee shall first give a bond in the sum of twenty-five thousand dollars payable to and to be approved by the Governor, conditioned that he will faithfully execute the duties of his office.

[Acts 1925, S.B. 84.]

Art. 4330a. Application of Sunset Act

The office of secretary of state is subject to the Texas Sunset Act,¹ but it is not abolished under that Act. The office shall be reviewed under the Texas Sunset Act during the period in which state agencies abolished effective September 1 of 1989 and of every 12th year after 1989 are reviewed.

[Acts 1977, 65th Leg., p. 1856, ch. 735, § 2.173, eff. Aug. 29, 1977.]

¹ Article 5429k.

Art. 4331. General Duties

Among other duties the Secretary of State shall:

1. Keep his office in the City of Austin or other place where the sessions of the Legislature may be held.

2. Affix the seal of the State to all certificates of official character that may emanate from his office.

3. Keep a fair register of all the official acts of the Governor, and when required shall lay the same and all minutes and other papers in relation thereto before the Legislature or either branch thereof.

4. Keep in a separate suitable book a complete register of all the officers appointed and elected in this State, and commission them when not otherwise provided by law.

5. Arrange and preserve all the books, maps, parchments, records, documents, and all papers that have been or may be properly deposited there, and sealed with the seal of the State, and also similar copies of any act, law or resolution of the United States, or either of them, from the originals in his office, which copies shall be as legal and conclusive in evidence, and to all intents and purposes, in the courts of this State, as the originals would have been; and furnish on request such copies to the Governor, the Legislature or either branch thereof.

6. Attend at every session of the Legislature to receiving bills which have become laws, and immediately after the close thereof cause all enrolled joint resolutions thereof and all such bills to be bound together in a volume to be kept in his office, the date of the session to be placed thereon, and deliver a certified copy thereof and index thereof to the Board of Control, and carefully examine and compare the printed copy with the certified copy and correct each error contained in the former.

7. Turn over to the person in charge of the State Library, immediately upon their receipt, all books, maps, charts or other publications of a political or miscellaneous character received at his office, and

all printed volumes of the statutes or laws of any Nation, State or Territory, and in like manner turn over to the Supreme Court Librarian all volumes of reports of any courts of any other Nation, State or Territory received by him.

8. Forward to the Librarian of Congress, the Secretary of State of the United States, the Secretary of the Treasury of the United States, and the executive departments of each State of the Union, to each foreign librarian or government with whom a system of library exchange may be established, as he may deem advisable, copies of all laws and judicial reports printed and published by order of the Legislature at the expense of the State.

9. Forward to each county clerk for the use of the county one copy of each Act of Congress which may be received in his office.

[Acts 1925, S.B. 84. Amended by Acts 1951, 52nd Leg., p. 218, ch. 131, § 3; Acts 1981, 67th Leg., p. 322, ch. 128, § 1, eff. Aug. 31, 1981.]

Art. 4331a. Duties as to Records of Officers of Church Communions

That it shall be the duty of the Secretary of State, on the payment of the sum of two dollars and fifty cents, to record in a well bound book to be kept in his office, the names of all trustees appointed by any State organization of any church communion in the State, provided such appointment is duly authenticated by some officer authorized by law in this State to take acknowledgment of deeds; and it shall be the further duty of the Secretary of State to furnish a certified copy of said appointments to any court in this State on application for the same by any judge or clerk of any court in this State, and the sum of one dollar and fifty cents shall be taxed as cost for copy in any proceeding in which such copy may be used, to be collected and paid for as any other costs; and it shall be the duty of the judge of any court before making the appointment of any receiver, to apply to the Secretary of the State to be furnished with such certified copy before such appointments are made. That any communion shall have the right from time to time to change, appoint or elect its trustee or trustees.

[Acts 1927, 40th Leg., p. 68, ch. 45, § 4.]

Art. 4331b. Exchange of Reports

The Secretary of State is hereby authorized and directed in addition to the exchanges he is now authorized to make under existing law, to make exchanges of the reports of the several appellate courts of this State, of the Supreme Court and the Court of Criminal Appeals, of the Session Acts of the Legislature, of the existing and future revised Civil and Criminal Statutes of this State, and of other State publications and department reports of this State, for the court reports, session acts, revised statutes, civil and criminal, and other State publications and department reports of the United States Government, of the other States of the Un-

ion, and of foreign countries, for the benefit of the law library of the University of Texas, provided that the Secretary of State shall always keep on hand a sufficient number of copies of all State publications to meet the reasonable current demands of the State.

[Acts 1927, 40th Leg., p. 92, ch. 66, § 1.]

Art. 4332. Sale of Reports

The Secretary of State shall receive from the Supreme Court Reporter the printed and bound volumes of the Supreme Court Reports and the Reports of the Court of Criminal Appeals; he may sell single copies of such reports for the sum of the contract price for printing, exclusive of postage or express charges; he shall deliver to the State Treasurer the proceeds of all sales made by him, and shall make a full statement of such sales in his biennial report.

[Acts 1925, S.B. 84.]

Art. 4333. Advance Sheets

The Secretary of State may transmit advance sheets of the reports as the publishing progresses, upon receipt of the price for the volume. The purchaser may return all the forms of the volume to the Secretary of State without further expense except the cost of transmitting the same to and from the State Department.

[Acts 1925, S.B. 84.]

Art. 4334. Reports Sent to Whom

The Secretary of State shall deliver, by mail or otherwise, to each appellate judge, the Attorney General, the Governor, each district judge, each professor of law of the University of Texas, the librarian of said University, and to the county judge of each county for the use of the counties, one copy of the reports of said appellate courts hereafter issued; also furnish to each district judge of the United States for Texas one copy of each of said reports for each branch of his courts; and, when it appears that any of the reports of either of said courts have been heretofore furnished and not returned to the Department of State, or when they are hereafter delivered by the State to either of said officers or authorities, the Secretary shall have no authority to send another copy, except on proof that the same have been destroyed by fire, or have been rendered valueless by long use, to be evidenced by the certificate of the officer demanding to be resupplied with such report.

[Acts 1925, S.B. 84.]

Art. 4335. Officers Entitled to Laws

The following shall be entitled to receive one (1) copy of each of all General and Special Laws hereafter passed by the Legislature, to wit: The Governor, each Member of the Legislature, the Judges of the

District and Appellate Courts throughout the State, and to the heads of departments, upon request.
[Acts 1951, 52nd Leg., p. 599, ch. 353, § 1.]

Art. 4336. How Distributed

The Secretary of State shall distribute the printed laws of each Session of the Legislature to the officers named in the preceding Section either by mail or delivery in person.

[Acts 1951, 52nd Leg., p. 599, ch. 353, § 1.]

Art. 4337. May Sell Copies of Laws

Said Secretary is authorized to sell copies of the general and special laws of the State of Texas that have or may be published at a price not exceeding twenty-five per cent above cost of publishing; provided, that a sufficient number of all laws published be reserved from sale for the use of the State. Any money realized in excess of the costs attending such sale shall be placed to the account of the general revenue in the State Treasury.

[Acts 1925, S.B. 84.]

Art. 4338. Revision

Whenever a revision of the laws of the State has been or shall be subscribed for, or published by the State, a sufficient number of copies of each volume thereof, shall be forwarded to the county judge of each county to furnish one of said copies to each judge of the appellate and district courts, to each clerk of the district and county courts, and appellate courts, and to each justice of the peace that may be a resident in said county. The Secretary of State shall also deliver to each executive officer at the seat of government one of said copies.

[Acts 1925, S.B. 84.]

Art. 4339. Receipt for Books

Whenever any officer shall receive a copy of any report, statute, digest or journal, he shall receipt for the same to the officer distributing it, who shall file such receipt in his office. Said books shall be deemed to belong to the office of said officer to whom they are delivered, and shall, at all reasonable hours, be subject to the examination of any citizen of this State. If any said officer fails or refuses to deliver any said book to his successor in office when demanded by him, the officer so failing or refusing shall be liable to pay such successor the costs and charges that may be necessary to supply the office of such successor with any said book that he shall so fail or refuse to deliver.

[Acts 1925, S.B. 84.]

Art. 4340. Chief Clerk; Assistant Secretary of State

The Secretary of State shall appoint an Assistant Secretary of State. The Assistant Secretary of State shall serve at the pleasure of the Secretary of State and shall perform all the duties required by law to be performed by the Secretary of State when

the said Secretary of State is absent or unable to act for any reason. Such assistant shall perform such other duties as shall be required of him by the Secretary of State.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 55, ch. 39, § 1; Acts 1981, 67th Leg., p. 323, ch. 128, § 2, eff. Aug. 31, 1981.]

Art. 4341. Commission

The Secretary of State shall not be required to forward copies of laws to nor attest the authority of any officer in this State who fails or refuses to take out his commission.

[Acts 1925, S.B. 84.]

Art. 4341a. Repealed by Acts 1969, 61st Leg., p. 207, ch. 83, § 1, eff. April 17, 1969

CHAPTER TWO. COMPTROLLER OF PUBLIC ACCOUNTS

- Art.
- 4342. Election and Term.
- 4343. Bond.
- 4344. Certain Duties.
- 4344a. Transfer of Balance in Dormant Fund to General Revenue Fund.
- 4344b. Purpose; Construction of Laws; Reorganization and Consolidation of Divisions; Electronic Data Processing Center; Electronic Funds Transfer System.
- 4344c. Temporary Transfer of Surplus Cash.
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Art.

- 4364. Ledgers.
- 4364a. Allocations From General Revenue Fund.
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- 4366b. Federal Revenue Sharing Trust Fund.
- 4366c. School Taxing Ability Protection Fund.
- 4366d. Federal Resource Receipts Distribution Fund.

Art. 4342. Election and Term

At each biennial general election a Comptroller of Public Accounts shall be elected for a term of two years. The word "Comptroller", whenever used in any law of this State, shall mean the Comptroller of Public Accounts of the State of Texas.

[Acts 1925, S.B. 84.]

Art. 4343. Bond

Within twenty days after receipt of notice of his election or appointment and before he enters upon the duties of his office, the Comptroller shall give a bond with a good and solvent surety company, authorized to do business in this state, in the sum of seventy-five thousand dollars, payable to and to be approved by the Governor, conditioned that he will faithfully execute the duties of his office. All expense necessary and incident to the execution of such bond shall be paid by the State by appropriation.

If the Comptroller shall willfully neglect or refuse to perform any duty of the Comptroller as set out in this Chapter or elsewhere in the Statutes of Texas he shall forfeit to the State a sum not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each day that he shall so neglect or refuse to perform such duty; and it is hereby expressly provided that the surety company executing the Comptroller's bond, as herein provided for, shall be jointly and separately liable with the Comptroller for such sums to be forfeited.

The penalties provided for in this chapter shall be recovered by the Attorney General in a suit brought by him in the name of the State of Texas; and venue and jurisdiction of such suit is hereby conferred upon the courts of Travis County.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 5th C.S., p. 230, ch. 73, § 1.]

Art. 4344. Certain Duties

Among other duties the Comptroller shall:

1. Procure a seal with words "Comptroller's Office, State of Texas" engraved around the margin and a five-pointed star in the center, which shall be used as the seal of his office to authenticate all his official acts, except warrants drawn on the State Treasury.

2. Adopt such regulations not inconsistent with the constitution and laws as he may deem essential

to the speedy and proper assessment and collection of the revenues of the State.

3. Superintend the fiscal concerns of the State, as the sole accounting officer thereof, and manage the same in the manner required by law.

4. Require all accounts presented to him for settlement not otherwise provided for by law to be made on forms prescribed by him, all such accounts to be verified by affidavit as to their correctness, and he may administer the oath himself in any case in which he may deem it necessary.

5. Prescribe and furnish the form to be used by all persons in the collection of the public revenue and the mode and manner of keeping and stating their accounts.

6. Prescribe forms of the same class, kind and purpose so as to be uniform in size, arrangement, matter and form.

7. From time to time require all persons receiving money or having the disposition or management of any property of the State, of which an account is kept in his office, to render statements thereof to him.

8. Require all persons who have received and not accounted for any money belonging to the State to settle their accounts.

9. Keep and settle all accounts in which the State is interested, including all moneys received by the State as interest and other payments on land and office fees of his and other departments of the State government, and all other moneys received by the State from whatever source and for whatever purpose.

10. Examine and settle the accounts of all persons indebted to the State and certify the amount or balance to the Treasurer, and direct and superintend the collection of all moneys due the State.

11. Audit the claims of all persons against the State in cases where provision for the payment thereof has been made by law, unless the audit of any such claim is otherwise specially provided for.

12. Keep a book to register and index all audited claims against the State, and on the meeting of the regular session of the Legislature make a minute report of the same to both houses thereof, giving the names and amounts of all audited claims.

13. Keep and state all accounts between this State and the United States.

14. Keep journals through which all entries are made in the ledger.

15. Remit or make an allowance to each tax collector in the auditing of his accounts for all sums of money which, in his judgment, have been illegally assessed.

16. Draw warrants on the Treasurer for the payment of all moneys directed by law to be paid out of the Treasury.

17. Suggest plans for the improvement and management of the general revenue.

18. Preserve the books, records, papers and other things belonging in his office and deliver the same in good condition to his successor.

19. Have the authority to accept federal moneys for any state agency not otherwise restricted by statute or by rider or special provision in the General Appropriations Act. These moneys may only be accepted if the agency has certified to the Comptroller the agency will be responsible for compliance with all applicable federal and state laws.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 150, ch. 82, § 1, eff. April 26, 1979.]

Section 7 of the 1979 amendatory act provided:

"On January 1, 1980, all books and records, property, and personnel in the office of the comptroller of public accounts that are involved or used in administration of ad valorem taxation are transferred to the State Property Tax Board. The state auditor shall resolve any dispute over what property, books, or records are subject to this section, and the auditor's decision is final."

Art. 4344a. Transfer of Balance in Dormant Fund to General Revenue Fund

The Comptroller, with the consent and approval of the State Auditor and Efficiency Expert, and the State Treasurer, may, at any time, transfer any balance in any dormant fund, the source of which is unknown or the purpose for which it was collected has become moot, into the General Revenue Fund. Any transfer so made may be subject to appropriation as a refund by the Legislature, should the source and purpose of such fund become known and active at any time in the future.

[Acts 1945, 49th Leg., p. 199, ch. 152, § 2.]

Art. 4344b. Purpose; Construction of laws; Reorganization and Consolidation of Divisions; Electronic Data Processing Center; Electronic Funds Transfer System

(1) It is the purpose of this Act to authorize the Comptroller of Public Accounts to organize and maintain within his department such divisions of service as are necessary for the efficient and orderly conduct of the work of the department. The enumeration in laws prior to this Act of certain designated divisions and chiefs of divisions of the office of the Comptroller of Public Accounts and the imposition of specific duties on named divisions and chiefs of divisions shall not be construed as mandatory and nothing therein shall prohibit the Comptroller of Public Accounts from effecting a reorganization or consolidation of divisions, operations, functions or positions provided for by this Chapter or other laws, in the interest of more efficient and economical management and direction of the office of the Comptroller of Public Accounts.

(2) The Comptroller of Public Accounts is authorized to establish and operate a central electronic computing and data processing center to be used to maintain the central accounting records of the state,

to prepare payrolls and other warrants, to audit tax reports, and to perform such other accounting and data processing activities as may be economically and practically adapted to the use of this equipment. In order to provide for the orderly and economical use of this equipment the Comptroller is further authorized to prescribe and revise claim forms, registers, warrants, and other documents submitted in support of payroll or other claims or to support tax or any other payments to the state.

The Comptroller of Public Accounts and any state agency as that term is defined in "The Interagency Cooperation Act" (codified as Article 4413(32) Vernon's Revised Civil Statutes) may enter into an agreement under the provisions of the Interagency Cooperation Act for electronic computing or data processing services.

(3) Notwithstanding the provisions of any other statute, the Comptroller of Public Accounts may establish and operate an electronic funds transfer system to transfer directly into their accounts in financial institutions only: (i) employees' gross state salaries less deductions specifically authorized by state or federal law or reimbursement for travel and subsistence of employees and (ii) payments to annuitants by the Employees Retirement System of Texas or the Teacher Retirement System of Texas under either system's administrative jurisdiction. An authorized payee must request in writing to participate in any electronic funds transfer system established and operated by the Comptroller of Public Accounts. A single transfer may contain payments to multiple payees without the necessity of issuing individual warrants for each payee. The Comptroller shall establish procedures for administering the system and may use the services of financial institutions, automated clearinghouses, and the federal government. The use of electronic funds transfer or any other payment means does not create any rights that would not have been created had an individual state warrant been used as the payment medium. The State Treasurer may not make payment of a state employee's salary before the last working day of the payroll period.

[Acts 1959, 56th Leg., p. 704, ch. 324, § 1. Amended by Acts 1981, 67th Leg., p. 632, ch. 253, § 1, eff. Aug. 31, 1981.]

Repeal in Part

Acts 1965, 59th Leg., p. 685, ch. 325, § 7, repealed this article to the extent of conflict with chapter 325, relating to automatic data processing systems for state agencies. See article 6252-12a, § 8.

Art. 4344c. Temporary Transfer of Surplus Cash

Sec. 1. The comptroller of public accounts, with the consent of the State Treasurer, may transfer surplus cash, excluding constitutionally dedicated revenues, between funds in the State Treasury. Those transfers are authorized to allow effective management of the cash flow of the General Reve-

nue Fund and to avoid temporary cash deficiency in the General Revenue Fund. The comptroller shall return the surplus cash to the fund from which it was transferred as soon as practicable. The comptroller shall preserve the fund equity and the State Treasurer shall allocate the depository interest as if the transfers had not been made.

Sec. 2. If the comptroller submits a statement to the governor and to the legislature under Article III, Section 49a, of the Texas Constitution when surplus cash transferred under this article is in the General Revenue Fund, in that statement the comptroller shall indicate that the transferred surplus cash:

- (1) is in the General Revenue Fund;
- (2) is a liability of the General Revenue Fund; and
- (3) is not available for appropriation by the legislature.

[Acts 1979, 66th Leg., p. 101, ch. 61, § 1, eff. April 19, 1979.]

Art. 4344d. Suspense Accounts

The comptroller of public accounts may create and use suspense accounts and funds for the collection, allocation, and distribution of revenue, including the allocation of revenue which is required to be deposited to the credit of the available school fund.

[Acts 1981, 67th Leg., p. 2249, ch. 540, § 2, eff. Sept. 1, 1981.]

Art. 4344e. Available School Fund Credits

(1) Except as provided in Section (2) of this article, when state revenue is allocated in proportional amounts to the available school fund and to the general revenue fund, the comptroller of public accounts shall deposit all revenue to the credit of the general revenue fund and then, as a ministerial duty on the 10th day of each month and on the last day of the fiscal year, shall transfer from the general revenue fund to the available school fund the equivalent to the proper proportional amount as required by law to be allocated to the available school fund from the revenue received from the tax during the preceding month or, in the case of the last month of the fiscal year, during the last month of the fiscal year.

(2) All net revenue derived from the collection of the taxes imposed by Chapter 7, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended,¹ shall be deposited in the general revenue fund, and the comptroller of public accounts shall, as a ministerial duty on the 10th day of each month and on the last day of each fiscal year, transfer from the general revenue fund to the proper funds and accounts the amounts calculated by the comptroller equal to the amounts required by Chapter 7 and Article 24.01, Title 122A, Taxation—

General, Revised Civil Statutes of Texas, 1925, as amended.²

[Acts 1981, 67th Leg., p. 2249, ch. 540, § 2, eff. Sept. 1, 1981.]

¹ Repealed; see, now, Tax Code, § 154.001 et seq.

² Repealed; see, now, Tax Code.

Art. 4344f. Payment of Tax Refund Claims

(1) The comptroller of public accounts shall pay from available funds tax refund claims for refunds of taxes collected under:

- (a) the Alcoholic Beverage Code, as amended; and
- (b) Articles 7064,¹ 7064a,² and 4769, Revised Civil Statutes of Texas, 1925, as amended; and Sections 11 and 12 of Article 1.14-1, and Section 12 of Article 1.14-2, Insurance Code.

(2) The comptroller shall maintain records of each transaction made under this article. A record must show:

- (a) the amount of each claim paid, the identity of each claimant, and the purpose for which each claim was made; and
- (b) the identity of the fund or the account against which the claim is to be charged.

[Acts 1981, 67th Leg., p. 2249, ch. 540, § 2, eff. Sept. 1, 1981]

¹ Transferred; see, now, Insurance Code, art. 4.10.

² Transferred; see, now, Insurance Code, art. 4.11

Art. 4345. Account of Comptroller

The account of the Comptroller against the State shall not be passed to the Treasurer until approved by the Secretary of State.

[Acts 1925, S.B. 84.]

Art. 4346. Custodian of Obligations

Except as otherwise specifically provided, all deeds to the State, all liens, mortgages, bonds, notes, and other securities for money given to the State or any officer for the use of the State, contracts involving pecuniary obligations to the State, and all other documents or instruments creating a pecuniary obligation in favor of the State, shall be deposited in the office of the Comptroller, except that all deeds conveying land or interests in land to the State of Texas for highway purposes, shall hereafter be deposited in the offices of the State Highway Department at Austin, Texas. The Comptroller of Public Accounts is hereby directed to transfer to the State Highway Department all deeds and conveyances of land or interests in land to the State of Texas for highway purposes which have heretofore been filed and deposited in the office of the Comptroller of Public Accounts along with all files and filing equipment heretofore used by him in filing and maintaining such records.

[Acts 1925, S.B. 84. Amended by Acts 1953, 53rd Leg., p. 587, ch. 229, § 1.]

Art. 4346a. Cancellation of Unneeded Bonds of Public Corporations

Sec. 1. Terms used in this Act, unless provided herein to the contrary, shall have the following meanings:

"Public Corporations" shall include counties, cities, districts, authorities, non-profit corporations, public agencies, and all other entities authorized by law to issue bonds which are to be registered in the office of the Comptroller of Public Accounts.

"Comptroller" means the Comptroller of Public Accounts of the State of Texas.

"Registered or unregistered bonds of any Public Corporation which have been left in and still remain in the office of the Comptroller may be considered as 'unneeded' after the expiration of five years from the date of the bonds."

Sec. 2. It shall be the duty of the Comptroller, from time to time, to cancel by perforation all unneeded bonds and to return them by mail, express or freight, to the respective issuers, at the expense of such issuers. Provided, that not less than thirty days before he shall thus cancel unneeded bonds of a Public Corporation he shall give notice, by registered or certified mail, to such Public Corporation of the proposed cancellation. Such notice shall be addressed in accordance with the latest information available in the office of the Comptroller, and if the Comptroller receives advice that the written notice is undeliverable because such Public Corporation is no longer in existence, or for any other reason, he shall, in like manner and for a like thirty day period of time, notify the county judge of the county in which the Public Corporation was situated, wholly or partially, of such intended cancellation and of such failure of delivery of the initial notice. Such Public Corporation or such county judge as the case may be, prior to the date fixed for cancellation, upon written notice and upon execution of a receipt in the form prescribed by the Comptroller may repossess such bonds. Any shipping expense involved in such transaction shall be paid by the Public Corporation involved, or by the county whose county judge shall have acted in its behalf. A permanent record shall be made in the office of the Comptroller of any such cancellation or return of unneeded bonds.

[Acts 1959, 56th Leg., p. 436, ch. 196.]

Art. 4347. When Accounts Closed

The accounts of the Comptroller shall be annually closed on the last day of August; and he shall exhibit all books, papers, vouchers and all other matters pertaining to his office, for the examination of either branch of the Legislature, or any committee which may be by them appointed, whenever required by them to do so.

[Acts 1925, S.B. 84.]

Art. 4348. Statement to Governor

In addition to the reports required by the Constitution, the Comptroller shall exhibit to the Governor, on the first Monday of November of each year, and at such other times as he shall require, an exact and complete statement of the funds of the State, of its revenues, and of the public expenditures during the preceding year (or for such other times as may be required), with a detailed estimate of the expenditures to be defrayed from the Treasury for the ensuing year, specifying therein each object of the expenditures and distinguishing between such as are provided for by general or special appropriation, and such as are required to be provided for by law, and showing the means from which such expenditures are to be defrayed.

[Acts 1925, S.B. 84.]

Art. 4348a. Preparation of Financial Statements and Itemized Estimates; Probable Receipts and Disbursements; Committee on State Revenue Estimates

a. In preparing the financial statements and in making the itemized estimates required by Article III, Section 49a of the State Constitution, the Comptroller of Public Accounts shall take into consideration his estimate of the probable receipts and disbursements as of August 31st for the then current fiscal year.

The words "probable receipts" shall mean and include all such moneys estimated by the Comptroller to be received by the State through August 31st of the then current fiscal year; and his financial statements shall show the fund or funds to which such receipts are to be credited.

The words "probable disbursements" shall mean, and the Comptroller shall consider and report under such term, only those payments estimated to be made and warrants which will be issued by the State through August 31st of the then current fiscal year.

In addition thereto, for the information of the Governor and the Legislature the Comptroller shall list other outstanding appropriations which may exist after the end of the then current fiscal year, but they shall not be deducted from the cash condition of the Treasury or the anticipated revenues of the next biennium for the purpose of certification.

It is the Legislative intent that the Comptroller's reports, estimates, and certifications of available funds in each instance shall be based upon the actual or estimated cash condition of the State Treasury and that outstanding and undisbursed appropriations at the end of each biennium shall be considered as probable disbursements of the succeeding biennium in the same manner that earned but uncollected income of a current biennium is considered in probable receipts of the succeeding biennium. The provisions of this Act shall be immediately effective and the Comptroller shall revise his

current report and estimates in accordance therewith.

b. In carrying out the duties imposed upon the Comptroller of Public Accounts by Section 49a of Article III of the Constitution of the State of Texas, the Comptroller shall, in submitting to the Legislature and the Governor estimates of anticipated revenues, set forth in his estimate report the detailed calculations and all other pertinent information considered by him in arriving at such estimates.

There is hereby created the Committee on State Revenue Estimates which shall be composed of the Governor, or his duly appointed representative, who shall serve as Chairman, the Director of the Legislative Budget Board, and the State Auditor. The Committee shall carefully review all revenue estimates prepared and submitted by the Comptroller of Public Accounts pursuant to Section 49a of Article III of the Constitution of the State of Texas and shall report the result of such review in an official public document to the Budget Division of the Governor's Office, the Legislature and the Comptroller. The Comptroller shall furnish additional information to the Committee, as it may deem necessary, to clarify any of the revenue estimates contained in the estimate report.

c. The Committee on State Revenue Estimates is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the committee is abolished effective September 1, 1989.

[Acts 1959, 56th Leg., 1st C.S., p. 9, ch. 1, § 1. Amended by Acts 1977, 65th Leg., p. 1855, ch. 735, § 2.169, eff. Aug. 29, 1977.]

¹ Article 5429k.

Art. 4348b. Taxpayer Assistance to Victims of Natural Disasters

The comptroller may assist any taxpayer in reconstructing and recompiling business records that are damaged or destroyed by natural disaster.

[Acts 1979, 66th Leg., p. 336, ch. 153, § 2, eff. May 11, 1979.]

Art. 4349. Special Claims

Each sheriff, attorney or other party holding claims against the State for which no warrant has been issued, and the appropriation for which has been exhausted, shall present them to the Comptroller for his consideration at least thirty days before the meeting of each regular session of the Legislature. The Comptroller shall not audit any such claim not presented within said time until all claims presented prior to that time have been considered and passed upon by him.

[Acts 1925, S.B. 84.]

Art. 4350. Warrants on Treasurer

(a) No warrant shall be issued to any person indebted or owing delinquent taxes to the State, or

to his agent or assignee, until such debt or taxes are paid.

(b) No warrant shall be issued to any person owing delinquent taxes under a tax administered or collected by the state comptroller of public accounts, or to the person's agent or assignee, until the taxes are paid.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 400, ch. 243, § 1; Acts 1977, 65th Leg., p. 1715, ch. 682, § 1, eff. June 15, 1977; Acts 1983, 68th Leg., p. 499, ch. 100, § 1, eff. May 10, 1983.]

Art. 4351. Notified of Deficiencies

All heads of departments, managers of State institutions or other persons intrusted with the power or duty of contracting for supplies, or in any manner pledging the credit of the State for any deficiency that may arise under their management or control, shall, at least thirty days before such deficiency shall occur, make out a sworn estimate of the amount necessary to cover such deficiency until the meeting of the next Legislature. Such estimate shall be immediately filed with the Governor, who shall thereupon carefully examine the same and approve or disapprove the same in whole or in part. When such deficiency claim, or any part thereof, has been so approved by the Governor he shall indorse his approval thereon, designating the amount and items thereof approved and the items disapproved, and file same with the Comptroller; and the same shall be authority for the Comptroller to draw his deficiency warrant for so much thereof as may be approved; but no claim, or any part thereof, shall be allowed or warrants drawn therefor by the Comptroller, or paid by the Treasurer, unless such estimate has been so approved and filed. If there is a deficiency appropriation sufficient to meet such claims, then a warrant shall be drawn therefor and the same shall be paid; but, if there is no such appropriation, or if such appropriation be so exhausted that it is not sufficient to pay such deficiency claim, then a deficiency warrant shall issue therefor; and such claim shall remain unpaid until provision be made therefor at some session of the Legislature thereafter. The provisions of this article shall not apply to fees and dues for which the State may be liable under the general laws. When any injury or damage shall occur to any public property from flood, storm or any unavoidable cause, the estimate may be filed at once but must be approved by the Governor as provided in this article.

[Acts 1925, S.B. 84.]

Art. 4351½. Suit Against State on Claims

That all concurrent resolutions heretofore adopted at any regular or special session of the legislature of the State of Texas for the purpose of granting to any persons, firms or corporations permission to sue the State of Texas through any of its courts, are hereby validated and made effective to grant such permission, both as to suits already filed

and pending in the courts of this state and as to any suits which may hereafter be filed by virtue of the permission granted by such resolutions heretofore adopted. Provided, however, that nothing herein shall operate to create any cause of action against the State of Texas.

[Acts 1984, 48rd Leg., 3rd C.S., p. 27, ch. 13, § 1.]

Art. 4351a. Limiting Amount of Deficiency Warrants

It shall be lawful for the Governor to approve deficiency warrants as provided for in Article 4351, Revised Civil Statutes, 1925, to any amount, the aggregate of which does not exceed Two Hundred Thousand (\$200,000.00) Dollars, for all purposes for which he is permitted to approve such deficiency warrants. If any deficiency warrants are approved above this amount, such warrants are invalid and unredeemable by the State Treasurer.

[Acts 1927, 40th Leg., p. 232, ch. 153, § 1.]

Art. 4351b. Miscellaneous Claims

**Comptroller of Public Accounts to Pay
Miscellaneous Claims**

Sec. 1. The comptroller shall pay, from available funds appropriated for that purpose, miscellaneous claims, including but not limited to state ad valorem tax refund claims, qualified under Section 3 of this Act.

Comptroller of Public Accounts to Maintain Records

Sec. 2. The comptroller shall maintain records of all transactions made under authority of this Act. The records must show

(1) the amount of each miscellaneous claim paid, the identity of each claimant, and the purpose for which each claim was made; and

(2) the identity of the fund or account against which the claim is to be charged.

Qualification of Claims

Sec. 3. (a) Under the authority of this Act the comptroller shall pay only those claims for which no appropriation otherwise exists.

(b) No warrant may be prepared for the payment of a miscellaneous claim until the claim has been

(1) verified and substantiated by the administrator of the special fund or account against which the claim is to be charged;

(2) audited by the state auditor; and

(3) verified by the attorney general as a legally enforceable obligation of the State of Texas.

Limitation

Sec. 4. (a) No single claim, nor any aggregate of claims by any single claimant, in an amount in excess of \$10,000 may be paid during any biennium under the authority of this Act.

(b) For purposes of this section, all claims which were originally held by one person shall be considered as held by a single claimant, without regard to whether those claims were subsequently assigned or otherwise transferred.

[Acts 1975, 64th Leg., p. 443, ch. 187, eff. May 13, 1975.]

Art. 4351c. Refunds of Erroneous Collections

(a) The comptroller of public accounts may refund the amount of money collected or received by a state agency or department through mistake of fact or law, including money not due the state and any amount collected or received in excess of the amount required to be collected or received if the money is deposited in the state treasury and the agency or department makes a written request to the comptroller showing the reason for and the amount of the refund. At any time the comptroller may require further written evidence for the refund and may withhold payment until he is satisfied that the refund is justified.

(b) A warrant for the payment of a refund under this article must be signed by the comptroller and the state treasurer and shall be drawn against the fund or account into which the money was deposited.

(c) A refund under this section must be made from funds appropriated for that purpose.

(d) This article does not repeal another statute that expressly requires the payment of unrefundable fees and does not affect Subchapter C, Chapter 111, Tax Code,¹ or Article 4344f of this title, providing for the refund of certain tax revenue. This article is cumulative of other statutes.

[Acts 1983, 68th Leg., p. 1102, ch. 248, § 2, eff. Sept. 1, 1983.]

¹ Tax Code, § 111.101 et seq.

Art. 4352. Chief Clerk

The Comptroller shall appoint a chief clerk, who shall take the official oath and give bond in the sum of ten thousand dollars payable in like manner as the bond of the Comptroller, conditioned for the faithful performance of his duties. Said clerk shall perform the duties of the Comptroller when the Comptroller may be unavoidably absent or incapable, from sickness or other cause, to discharge said duties, and, under the direction of the Comptroller supervise the keeping of the books, records and accounts of the department, and perform such other duties as may be required of him by law and by the Comptroller. If the office of the Comptroller should become vacant by death, resignation or otherwise, said chief clerk shall act as Comptroller until a Comptroller is appointed and qualified.

[Acts 1925, S.B. 84.]

Art. 4353. Deposit Warrants

The Comptroller shall have printed uniform deposit warrants, which shall be prepared in triplicate

and marked "original," "duplicate," and "triplicate," respectively, and which shall be serially numbered. He shall provide for the use of his department a warrant register in which to enter such deposit warrants in consecutive order. When a deposit warrant is prepared, it shall be registered in the deposit warrant register. A distribution of the amount stated in each deposit warrant shall be entered on the revenue analysis record containing accounts for each source of revenue. The triplicate deposit warrant shall be, on receipt by the Treasurer of the amount stated therein, receipted by the Treasurer and delivered to the person making the deposit. The original shall be retained by the Treasurer, who shall file the same numerically, and the duplicate shall be, on the receipt of the amount stated therein, receipted by the Treasurer and by him returned to the Comptroller, who shall file the same numerically. The printed forms for these warrants and the warrant register shall be so prepared and arranged that the original, duplicate, and triplicate may, by use of carbon sheets, all be prepared in one and the same writing. No deposit shall be received in or into the State Treasury on any account, except upon a deposit warrant issued as herein provided. The Comptroller shall furnish the Treasurer with a copy of the deposit warrant register for deposits made each day, which shall constitute the Treasurer's deposit warrant register.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 400, ch. 243, § 1; Acts 1951, 52nd Leg., p. 607, ch. 359, § 1.]

Art. 4354. Deposit Receipts

The Comptroller shall have printed uniform deposit receipts, to be issued by the Comptroller, to cover moneys and other securities received and held by the State Treasurer for Bond Investment Surety and Insurance Companies, State Depository Banks and all others for which no deposit warrant is issued, or the issuance of a deposit warrant which is deferred. Such receipts shall be prepared in triplicate and marked "original," "duplicate" and "triplicate," respectively, and shall be serially numbered. The printed form for these receipts shall be so prepared and arranged that the original, duplicate and triplicate may, by the use of carbon sheets be prepared at one and the same writing. The triplicate deposit receipt shall be, on receipt by the Treasurer of the items stated therein, receipted by the Treasurer and delivered to the person making the deposit, the original retained by the Treasurer and the duplicate receipted by the Treasurer and by him returned to the Comptroller, who shall file the same numerically. The Comptroller shall provide his office with appropriate registers, in which he shall register the deposit receipts issued in like manner as is provided for the registration of deposit warrants, and shall provide a separate ledger in which shall be kept appropriate accounts for all matters for which such deposit receipts are issued. The Comptroller shall also provide separate series of deposit receipts or authorization certificates for

the receiving of bonds or securities purchased for the permanent funds of the State, and relinquishment of bonds sold or redeemed.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

Art. 4355. Claims and Accounts

All claims and accounts against the State shall be submitted on forms prescribed by the Comptroller and in duplicate, when required by him except claims for pensions, and shall be so prepared as to provide for the entering thereon, for the use of the Comptroller's Department, as well as other appropriate matters, the following:

1. Signature of the head of the department or other person responsible for incurring the expenditure.
2. Appropriation number, account number and fund to be charged.
3. Initials of the person ascertaining if there are funds available.
4. Initials of the person auditing the claim.
5. Number and date of warrant issued.
6. Initials of the person comparing the claim and warrant.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

Art. 4356. Claims Classified

There shall be three classes of claim forms as follows:

1. "General" which shall consist of:
 - (a) payrolls, covering departmental and institutional services;
 - (b) traveling expense vouchers;
 - (c) purchases and services other than personal; and
 - (d) sheriff and court claims; and under the head of sheriff and court claims the Comptroller may provide for different forms, such as those for sheriffs, county attorneys, district attorneys, district clerks, district judges, witnesses and all other like claims relating to the judiciary.
2. "Special," covering all claims for which special warrants are issued.
3. "Pensions," the form for which shall be prescribed by the Comptroller.

[Acts 1925, S.B. 84.]

Art. 4357. Auditing Claims and Issuing Warrants

(a) No warrant shall be prepared except on presentation to the warrant clerk of a properly audited claim, certified to its correctness, the proper auditing of which claim shall be evidenced by the initials written thereon by the person auditing the same; and such claim so certified and audited shall be

sufficient and the only authority for the preparation of a warrant or warrants. No claim shall be paid from appropriations unless presented to the Comptroller for payment within two (2) years from the close of the fiscal year for which such appropriations were made, but any claim not presented for payment within such period may be presented to the Legislature as other claims for which no appropriations are available. No warrant shall be drawn against an appropriation of a special fund unless there is sufficient cash money in the fund in the State Treasury to pay such warrant, and no warrant, general or special, shall be released or delivered by the Comptroller unless there is sufficient balance in the appropriation against which the warrant is drawn to pay such warrant. When a claim has been audited and warrant drawn therefor, the claim shall be numbered with the same number as the warrant; and such claim shall be filed numerically according to class: "general," "special," "pension," respectively. The claims, as paid, shall be filed in such method as may be found most advisable to the Comptroller. After the expiration of two (2) years such claims shall be removed from the files and stored as records.

(b) It is specifically provided, however, that as to all appropriations relating to new construction contracts, and to repair and remodeling projects which exceed the sum of Twenty Thousand Dollars (\$20,000), including in either instance furniture and other equipment, architects' and engineering fees, and other related costs, any claim may be presented for payment within four (4) years from the close of the fiscal year for which such appropriations were made.

(c) If any person shall knowingly make a false certificate on any claim against the State for the purpose of authenticating any claim against the State, he shall be confined in the penitentiary not less than two (2) or more than five (5) years.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 400, ch. 243, § 1; Acts 1953, 53rd Leg., p. 864, ch. 350, § 1; Acts 1957, 55th Leg., p. 1411, ch. 485, § 1; Acts 1959, 56th Leg., p. 809, ch. 366, § 1; Acts 1967, 60th Leg., p. 339, ch. 163, § 1, eff. May 12, 1967.]

Art. 4358. Pay Warrants

The Comptroller shall have printed uniform pay warrants, which shall be of three (3) classes: "general," "special," "pension." Such warrants shall be serially numbered and shall be of a color of paper different from the other class. A separate series of numbers may be used for warrants issued for payrolls to be paid from the General Revenue Fund, and for warrants issued for claims to be paid from "highway" or other special funds, when the Comptroller deems such special series of numbers advisable. Such warrants shall be prepared so as to provide for entering thereon in addition to other appropriate matters, the following:

1. Initials of the person in the Comptroller's Department comparing the warrant with the claim.

2. Designation of the fund against which the warrant is drawn.

3. Appropriation against which disbursement is to be charged.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 400, ch. 243, § 1; Acts 1953, 53rd Leg., p. 864, ch. 350, § 1.]

Art. 4359. Pay Warrants Register

The Comptroller shall provide a pay warrant register for each class of pay warrants, each volume of which shall be appropriately designated by class, number or otherwise. When a pay warrant is prepared, it shall be registered in the pay warrant register for the class to which it belongs; and such registry shall consist of an entry of the amount of the warrant, name of the payee, appropriation to which charged, and such other information as may be deemed advisable by the Comptroller. After a warrant has been prepared and registered as herein provided it shall be checked against the claim, and the warrant number shall be entered on the claim papers. The initials of the person checking the warrant with the claim shall be written on both the warrant and the claim, and the warrant together with the claim upon which it is based shall be passed to the Comptroller for his signature, except as provided by Article 4359a, Revised Civil Statutes of Texas, 1925, as added, or for the signature of such person as may be authorized by law to sign the same in his stead; and such warrant together with a copy of the warrant register shall then be passed to the State Treasury and registered in the Treasury, and signed, except as provided by Article 4359a, Revised Civil Statutes of Texas, 1925, as added, by the State Treasurer or some person authorized by law to sign for him, and returned to the Comptroller's Department. Such warrant shall then be delivered by the Comptroller to the person entitled to receive it, and the Comptroller shall at his option take a receipt therefor and file the receipt in his office. The Comptroller shall also keep a "warrants cancelled register" in which shall be entered the details of all warrants cancelled.

It is hereby provided that a department, court, school, or other state agency may prepare and present payroll claims to the Comptroller prior to the end of the payroll period, which said payroll claims shall be verified by affidavit as to services theretofore actually performed within such payroll period prior to the date of such payroll claims; and such payroll claims need not be verified by affidavit as to any services to be performed during such payroll period subsequent to the date of such payroll claims. Such claims when so presented shall be prepared and approved as otherwise provided below. The Comptroller shall accept such payroll claim when presented and prepare warrants in payment thereof prior to date such claims become due and payable, and hold such warrants for delivery until the claims become due and payable. Such warrants shall be dated as of the due date of the claim and

shall not be delivered to the claimant until the end of the pay period. The Treasurer is hereby authorized to countersign such warrants and to make such entry as to properly take them into account. In order that such warrants may be ready for delivery at the end of the pay period the Comptroller is authorized to make such rules and regulations as may be necessary for filing payroll claims in advance of the pay period, and for the preparation and writing of warrants in payment thereof to adequately and properly achieve such purpose.

One person shall be designated by the Comptroller as Chief of the Claims Division, and such person shall prepare or be responsible for the preparation of all pay warrants, and shall be accountable to the Comptroller for warrants coming into his possession.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 400, ch. 243, § 1; Acts 1945, 49th Leg., p. 432, ch. 274, § 1; Acts 1953, 53rd Leg., p. 864, ch. 350, § 1; Acts 1979, 66th Leg., p. 207, ch. 117, § 2, eff. May 9, 1979.]

Art. 4359a. Signature on Pay Warrants after Change in Office

If by resignation, death, or other reason a person ceases to hold or perform the duties of the office of comptroller or treasurer, existing stocks of pay warrants bearing that person's printed name, signature, or facsimile signature may be used in accordance with this section until they are exhausted. If they are used, the person holding or performing the duties of the office of comptroller shall cause them to be issued with a strike through the obsolete printed name, signature, or facsimile signature; with the printed name of the person currently holding or performing the duties of the office of comptroller or treasurer substituted for the obsolete name, signature, or facsimile signature; and with the following inscription: "Printed name authorized by law." The inscription shall appear on the warrants near the printed name of the person currently holding or performing the duties of the office of comptroller or treasurer.

[Acts 1979, 66th Leg., p. 207, ch. 117, § 1, eff. May 9, 1979.]

Section 4 of the 1979 Act provided:

"Stocks of pay warrants that exist on the effective date of this Act and that contain the printed name, signature, or facsimile signature of a person who held or performed the duties of the office of comptroller or treasurer before the effective date of this Act may be used in accordance with this Act."

Art. 4360. Pension Warrants

Applications for pensions and the issuance of pension warrants shall not be subject to the provisions of this chapter. Such warrants shall be separately serially numbered.

[Acts 1925, S.B. 84.]

Art. 4361. Registration of Bonds

The Comptroller shall procure for the use of his department suitable books to be known as "bond

registers," the volumes of which shall be separately designated by number or otherwise, in which he shall register alphabetically all State, county, school, municipal and drainage or such other bonds required by law to be registered by him. Neither the bonds nor opinion of the attorney general, nor the record or other papers or documents relative thereto, shall be recorded in full; but only the name of the authority issuing and the names and official capacities of the officers signing such bonds, the date of the issue, date of registration, amount of principal, date of maturity, number, time of option of redemption, rate of interest and day of the month of each year when the interest shall fall due, of each bond so registered, shall be entered upon such register. On the same line where such entry is made, shall be provided blank spaces in which shall be entered the date of payment or redemption of each bond when the same is paid or redeemed. When any bond is paid or redeemed the proper officer or the authority paying such bond shall notify the Comptroller of the fact and date of such payment or redemption, and all papers and documents pertaining to such bonds shall be filed and appropriately numbered.

[Acts 1925, S.B. 84.]

Art. 4362. Bond Clerk; Assistants; Duties

The Comptroller shall appoint a bond clerk whose term of office shall be at the pleasure of the Comptroller, and who shall first take the official oath and give bond in the sum of Ten Thousand (\$10,000.00) Dollars, payable to the Comptroller, conditioned upon the faithful performance of his duties. Such clerk shall, under the supervision, direction, and authority of the Comptroller, perform all duties with reference to the registration of bonds imposed upon the Comptroller by the provisions of the preceding and succeeding articles, and shall have authority to sign the name of the Comptroller to all certificates of registration of bonds required by law to be registered by the Comptroller, and which bonds are registered by such bond clerk, as provided herein. In the absence of the bond clerk the duties herein imposed upon such bond clerk may be performed in like manner by the chief clerk. The Comptroller shall also designate and appoint, from the personnel of his employees, assistants to the bond clerk. Such assistant or assistants, when designated by the Comptroller, shall, under the direction and authority of the Comptroller, perform all duties with reference to the registration of bonds imposed upon the Comptroller by the provisions of Title 70, Chapter 2, of the Revised Civil Statutes of 1925, of the State of Texas, and shall have authority to sign the name of the Comptroller to all certificates of registration of bonds required by law to be registered by the Comptroller, and which bonds are registered by such bond clerks as provided herein. The duties of such assistants when designated or appointed by the Comptroller, shall be in addition to and cumulative of any other duties that may be assigned to such employee. The appointment and

designation of such assistant bond clerk or clerks shall be in writing, certified under the seal of the Comptroller and filed with the bond clerk.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 11, ch. 7, § 1.]

Art. 4363. Account by Funds Kept Separate

The Comptroller shall keep appropriate accounts by funds, showing a short description of the essential features of each, of each bond, or of each purchase of similar or like bonds, or other securities purchased by and belonging to the permanent school and other funds of the State; each of which accounts shall be charged with the principal of such bond or purchase, and with each separate item of interest payments to accrue thereon, and shall be credited with payments as made. He shall also keep controlling or total accounts of such bonds or other securities, which accounts shall be kept with respect to the total amount of bonds or other securities belonging to each separate fund; and also controlling accounts for interest to accrue on such bonds, to be set up at the beginning of each fiscal year, on bonds or other securities owned at that time, for interest to accrue for the fiscal year, and for interest on subsequent purchases during the year to be set up when such bonds or securities are purchased, each of which controlling accounts shall be balanced monthly and shall correspond with the like accounts kept by the State Treasurer.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

Art. 4364. Ledgers

The Comptroller shall maintain a double entry system of bookkeeping and shall keep such ledgers and accounts as may be necessary to show the sources of the State's revenues and the purposes for which expenditures are made, and shall provide proper accounting controls for the protection of the finances of the State.

1. The Comptroller shall keep the following ledgers: State General Ledger, Tax Collectors' Control Ledger, Tax Collectors' Ledger for Cash Accounts, Tax Collectors' Ledger for Current Year Assessments, Tax Collectors' Ledger for Occupation Taxes, Tax Collectors' Ledgers for Insolvent Taxes, Tax Collectors' Ledger for Delinquent Taxes, Departmental Suspense Ledger, General Land Office Suspense Ledger, Bond Ledgers for State-owned Bonds, Securities Ledgers, Appropriation Ledgers, or other ledgers as may be found necessary.

2. The Comptroller shall also keep supporting and analysis records as follows: General Journal, Deposit Warrant Registers, Pay Warrant Registers, Warrants Cancelled Register, Suspense Cash Book, Bond Authorization Register, Securities Register, Tax Collectors' Journal, Tax Collectors' Report Register, Occupation Tax Register, Revenue Analysis, Expense Analysis, or other records as may be found necessary.

3. The State General Ledger shall contain controlling and fund accounts. All accounts in the General Ledger shall be kept on a double-entry basis. All entries to the General Ledger shall be journalized and postings made from the General Journal. The following accounts shall be kept in the General Ledger: State Treasurer Cash Account, State Treasurer Bond Account, State Treasurer Securities in Trust, Warrants Payable, Departmental Suspense, General Land Office Suspense, Securities in Trust Fund Accounts Showing Net Balances, separate account for each fund, Fund Accounts for Bonds Owned, separate account for each fund, or other accounts as may be found necessary.

The accounts with the State Treasurer shall be charged with the cash on hand and in depository banks, and with all bonds and securities held for the funds of the State or in trust. The Comptroller shall charge the State Treasurer in totals of all deposit warrants and the deposit receipts as issued, and credit him with warrants paid, so that the balance in the Treasurer's hands, together with the balance in the State Depositories, shall agree with the balance shown by the accounts.

Accounts shall be kept for the purpose of showing the amounts of outstanding pay warrants of each class, which shall be credited with the warrants issued and charged with the warrants paid, so that the balances shall represent the aggregate amount of outstanding warrants.

Accounts shall be kept for funds, a separate account for each fund, which shall be credited with deposit warrants and charged with pay warrants issued: Balances of such accounts shall represent balances in the funds after taking into consideration all warrants issued. Accounts shall also be kept showing the bonds or securities owned by each fund.

4. REVENUE ANALYSIS.—A revenue analysis record shall be kept in which a distribution shall be made of the revenues derived by the State from all sources, and the amounts derived from each source. The sources of revenue received as represented by the deposit warrants issued therefor by the Comptroller shall be posted to this record.

5. EXPENSE ANALYSIS.—An expense analysis record shall be kept, in which a distribution shall be made of the disbursements made from State funds, which shall be classified by departments or institutions, by objects of expenditure, or other classifications as may be deemed advisable.

6. ACCOUNTS OF TAX COLLECTORS.—A ledger shall be kept which shall contain controlling accounts against which the individual accounts with Tax Collectors shall be balanced. This ledger shall be kept on a double-entry basis, shall be self-balancing, and shall be balanced at the close of each month. Individual accounts shall be kept with Tax Collectors, which shall be charged with all amounts of taxes due the State, and which are to be collected by the Tax Collectors, or which have been collected

by the Tax Collectors and have not been paid over to the State Treasurer; and credited with all payments, commissions, cancellations and other adjustments of such taxes allowed by law, which accounts shall be balanced monthly with the controlling accounts. Separate accounts shall be kept for current taxes and for delinquent taxes, or other accounts as may be necessary.

7. **SUSPENSE LEDGER.**—A suspense ledger shall be kept in which the accounts of the State Treasurer shall be stated in respect to moneys held by him pending the issuance of deposit warrants and moneys and securities held other than those for State purposes, for all which the Comptroller shall issue deposit receipts, posting the same to this ledger. It shall also include the accounts with heads of departments for all moneys received by them and deposited with the State Treasurer in suspense.

8. **APPROPRIATION LEDGERS.**—The Comptroller shall keep accounts with all appropriations made by the Legislature, an account being kept for each appropriation, which shall be credited with the amount of the appropriation and charged with all pay warrants issued under the authority of appropriations. Each account shall show the law authorizing the appropriation. The total of all appropriations so credited shall be credited to a control account called "appropriations voted." The daily totals of the warrants issued shall be charged to this control account, so that the balance shall represent the amount of unused appropriations. The individual appropriation accounts shall be balanced monthly against the "appropriations voted" account. The heads of all State Departments, Institutions, Boards and Commissions or other officials or employees of the State who are or may be authorized to make purchases or incur any indebtedness to be paid from appropriated funds shall keep accounts for such appropriations as apply to their respective Departments, Institutions, Boards or Commissions, and shall balance such accounts monthly against the like accounts kept by the Comptroller.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

Art. 4364a. Allocations From General Revenue Fund

Priority Allocations

Sec. 1. (a) During the months of September, October, November, December, January, February, and March of each fiscal year, the following withdrawals from the general revenue fund in the amounts provided by this article shall be made:

- (1) funds allocated to the state contribution account of the teacher retirement system trust fund;
 - (2) funds allocated to the state highway fund;
 - (3) funds allocated to the foundation school fund;
- and

(4) other authorized withdrawals and transfers.

(b) During the months of April and May of each fiscal year, the following withdrawals from the general revenue fund in the amounts provided by this article shall be made:

- (1) funds allocated to the farm-to-market road fund;
 - (2) funds allocated to the state contribution account of the teacher retirement system trust fund;
 - (3) funds allocated to the state highway fund;
 - (4) funds allocated to the foundation school fund;
- and
- (5) other authorized withdrawals and transfers.

(c) During the months of June, July, and August of each fiscal year, the following withdrawals from the general revenue fund in the amounts provided by this article shall be made:

- (1) funds allocated to the farm-to-market road fund;
 - (2) funds allocated to the state contribution account of the teacher retirement system trust fund;
 - (3) funds allocated to the state highway fund;
- and
- (4) other authorized withdrawals and transfers.

Amount of Allocations

Sec. 2. (a) During April, May, June, July, and August, the comptroller shall transfer each month from the general revenue fund to the farm-to-market road fund \$3 million.

(b) Each month the comptroller shall transfer from the general revenue fund to the state contribution account of the teacher retirement system trust fund the equal monthly payment provided by Section 3.58, Texas Education Code, as amended. If the appropriation provided by the legislature is different from the actual amount of state contributions required, the comptroller shall, after the close of the fiscal year, make adjustments in the teacher retirement fund and the general revenue fund to make the total transfers during the year equal the total amount of the state contribution required by Section 3.58, Texas Education Code, as amended.¹

(c) Each month the comptroller shall transfer from the general revenue fund to the state highway fund one-twelfth of the annual estimate made under Article 6674f, Revised Civil Statutes of Texas, 1925, as amended, as adjusted as required by that article.

(d) During September, October, November, December, January, February, March, April, and May, the comptroller shall transfer from the general revenue fund to the foundation school fund in nine equal or nearly equal installments an amount of money equal to the annual estimate by the foundation school budget committee of the amount necessary to fund the foundation school program as described in Chapter 16, Texas Education Code, as

amended. If the foundation school budget committee alters the estimate of funds needed for financing the foundation school program, the comptroller shall increase, diminish, or suspend transfers under this subsection so that by the end of the fiscal year there has been transferred to the foundation school fund sufficient money to fund the foundation school program.

(e) If, on the 10th day of a month, the amount available for transfer as provided in this article from the general revenue fund to the programs and funds listed in this article or the amount available for transfer from the general revenue fund to the available school fund, as required by law, is insufficient, subsequent credits to the general revenue fund shall be accumulated in an amount sufficient to make the required transfers to the programs and funds listed in this article or to the available school fund as required by law.

[Acts 1981, 67th Leg., p. 2247, ch. 540, § 1, eff. Sept. 1, 1981.]

¹ Repealed; see, now, Title 110B, § 35.404

Acts 1981, 67th Leg., p. 2776, ch. 752, § 9(a) to (i), conformed the Tax Code to various provisions of Acts 1981, 67th Leg., p. 2247, ch. 540, while simultaneously repealing said provisions of the former Act. Section 9(j) of Acts 1981, 67th Leg., p. 2779, ch. 752, provides:

"(j) Sections 1, 2, 10, 11, 12, 13, 14, 15, 16, and 17 of H.B. 872, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 540], are not repealed by this Act."

Art. 4365. Duplicate Warrants

The Comptroller, when satisfied that any original warrant drawn upon the State Treasurer has been lost, destroyed, or stolen, or that the payee's endorsement on the original warrant has been forged, or when any certificate or other evidence of indebtedness approved by the auditing board of the State has been lost, is authorized to issue a duplicate warrant in lieu of the original warrant or a duplicate or a copy of such certificate, or other evidence of indebtedness in lieu of such original; but no such duplicate warrant, or other evidence of indebtedness, shall issue until the applicant has filed with the Comptroller his affidavit, stating that he is the true owner of such instrument, and that the same is in fact lost, destroyed, or stolen, or that the payee's endorsement on the instrument has been forged, and shall also file with the Comptroller his bond in double the amount of the claim with two or more good and sufficient sureties, payable to the Governor, to be approved by the Comptroller, and conditioned that the applicant will hold the State harmless and return to the Comptroller, upon demand being made therefor, such duplicates or copies, or the amount of money named therein, together with all costs that may accrue against the State on collecting the same. Provided, however, that any state department, court, school, school district, or other state agency, or federal agency, shall not be required to make bond for the issuance of duplicate warrants. The head of such state agency or federal agency and one other person connected with the

handling of warrants for such agency shall be required to make the affidavit for duplicate to issue in case of lost or destroyed warrant belonging to such agency. In the case of a stolen warrant or a warrant on which the payee's endorsement has been forged, if the Comptroller is satisfied that the warrant is in the possession of the appropriate law enforcement officials, and if the applicant is the same person as the payee, the Comptroller may issue the duplicate warrant without requiring a bond. Any entity, other than a law enforcement official, that has possession of a stolen warrant or a warrant on which the payee's endorsement has been forged shall immediately deliver the warrant to the issuing agency or the Comptroller upon request. The agency or Comptroller shall then issue a receipt for the warrant. After the issuance of said duplicate or copy if the Comptroller should ascertain that the same was improperly issued, or that the applicant or party to whom the same was issued was not the owner thereof, he shall at once demand the return of said duplicate or copy if unpaid, or the amount paid out by the State, if so paid; and, upon failure of the party to return same or the amount of money called for, suit shall be instituted upon said bond in Travis County. The Comptroller shall adopt rules, regulations, and forms regarding the issuance of duplicate warrants.

[Acts 1925, S.B. 84. Amended by Acts 1953, 53rd Leg., p. 576, ch. 219, § 1; Acts 1977, 65th Leg., p. 265, ch. 126, § 1, eff. Aug. 29, 1977.]

Art. 4366. To Examine and Cancel Warrants

The State Auditor shall examine the disbursements of the Treasurer at the end of each quarter, and shall, together with the Treasurer, cancel the warrants which have been paid in such manner as to prevent their future circulation, and shall examine if the receipts acknowledged by the Treasurer during the quarter correspond with the deposits, and if the balance of money reported to be in his possession is actually in his hands.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 429, ch. 293, § 17.]

Art. 4366a. Money Received Under Federal Flood Control Law; Disposition

Sec. 1. The Comptroller of Public Accounts of this state is hereby authorized to receive and receipt for all funds due or payable, or hereafter to become due or payable, by virtue of the Act of Congress of August 18, 1941, Chapter 377, Section 7, 55 Stat. 650, 33 U.S.C.A., Section 701c-3. All of such funds shall be placed in a separate account entitled "Flood Area School and Road Fund" to the credit of the Comptroller of Public Accounts and shall never become a part of the general funds of the state. The Comptroller shall annually pay over such funds to the school district or districts, county, or other political subdivision, as hereinafter provided, to be expended for school purposes, or on the roads, as contemplated by the Act of Congress.

Sec. 2. It shall be the duty of each school district tax collector, county tax collector, or other person charged with the duty of collecting school taxes or road taxes, the territory of which district, county or other political subdivision is within, or partly within, any flood control district, or flood control area, created or designated under authority of law, to prepare and file with the Comptroller of Public Accounts of this state a report under oath showing the total number of acres of land acquired by the United States for flood control purposes within the boundaries of such school district, county, or other political subdivision; and the tax rate per one hundred dollars of valuation for school purposes and for road purposes levied by such district, county, or other political subdivision for the year in which such report is made.

Sec. 3. On or before the 15th day of September of the year 1945 and each year thereafter, the Comptroller of Public Accounts shall pay to the school district or districts and to the county or other political subdivision collecting road taxes, their proportionate share of funds on deposit in such "Flood Area School and Road Fund" which were produced by leases upon lands acquired by the United States for flood control purposes located within such school district, county or other political subdivision, the pro rata to be allotted to the school districts and to the road taxing entity to be based upon the proportion which their respective tax rates bears to the sum of the two rates. The Comptroller shall add the school district tax rate and the road tax rate together and the school district shall be entitled to receive such a percentage of the "Flood Area School and Road Fund" as their tax rate bears to the sum of the school tax rate and the road tax rate; and the county, or other road taxing entity, shall be entitled to receive its proportionate part of such fund based upon the proportion which its tax rate bears to the sum of the two tax rates. If, during any school year, there shall be on hand in said "Flood Area School and Road Fund" any moneys which may be distributable to any school district, the Comptroller of Public Accounts may in his discretion, upon application of such school district or districts, make a distribution of such funds upon any dates other than those above fixed, as may be determined by him.

[Acts 1945, 49th Leg., p. 387, ch. 250.]

Art. 4366b. Federal Revenue Sharing Trust Fund

Sec. 1. There is hereby created for the benefit of the State of Texas a Federal Revenue Sharing Trust Fund to receive cash authorized under the Federal State and Local Fiscal Assistance Act of 1972¹ and any money earned by the use of such cash. Expenditures from this fund are to be authorized by the Legislature of the State of Texas.

Sec. 2. The Federal Revenue Sharing Trust Fund is hereby placed under the administrative control of the Comptroller of Public Accounts of the State. The comptroller shall have the authority to

promulgate rules and regulations providing for the availability of cash for use among the departments funded from this Federal Revenue Sharing Trust Fund. Salary and wage related costs for employer contributions to the state retirement programs, to the Federal Old Age and Survivors Insurance Program,² and for the unemployment benefit program computed at the maximum contributor rate, are to be applied to salaries and wages paid from the Federal Revenue Sharing Trust Fund and credited to the General Revenue Fund.

Sec. 3. In order to insure that the State of Texas obtains the full benefit of the Federal Revenue Sharing Trust Fund, the Comptroller of Public Accounts of the State of Texas is hereby authorized to invest any cash held in such fund, which is determined to be in excess of cash requirements for current expenditures, in United States Government securities, in direct obligations of or obligations the principal and interest of which are guaranteed by the United States of America, in direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Bank, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, and Banks for Cooperatives, in savings and loans insured by the Federal Savings and Loan Insurance Corporation, in certificates of deposit of any bank or trust company the deposits of which are fully secured by a pledge of securities of any of the kind hereinabove specified, in any other securities made eligible for such investment by other laws and constitutional provisions, or in any combination of the foregoing.

[Acts 1973, 63rd Leg., p. 375, ch. 169, eff. Aug. 27, 1973. Amended by Acts 1977, 65th Leg., p. 1717, ch. 684, § 1, eff. Aug. 29, 1977.]

¹ 31 U.S.C.A. § 1221 et seq. (repealed, see, now, 31 U.S.C.A. 6702 et seq.)

² 42 U.S.C.A. § 401 et seq.

Art. 4366c. School Taxing Ability Protection Fund

Sec. 1. The School Taxing Ability Protection Fund is established as a special fund in the state treasury. The fund may be appropriated to finance formulas designed to protect school districts against estimated revenue losses resulting from implementation of Article VIII, Sections 1-b(c), 1-b(d) and 1-d-1 of the Texas Constitution.

Sec. 2. Money appropriated from the School Taxing Ability Protection Fund shall be allocated to school districts on the basis of formulas, conditions, and limitations prescribed by law.

Sec. 3. As soon as possible, consistent with sound management of state funds, the comptroller shall transfer from the general revenue fund to the School Taxing Ability Protection Fund the sum of \$450 million for use in the 1979-80 and 1980-81 school years.

Sec. 4. The Act takes effect only if and when the constitutional amendment proposed by H.J.R.

No. 1, 65th Legislature, 2nd Called Session, 1978, is adopted.

[Acts 1978, 65th Leg., 2nd C.S., p. 22, ch. 10, §§ 1 to 4.]

H.J.R. No. 1 was adopted by vote of the people at an election held on Nov. 7, 1978.

Art. 4366d. Federal Resource Receipts Distribution Fund

Definitions

Sec. 1. In this Act:

(1) "Comptroller" means the comptroller of public accounts.

(2) "Fund" means the federal resource receipts distribution fund.

(3) "Eligible county" means a county in which is located federal public land for which the state receives a portion of the money from sales, bonuses, royalties, or rentals under Section 191 or Section 355, Title 30, United States Code.

Federal Resource Receipts Distribution Fund

Sec. 2. (a) The federal resource receipts distribution fund is created in the State Treasury.

(b) Money received by the state under Section 191 or Section 355, Title 30, United States Code, shall be deposited in the fund.

(c) Money in the fund shall be distributed by the comptroller to each eligible county in the amount, in the manner, and for the purposes provided by federal law and this Act.

Amount of Distribution

Sec. 3. An eligible county is entitled to receive from the fund all of the money paid to the state and deposited in the fund from all sales, bonuses, royalties, and rentals received from federal public land located in that county.

Method of Distribution

Sec. 4. (a) Not later than the 10th day after the day it receives a payment from the comptroller, a county shall distribute the payment in accordance with this section.

(b) Of the comptroller's payment to the county:

(1) 50 percent of the payment is available for distribution to the independent school districts located in whole or part in the county with each school district receiving a proportionate share in accordance with Subsection (c) of this section;

(2) 15 percent of the payment is available for distribution to the incorporated cities located in whole or part in the county with each city receiving a proportionate share in accordance with Subsection (d) of this section; and

(3) 35 percent of the payment is available for retention by the county.

(c) The proportionate share of an independent school district located in whole or part in the county is determined by multiplying the total amount of the payment available for the county's distribution to independent school districts by the ratio that the average daily attendance for students who reside in the county and who attend that school district bears to the average daily attendance for all students who reside in the county and who attend any independent school district. However, if there are fewer than 10 independent school districts located in whole or part in the county and if an independent school district would receive under this formula less than 10 percent of the total payment available for distribution to independent school districts, the school district's share shall be increased to 10 percent of the total payment and the shares of the school districts that would receive more than 10 percent under the formula shall be reduced proportionately, but not to an amount less than 10 percent of the total payment. Each independent school district shall develop a reasonable method for determining the average daily attendance for students who reside in the county and who attend the school district.

(d) The proportionate share of a city located in whole or part in the county is determined by multiplying the total payment available for the county's distribution to cities by the ratio that the number of residents of that city who live in the county bears to the total number of residents of all cities who live in the county. The number of residents shall be determined according to the most recent federal census.

Purposes for Which Money May be Spent

Sec. 5. The money from the fund may be used only for:

- (1) planning;
- (2) construction and maintenance of public facilities; and
- (3) provision of public service.

Administration

Sec. 6. (a) The comptroller shall administer this Act and shall distribute money from the fund to eligible counties as provided by this Act and rules adopted under this Act.

(b) The comptroller shall adopt rules establishing:

(1) procedures for determining eligible counties and the amounts of money to be distributed from the fund to each of those eligible counties;

(2) methods for monitoring the uses and expenditures of money distributed from the fund to each eligible county, independent school district, and incorporated city; and

(3) any other methods and procedures necessary to carry out this Act and any federal laws and rules governing the money distributed.

[Acts 1983, 68th Leg., p. 912, ch. 215, eff. Aug. 29, 1983.]

CHAPTER THREE. STATE TREASURER

Art.

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Art. 4367. Election and Term

At each biennial general election a State Treasurer shall be elected for a term of two years.

[Acts 1925, S.B. 84.]

Art. 4368. Bond; Special Bond for Federal Funds

The State Treasurer shall, within twenty (20) days after he shall have received notice of his election, and before he enters upon the duties of his office, give a bond payable to and to be approved by the Governor, in the sum of Seventy Thousand Dollars (\$70,000.00) with a good and solvent surety company authorized to do business in this State, conditioned that he will faithfully execute the duties of his office. All expense necessary and incident to the execution of such bond shall be paid by the State by appropriation. In addition to the above the

State Treasurer shall make and enter into any special bond as may be required by an Act of Congress or by any Federal department or official to protect any and all Federal funds which shall have been secured or which may hereafter be received by the State of Texas from the Federal Government and deposited with the State Treasurer. Said bond shall be in such sum and conditioned and approved as may be prescribed by the Act of Congress or such department or official aforesaid. Said bond shall be a special bond, and shall be in addition to the official bond hereinabove required, and each of said bonds shall be separate and distinct contracts and obligations, and the liability under each of said bonds shall be separate and distinct obligations. All expense necessary and incident to the execution of such special bond shall be paid as in the Act of Congress may be provided or by appropriation made by the Legislature of Texas for such purposes.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 5th C.S. p. 230, ch. 73, § 2; Acts 1934, 43rd Leg., 3rd C.S., p. 105, ch. 54, § 1.]

Art. 4369. New Bond Required

The Attorney General, with the Comptroller, shall on the first days of June and December of every year, examine the bond of the Treasurer and make diligent inquiry into the condition of the sureties on said bond; and, if in the opinion of the Attorney General, said bond is not sufficient to secure the State in her rights, then, the Attorney General shall notify said Treasurer in writing of the insufficiency of said bond; and, should said Treasurer fail for the space of twenty days from the date of such notice to furnish a sufficient new bond, the Governor shall forthwith suspend said Treasurer from office. If the Treasurer be so suspended from office the Governor shall appoint some suitable person as Treasurer who shall give bond as required by the provisions of the preceding article. The appointee shall perform the duties of Treasurer until the suspended officer shall give a new bond to be approved by the Governor.

[Acts 1925, S.B. 84.]

Art. 4370. To Receive Moneys from Comptroller

The Treasurer shall receive, on the warrants of the Comptroller, all moneys which shall from time to time be paid into the State Treasury, receipting for the same upon duplicate and triplicate warrants; which duplicate shall be deposited with the Comptroller, and the triplicate given to the person depositing such money.

[Acts 1925, S.B. 84.]

Art. 4371. Money Paid Out, How

The Treasurer shall countersign, except as provided by Article 4359a, Revised Civil Statutes of Texas, 1925, as added, and pay all warrants drawn by the Comptroller on the Treasury which are authorized by law. No money shall be paid out of the Treasury except on the warrants of the Comptroller, and

no warrant shall be paid by the Treasurer unless presented for payment within two years from the close of the fiscal year in which such warrant was issued, but claims for the payment of such warrants may be presented to the Legislature for appropriations to be made from which such claims may be paid.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 396, ch. 242, § 1; Acts 1979, 66th Leg., p. 207, ch. 117, § 2, eff. May 9, 1979.]

Art. 4372. To Keep Accounts

The Treasurer shall keep true accounts of the receipts and expenditures of the public moneys of the Treasury, and close his accounts annually on the 31st day of August, with the proper legal vouchers for the same, distinguishing between the receipts and disbursements of each fiscal year.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

Art. 4373. Annual Exhibit to Governor

In addition to the reports required by the Constitution, the Treasurer shall submit to the Governor on the first Monday of November of each year, and at such other times as he shall require, an exact statement of the condition and situation of the Treasury, and of the balance of money remaining therein to the credit of the State, with a summary of the receipts and payments of the Treasury during the preceding year, or for such other period of time as may be specially required, and shall exhibit all books, papers, vouchers and other matters pertaining to his office, for the examination of the Legislature, or either branch thereof, or any committee which may be by them appointed, whenever required by them to do so.

[Acts 1925, S.B. 84.]

Art. 4374. Only Public Moneys to be Kept

All moneys received by the Treasurer shall be kept in the safes and vaults of the Treasury; and the Treasurer shall not keep or receive into the building, safes or vaults of the Treasury any money, or the representative of money, belonging to any individual except in cases expressly provided for by law; nor shall said Treasurer appropriate to his own use, or lend, sell or exchange any money, or the representative of money, in his custody or control as such Treasurer.

[Acts 1925, S.B. 84.]

Art. 4375. Employes

The Treasurer shall appoint a First Assistant who shall be required to give bond with a good and solvent surety company authorized to do business in this State, in the sum of twenty-thousand dollars, payable to and to be approved by the Governor, and conditioned as is the bond of the State Treasurer, and shall appoint such other employes and clerks as may be authorized by law. All such employes,

whether clerks or otherwise, who, as a part of their duties, handle any money, drafts, checks, bills of exchange, warrants, or securities or other evidences of debt which are, or may be, convertible into money, shall give bond with a good and solvent surety company authorized to do business in this State, payable to the Treasurer in such sum as he may require, conditioned that he or she will faithfully execute and perform the duties of his or her position. The Treasurer shall employ security officers to provide needed security services at the Treasury Department and may commission the officers as peace officers. The security officers shall give bond in the same manner required by this Article of employes who handle money as part of their duties. The cost and expense incident to the execution of the bond of the First Assistant and of the bonds of the respective employes shall be paid by the State by appropriation.

[Acts 1925, S.B. 84. Amended by Acts 1977, 65th Leg., p. 618, ch. 227, § 1, eff. May 24, 1977; Acts 1979, 66th Leg., p. 505, ch. 235, § 1, eff. May 17, 1979.]

Art. 4376. First Assistant to Act

Whenever the Treasurer from sickness, unavoidable absence or other cause is not able to act, the first assistant shall sign except as provided by Article 4359a, Revised Civil Statutes of Texas, 1925, as added, his own name as "Acting Treasurer" and do such other acts and things as the State Treasurer himself might legally do. The legal acts and signatures of such first assistant as Acting Treasurer, shall be as valid as the acts and signatures of the Treasurer himself.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 207, ch. 117, § 2, eff. May 9, 1979; Acts 1979, 66th Leg., p. 505, ch. 235, § 2, eff. May 17, 1979.]

Art. 4377. Delivery to Successor

The Treasurer shall, at the close of his term of office, deliver into the possession of his successor the moneys, securities and all other property of the State together with books, vouchers, papers and evidences of property in his possession, and all other matters and things which pertain to that office.

[Acts 1925, S.B. 84.]

Art. 4378. Repealed by Acts 1969, 61st Leg., p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Art. 4379. Money Returned to Counties

Whenever there is money in the State Treasury for the purpose of paying off any obligation due by any county, city or town, and it is made to appear to the Comptroller by certified copy of the records of the commissioners court, or by other satisfactory evidence, that said obligations are no longer outstanding against such county, city or town, then the Comptroller shall draw a warrant on the State Treasury in favor of such county, city or town, for the amount of money so remaining in the Treasury;

and the Treasurer shall pay such money on said warrant of the Comptroller to the Treasurer of such county, city or town, for the benefit of its general fund.

[Acts 1925, S.B. 84.]

Art. 4379a. Expired Aug. 31, 1939

Art. 4379b. Obligations of Municipalities and Political Subdivisions May Be Made Payable at State Treasurer's Office

State Treasurer as Ex Officio Treasurer and Fiscal Agent

Sec. 1. Any bond, warrant, or other evidence of indebtedness issued by any municipality or political subdivision of this State, including counties, cities, road, school, water improvement, irrigation, drainage, and navigation districts may at the discretion of the municipality or political subdivision, together with interest thereon, be payable at the office of the State Treasurer of the State of Texas, in the City of Austin, and the State Treasurer is hereby designated as ex officio Treasurer and fiscal agent of said municipality or political subdivision for the purpose of receiving deposit of funds for the payment of such bonds and interest thereon, making payment of said obligation as provided therein and for all purposes herein designated and those necessary or incidental thereto.

Deposit and Disposition of Funds by State Treasurer; Warrants of Comptroller of Public Accounts

Sec. 2. The State Treasurer shall deposit all funds coming into his hands as ex officio Treasurer, and on account of his designation as fiscal agent of such municipality or political subdivision, shall keep a separate account for each municipality or political subdivision of any moneys received for the credit of such municipality or political subdivision under the provisions of this Act. All moneys deposited to the credit of such municipality or political subdivision with the State Treasurer up to August 31, 1941, are hereby appropriated to said respective municipalities and political subdivisions and shall be received, payable, used, and applied by the State Treasurer as fiscal agent and the ex officio Treasurer of said respective municipality and political subdivision, to the payment of interest and principal due on obligations maturing on or prior to said time as may be directed in writing by said respective municipality or political subdivision, and each year thereafter all moneys deposited with the State Treasurer for such purposes and all moneys remaining therein from the previous year shall be received and held by him as fiscal agent and ex officio Treasurer of said municipality or political subdivision and shall be subject to appropriation for the payment of interest and principal from time to time upon any bonds made payable at the office of the State Treasurer in such manner as may be directed by such municipality or political subdivision. As payment of interest and principal

becomes due upon any obligation, the Treasurer of said municipality or political subdivision shall remit to the State Treasurer, not later than fifteen (15) days prior to date of maturity all sums due or to become due on any maturity. Upon receipt of such funds by the State Treasurer, he shall request the State Comptroller of Public Accounts to issue his warrant to the State Treasurer for the payment thereof, and the State Treasurer shall pay the same at his office in Austin. Such warrants shall state on their face that the proceeds of the same are to be applied by the State Treasurer to the payment of certain specified bonds or interest coupons therein described, giving the names of the municipality or political subdivision of which they were issued, numbers, amounts, and dates of the maturities of the obligations and interest to be paid with instructions to the State Treasurer to return to the Treasurer of such municipality or political subdivision such obligations and interest coupons when the same are paid and the Treasurer of said municipality or political subdivision, upon receipt of same, shall cause to be duly entered a record of such payment and cancellation.

Commission for Receiving and Disbursing Funds

Sec. 3. The State Treasurer shall collect for the use of the State, from said municipality or political subdivision for receiving and disbursing such funds, a commission of one-eighth of one per cent on interest, and one-twentieth of one per cent on principal; provided, however, such exchange or commission on any interest payment date or interest-principal payment date shall never be less than Two Dollars and Fifty Cents (\$2.50). The Treasurer of said municipality or political subdivision shall remit to the State Treasurer as ex officio Treasurer of said municipality or political subdivision, the exchange or commission as herein provided at the time of such remittance for the payment of any maturing obligation or interest thereon. Upon receipt of such exchange or commission paid by the municipalities or political subdivisions, the State Treasurer shall credit the same to the commissions and exchanges earned, and all commissions and exchanges earned, or so much as necessary, are hereby appropriated to the State Treasurer to be used by him in the administration of the provisions of this Act. Any balance remaining at the end of any fiscal year shall be available for use in the next fiscal year.

Purpose and Construction of Act

Sec. 4. It is the general intent of this Act to provide an inexpensive and feasible means for the payment of bonds and interest coupons issued by municipalities and political subdivisions in the State at the office of the State Treasurer, and this Act shall be broadly construed to carry out such intent and purpose, and any official or officials, or any municipality or political subdivision and the State Treasurer concerned in any way with the administration of the Act, is authorized and directed to perform any and all acts and duties necessary,

requisite or appropriate to facilitate and expedite the operation of the Act to the end that such bonds and interest thereon may be promptly paid and the payment thereof clearly evidenced and accounted for.

Bonds and Coupons Cancelled and Returned; Balance Returned; Statement of Account

Sec. 5. The State Treasurer shall return to the municipality or political subdivision depositing funds for the payment of interest coupons or the retirement of bonds, all such coupons and bonds as have matured or been retired by purchase, after cancelling the same, together with a statement of the account of such municipality or subdivision, showing the amounts received and placed to its credit, the service charges, and the amount of coupons or bonds retired. At the request of the municipality or political subdivision, the State Treasurer shall remit to said municipality or subdivision of the State any balance remaining in his hands more than two (2) years, for which bonds or coupons have not been presented for payment, and thereafter the municipality or political subdivision shall pay such coupons or bonds when presented. Any municipality or political subdivision shall have the right at any reasonable time to a statement of its account with the State Treasurer.

[Acts 1939, 46th Leg., p. 620. Amended by Acts 1953, 53rd Leg., p. 856, ch. 347, § 1.]

Art. 4380. Deposit Warrant Register

The Treasurer shall keep a deposit warrant register, designed with columns for State revenue, available school fund, miscellaneous, and such other columns as may be found necessary; all warrants to be entered consecutively and distributed to the proper columns. The deposit warrant register shall be prepared by the Comptroller as a carbon copy of the deposit warrant register kept by him and shall be furnished to the Treasurer together with the deposit warrants for moneys deposited each day.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

Art. 4381. Shall Post Daily Totals

The State Treasurer shall cause the daily totals of deposit warrants to be posted to the proper fund and control accounts in the general ledger. The Treasurer shall keep a "transit record," in which he shall record the essential details of all cash, checks, money orders, drafts or other items deposited or cashed each day, showing the items deposited in each depository bank or otherwise disposed of. The totals of deposits shall be charged to the accounts of the respective depositories on the books of the Treasury. The Treasurer shall keep a journal in which to enter all journal vouchers or other memoranda of transfers between funds or accounts.

Postings shall be made from this journal to the proper accounts on the books of the Treasury.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

Art. 4381a. Time and Demand Deposits; Records and Annual Reports

Sec. 1. The state treasurer shall maintain accurate records of the daily balances of, and the interest income from, funds deposited by the state treasurer or the state depository board in time and demand deposit accounts in each bank acting as a state depository. The treasurer shall maintain and preserve these records according to the provisions of the Preservation of Essential Records Act (Article 5441d, Vernon's Texas Civil Statutes), and of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

Sec. 2. The treasurer annually shall make a complete report to the legislature and to the governor of the amounts of interest income earned on funds deposited by the state treasurer or the state depository board in each bank acting as a state depository. The report shall contain the following: (a) the name of each bank serving as a state depository during the fiscal year; (b) for each bank, the balance at the beginning of the fiscal year, the balance at the end of the fiscal year, and the average daily balance in demand deposit accounts placed by the state treasurer or the state depository board; (c) for each bank, the balance at the beginning of the fiscal year, the balance at the end of the fiscal year, and the average daily balance in time deposit accounts placed by the state treasurer or the state depository board, and the amount of interest income earned on these accounts; and (d) the totals of these amounts aggregated for all state depositories.

[Acts 1979, 66th Leg., p. 2011, ch. 788, eff. June 13, 1979.]

Art. 4382. Register of Warrants Issued

The Treasurer shall keep registers of warrants issued, one for each class of warrant. The Comptroller shall furnish to the Treasurer lists of warrants issued, which lists shall constitute the Treasurer's registers of warrants issued. The Treasurer shall keep a "Warrants Paid Register." In this register the warrants shall be entered each day when paid, the number and amount of each warrant paid being entered. Warrants may be grouped by classes and separate totals of warrants paid from each class may be shown, as well as the grand total of all warrants paid each day. The Treasurer, on request of the Comptroller, shall furnish to the Comptroller each day a copy of the warrants paid register showing the warrants paid. The Treasurer shall keep a register of warrants cancelled, on which shall be entered the details of all warrants cancelled.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 396, ch. 242, § 1; Acts 1953, 53rd Leg., p. 714, ch. 277, § 1; Acts 1965, 59th Leg., p. 311, ch. 143, § 1.]

Art. 4382a. Substitute for Warrants Paid Register

The State Treasurer may, with the consent of the Comptroller of Public Accounts, substitute a recapitulation of the totals of warrants paid each day for the copy of the warrants paid register which denotes each warrant paid each day, and which is now required by Article 4382.

[Acts 1953, 53rd Leg., p. 715, ch. 278, § 1.]

Art. 4383. Other Accounts

He shall keep accounts called "warrants payable, general," "warrants payable, special," and "warrants payable, pensions," to which shall be credited the daily totals of the several registers of warrants issued and charged with the daily total of warrants paid of each class, so that the balance of these accounts shall represent the aggregate amount of outstanding warrants.

[Acts 1925, S.B. 84.]

Art. 4384. Outstanding Warrants

Outstanding warrants shall be listed each month from the registers of warrants issued, and a list thereof sent to the Comptroller for his record. With this list the Treasurer shall furnish a statement showing the aggregate amount of general, special and pension warrants paid during the month.

[Acts 1925, S.B. 84.]

Art. 4385. General Ledger Accounts

The Treasurer shall charge the daily totals of the general warrants, pension warrants, special warrants and all other classes of warrants to the respective fund and control accounts in the general ledger to which they apply.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

Art. 4385a. Unconstitutional

This article, derived from Acts 1943, 48th Leg., p. 469, ch. 313, § 2, authorizing the transfer of the unexpended balance in each of seventeen special funds mentioned, which exceeded an amount equivalent to the receipts deposited to the credit of such special funds during the preceding fiscal year to the General Revenue Fund, was unconstitutional on the ground that the title to the act contained nothing to indicate that the body of the act purported to transfer the special funds mentioned in such section. See *Gulf Ins. Co. v. James*, 143 T. 424, 185 S.W.2d 966.

Art. 4386. Certain Special Funds Abolished

All warrants on the State Treasury shall be general warrants, and shall be on an equal basis with each other except that in the event of a question and necessity arising as to the priority of payment of any such warrants, they shall be paid in order of their serial number, such warrants to be numbered at all times in the order of receiving the accounts in the Comptroller's office. This article shall not apply to warrants drawn on the Special Game Fund nor on funds collected for and appropriated to the State Highway Department nor to any special fund

created or provided in the State Constitution, nor shall it apply to any special fund consisting of taxes set aside and remitted or donated by the Legislature to any county, city or locality. Such constitutional funds and special tax remitting funds and the warrants against the same shall be handled under present laws.

[Acts 1925, S.B. 84.]

Art. 4386a. State Warrants Payable to United States Post Office; Priority

Warrants for the purchase of United States postage stamps and for the payment of postoffice box rents by any board or department of the State Government shall be drawn upon the State Treasurer by the State Comptroller in favor of the United States Postoffice; and the State Treasurer shall pay warrants so issued out of any funds appropriated for such purposes, irrespective of the serial number of said warrants and irrespective of the priority of the issuance of said warrants, and such warrants shall be endorsed by the postmaster of the United States Postoffice to which they are made payable.

[Acts 1933, 43rd Leg., p. 103, ch. 51.]

Arts. 4386b to 4386b-3. Repealed by Acts 1975, 64th Leg., p. 1804, ch. 545, § 2(a)(3), eff. Sept. 1, 1975

Acts 1975, 64th Leg., p. 1405, ch. 545, repealing these articles, enacts the Parks and Wildlife Code.

Arts. 4386c, 4386c-1. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Art. 4386d. Youth Development Council Fund

There is created in the Treasury a special fund to be known as the "Youth Development Council Fund" for the purposes hereinafter provided.

[Acts 1953, 53rd Leg., p. 927, ch. 387, § 1.]

Art. 4387. Repealed by Acts 1931, 42nd Leg., p. 396, ch. 242, § 2**Art. 4388. Daily Statement from Departments**

The State Treasurer shall receive daily from the head of each Department, each of whom is specifically charged with the duty of making same daily, a detailed list of all persons remitting money the status of which is undetermined or which is awaiting the time when it can finally be taken into the Treasury, together with the actual remittances which the Treasurer shall cash and place in his vaults or in legally authorized depository banks, if the necessity arises. The report from the General Land Office shall include all money for interest, principal and leases of school, university, asylum and other lands. A deposit receipt shall be issued by the Comptroller for the daily total of such remit-

tances from each Department; and the cashier of the Treasurer's Department shall keep a cash book, to be called "suspense cash book," in which to enter these deposit receipts, and any others issued for cash received for which no deposit warrants can be issued, or when their issuance is delayed. As soon as the status of money so placed with the Treasurer on a deposit receipt is determined, it shall be transferred from the suspense account by placing the portion of it belonging to the State in the Treasury by the issuance of a deposit warrant, and the part found not to belong to the State shall be refunded. When deposit warrants are issued, they shall be entered in this cash book, as well as any refunds, and the balance shall represent the aggregate of the items still in suspense. Refunds shall be made in a manner similar to that in present use, except that separate series of warrants shall be used for making such refunds, to be called "refund warrants," and such warrants shall be written and signed, except as provided by Article 4359a, Revised Civil Statutes of Texas, 1925, as added, by the Comptroller and countersigned, except as provided by Article 4359a, Revised Civil Statutes of Texas, 1925, as added, by the Treasurer and charged against the suspense funds to which they apply. Such warrants shall then be returned to the Comptroller and delivered by him to the person entitled to receive them.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 5th C.S., p. 230, ch. 73, § 3; Acts 1931, 42nd Leg., p. 396, ch. 242, § 1; Acts 1979, 66th Leg., p. 207, ch. 117, § 2, eff. May 9, 1979.]

Art. 4388a. Neglect of Duty by Comptroller or Treasurer

Any person who shall knowingly and willfully violate any provision of this Act shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not less than 30 days nor more than six months, or by both such fine and imprisonment.

[Acts 1930, 41st Leg., 5th C.S., p. 230, ch. 73, § 5.]

Art. 4389. Office Fee Book

The Treasurer shall keep an office fee book in which shall be entered in detail all fees earned by the Treasury department; which fees shall be deposited in the Treasury to the credit of the general revenue at the end of each month on a deposit warrant issued by the Comptroller.

[Acts 1925, S.B. 84.]

Art. 4390. Cash Balancing Book

The Treasurer shall keep a book, to be called "cash balancing book," for the purpose of arriving at the daily cash balance, in which shall be entered the daily totals of all receipts and disbursements. The amount of cash on hand and in depository banks shall also be shown. A copy of the cash

balancing sheet shall be furnished to the comptroller each day.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

Art. 4391. Ledger

The general ledger kept by the Treasurer shall contain accounts for each fund, which shall be credited with the existing balances and with the daily totals of deposit warrants. The pay warrants issued shall be charged to the several fund accounts from the warrants issued registers in daily totals. The ledger shall also contain control accounts for cash, depository banks, bonds, interest, securities, warrants payable and such other accounts as may be necessary. Postings shall be made to the ledger daily from the deposit warrant register, warrants issued registers, warrants paid register and other supporting records. The ledger shall be balanced daily.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

Art. 4392. Bond Book

The Treasurer shall keep a bond book in which to enter all warrants or authorizations to receive or relinquish bonds held by him and belonging to any State fund. The Treasurer shall also keep appropriate ledger accounts showing a short description of the essential features of each, of each bond or of each purchase of similar or like bonds, or other securities purchased by and belonging to the permanent school and other funds of the State; each of which accounts shall be charged with the principal of such bond or purchase, and with each separate item of interest payments to accrue thereon, and shall be credited with payments as made. He shall also keep controlling or total accounts of such bonds or other securities in the general ledger; which accounts shall be kept with respect to the total amount of bonds or other securities belonging to each separate fund; and also controlling accounts for interest to accrue on such bonds, to be set up at the beginning of each fiscal year, on bonds or other securities owned at that time, for interest to accrue for the fiscal year, and for interest on subsequent purchases during the year to be set up when such bonds or securities are purchased; each of which controlling accounts shall be balanced monthly with the sum of the individual accounts for bonds or securities; which accounts shall be balanced monthly and shall correspond with the like accounts kept by the Comptroller.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

Art. 4393. Securities Register

The Treasurer shall keep a suitable register in which to enter all bonds, cash and other securities lodged with him by bond investment, surety and insurance companies, and State depository banks, and all other bonds or securities lodged with him

under the provisions of the Statutes, the registration of which is not otherwise provided for by law; in which he shall enter the deposit receipts or other authorizations to receive or relinquish such bonds or securities. The receiving and relinquishment of these securities shall be on the authority of the Comptroller. He shall also keep a "securities ledger" in which shall be kept appropriate accounts for all matters for which such deposit receipts or authorizations are issued, which ledger shall be balanced monthly against control account to be kept in the "general ledger" and with like accounts to be kept by the Comptroller.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

Art. 4393a. Trust Funds

All moneys and other securities placed in the hands of the State Treasurer in trust for any legal purpose shall be received by the State Treasurer on a deposit receipt issued by the State Comptroller as provided in Article 4354, Revised Civil Statutes of Texas, 1925, as amended by House Bill No. 495, Chapter 243, Acts of the Regular Session, 42nd Legislature. Such moneys or other securities shall be held in trust by the State Treasurer in like manner as the Departmental Suspense Account is held under Article 4388, Revised Civil Statutes of Texas, 1925, as amended by House Bill No. 493, Chapter 242, Acts of the Regular Session, 42nd Legislature. Such moneys or other securities shall be withdrawn by trust and suspense draft in the case of money, and withdrawal authorization in the case of other securities, which instruments shall be issued serially and signed, except as provided by Article 4359a, Revised Civil Statutes of Texas, 1925, as added, by the State Comptroller. Any and all moneys received in trust, or for any legal purpose for which a state deposit warrant has not or cannot immediately be issued, shall be handled by the Treasurer in the same manner as items deposited in departmental suspense accounts. All moneys and securities now held in trust in the State Treasury shall immediately be transferred to the trust and suspense section of the state's accounting, and thenceforth transferred, refunded or disposed of according to the provisions of this Act. Adequate registers, ledgers and files shall be maintained by the State Treasurer, and by the State Comptroller, to account for the receiving and disposing of all trust and suspense moneys and other securities, which registers and ledgers shall be known as "Trust and Suspense Record."

Nothing herein shall be construed as amending Section 2 of House Bill No. 684, Chapter 3, Acts of the Regular Session, 46th Legislature;¹ nor as amending Senate Bill No. 89, Chapter 324, Acts of the Regular Session of the 48th Legislature.²

[Acts 1945, 49th Leg., p. 294, ch. 212, § 1. Amended by Acts 1979, 66th Leg., p. 207, ch. 117, § 3, eff. May 9, 1979.]

¹ Article 4379b.

² Article 6674q-1 et seq.

Art. 4393b. Suspense and Trust Fund Refund Warrants; Void after Four Years; Transfer of Sums Represented; Subsequent Claims

Sec. 1(a). Warrants issued by the Comptroller of Public Accounts in payment of refunds from any suspense or trust fund in the State Treasury, commonly known as Suspense and Trust Fund Refund Warrants, shall become void unless presented to the State Treasurer for payment within four (4) years from the end of the fiscal year in which the warrant was issued. All such warrants now outstanding and unpaid according to the records of the State Treasurer and issued prior to September 1, 1948, shall be voided as of the effective date of this Act. The sums of money represented by such unpaid warrants that are voided in accordance with the provisions of this Section, shall be transferred by the Comptroller from the various Suspense Funds from which the warrants were originally issued to the General Revenue Fund of this State and shall become a part of that fund. Claims for the payment of such warrants voided under the provisions of this Act may be presented to the Legislature for appropriation to be made from which said warrants may be paid. Nothing in this Act shall effect in any way whatsoever the existing laws regulating the payment of other types or classes of warrants issued by the Comptroller of Public Accounts.

(b) When the transfers of moneys herein referred to are made, the State Treasurer shall prepare a list of the outstanding warrants representing such transfers, such list to show the name of the payee, the date of the original warrant, the departmental suspense account against which the warrant was originally drawn, the original warrant number and the amount of the original warrant. Such list shall be maintained as a permanent record in the office of the State Treasurer and proper notation shall be made on each entry on this list when and if the Legislature makes appropriation for the refund of the amounts so listed.

Sec. 2. If any word, phrase, clause, section, paragraph, or sentence of this Act shall be declared unconstitutional, it is hereby declared to be the intention of the Legislature that the remainder of such Act shall not be affected thereby and shall remain in full force and effect.

[Acts 1953, 53rd Leg., p. 370, ch. 96.]

Art. 4393c. State Funds Reform Act of 1981

Short Title

Sec. 1. This Act may be cited as the State Funds Reform Act of 1981.

Definition

Sec. 2. In this Act, "state agency" means any department, commission, board, office, institution, or other agency that is in the executive branch of state government, has authority that is not limited

to a geographical portion of the state, and was created by the constitution or a statute of this state, but does not include an institution of higher education as defined in Section 61.003, Texas Education Code, as amended, and does not include the Banking Department of Texas, the Savings and Loan Department of Texas, and the Office of the Consumer Credit Commissioner, whose funds are subject to the budgetary control of the Finance Commission of Texas by virtue of existing laws, and does not include the Credit Union Department of Texas whose funds are subject to the budgetary control of the Credit Union Commission of Texas.

Applicability of Act; Exemptions

Sec. 3. (a) This Act applies to each state agency only to the extent that it is not otherwise required to deposit funds in the state treasury.

(b) This Act does not apply to:

(1) funds pledged to the payment of bonds, notes, or other debts if the funds are not otherwise required to be deposited in the state treasury;

(2) funds held in trust or escrow for the benefit of any person or entity other than a state agency;

(3) funds set apart out of earnings derived from investment of funds held in trust for others, as administrative expenses of the trustee agency;

(4) funds, grants, donations, and proceeds from funds, grants, and donations, given in trust to the Texas State Library and Archives Commission for the establishment and maintenance of regional historical resource depositories and libraries in accordance with Section 2A, Chapter 503, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 5442b, Vernon's Texas Civil Statutes); or

(5) the deposit of funds for state agencies subject to review under the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes) for 1981, which shall be determined by each agency's enabling statute.

Funds to be Deposited in Treasury

Sec. 4. All fees, fines, penalties, taxes, charges, gifts, grants, donations, and other funds collected or received by a state agency as authorized or required by law shall be deposited in the state treasury, credited to a special fund or funds, and subject to appropriation only for the purposes for which they are otherwise authorized to be expended or disbursed. Deposit shall be made within seven days after the date of receipt.

(b)¹ All money that is required by this Act or by any other law to be deposited in the state treasury shall be deposited to the credit of the General Revenue Fund, unless the money is expressly required to be deposited to another fund, trust fund, or special account not in the General Revenue Fund. This subsection does not affect the authority of the comptroller or the treasurer to establish and use

accounts necessary to manage and account for state revenues and expenditures.

(c) All money collected or received by a state agency by mistake of fact or law, including money that is not due to the state and money collected and received in excess of the amount required to be collected or received, shall, if not refunded as permitted or required by law, be deposited to the credit of the General Revenue Fund. This section does not apply to unrefunded motor fuel taxes nor to any other unrefunded money that is required by law to be deposited to the credit of any other fund, trust fund, or account not in the General Revenue Fund.

¹ So in enrolled bill; there is no (a).

Reports by Finance Commission

Sec. 5. Not later than December 31 of each year, the Finance Commission of Texas shall file with the governor and the Legislative Budget Board a certified copy of each of the budgets that has been adopted for the Banking Department of Texas, the Savings and Loan Department of Texas, and the Office of the Consumer Credit Commissioner for the coming calendar year. If the budget for the banking department, the savings and loan department, or the Office of the Consumer Credit Commissioner is later amended by the finance commission, each amendment shall be filed in the same manner within 30 days after its adoption. In addition, the finance commission shall file a certified copy of the report of receipts and disbursements and the schedule of all investments for the preceding calendar year for the banking department, the savings and loan department, and the Office of the Consumer Credit Commissioner in the same manner not later than March 1 of each year. In every calendar year when the legislature is in regular session, the Legislative Budget Board shall make available copies of the budgets for that calendar year and the reports of receipts and expenditures for the preceding calendar year, including schedules of all investments, to the respective committees considering appropriations of the senate and the house of representatives. The committees may call for discussion or explanation of items in the budgets that have been adopted by the finance commission. In years in which the legislature is not in regular session, the Legislative Budget Board may call for discussion or explanation of items in the budgets that have been adopted by the finance commission.

Effective Date

Sec. 6. This Act takes effect September 1, 1981, for all funds unexpended and unencumbered on that date.

[Acts 1981, 67th Leg., p. 3189, ch. 835, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1101, ch. 248, § 1, eff. Sept. 1, 1983.]

CHAPTER FOUR. ATTORNEY GENERAL

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Art. 4394. Election and Term

At each biennial general election an Attorney General shall be elected for a term of two years. He shall reside and keep his office in the city of Austin.

[Acts 1925, S.B. 84.]

Art. 4395. To Represent State in Higher Courts

The Attorney General shall prosecute and defend all actions in the Supreme Court or the Courts of Civil Appeals in which the State may be interested.

[Acts 1925, S.B. 84.]

Art. 4396. Collection Suits

He shall transmit to the proper district or county attorney, with such instructions as he may deem necessary, any certified account, bond or other demand which the Comptroller has delivered to him for prosecution and suit. He shall require the several district and county attorneys to report to him at the close of the courts of their respective districts and counties, in such form as he may prescribe, precise information of the situation of all suits instituted by them for the collection of public money. He shall report to the Comptroller annually, on the last day of October and at such other times as the Comptroller may request, a full and correct statement of the status of all such suits.

[Acts 1925, S.B. 84.]

Art. 4397. To Prepare Forms

He shall whenever requested by the Comptroller, prepare proper forms for contracts, obligations and other instruments which may be wanted for use of the State.

[Acts 1925, S.B. 84.]

Art. 4398. To Examine Bonds

He shall carefully examine all county and municipal bonds sent to him as provided by Article 709, in connection with the facts and the Constitution and laws on the subject of the execution of such bonds, and if, as the result of such examination, he shall find that such bonds were issued in conformity with the Constitution and laws, and that they are valid and binding obligations upon the county, city, or town, by which they are executed, he shall so officially certify.

[Acts 1925, S.B. 84.]

Art. 4399. Written Opinions and Advice

(a) Upon receipt of a written request from any of the officials named in Subsection (b) of this article, the Attorney General shall give a written opinion on any question affecting the public interest or concerning the official duties of the particular office. The request for opinion must be made by certified or registered mail, return receipt requested, properly addressed to the Office of the Attorney General in Austin, Texas. The Attorney General shall acknowledge receipt of the request on or before the 15th day after it is received, and shall issue the opinion no later than 180 days thereafter unless the Attorney General shall have, on or before such date, advised the official requesting such opinion, in writing, that the opinion will be delayed or not rendered and stating the reasons therefor. The provisions of this subsection may be waived by written agreement of the Attorney General and the official requesting the opinion when no person's legal rights will be substantially prejudiced.

(b) Persons who may request written opinions include:

- (1) the Governor;
- (2) the head of any department of the State government;
- (3) the heads and boards of penal institutions;
- (4) the heads and boards of eleemosynary institutions;
- (5) the heads of all other State boards;
- (6) regents and trustees of State educational institutions;
- (7) committees of either branch of the Legislature;
- (8) county auditors authorized by law; and
- (9) the chairman of the governing board of any river authority.

(c) The Attorney General, in addition to any other duties imposed by this article, shall advise:

(1) the several district and county attorneys of the State, in the prosecution and defense of all actions in the district or inferior courts, wherein the State is interested, whenever requested by them, after said attorney shall have investigated the question, and shall with such question, also submit his brief; and

(2) the proper legal authorities in regard to the issuance of all bonds that the law requires to be approved by him.

(d) The Attorney General is hereby prohibited from giving legal advice or written opinions to any other than the officers or persons named herein.

(e) As used in this article, "opinion" means judgment, advice, or decision and the legal reasons and principles upon which it is based.

[Acts 1925, S.B. 84. Amended by Acts 1977, 65th Leg., p. 1302, ch. 512, § 1, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 4514, ch. 735, § 1, eff. Aug. 29, 1983.]

Section 2 of the 1983 amendatory act provides:

"The provisions of Chapter 309, Acts of the 64th Legislature, Regular Session, 1975 (Article 6252-26, Vernon's Texas Civil Statutes), do not apply to Article 4399, Revised Statutes."

Art. 4400. Shall Inspect Accounts

He shall at least once a month inspect the accounts of the offices of the State Treasurer and the Comptroller, of all officers and persons charged with the collection or custody of funds of the State. He shall proceed immediately to institute, or cause to be instituted, against any such officer or person who is in default or arrears, suit for the recovery of funds in his hands. He shall also institute immediately criminal proceedings against whoever has violated the laws by misapplying, or retaining in his hands, funds belonging to the State.

[Acts 1925, S.B. 84.]

Art. 4401. To Attend Sales and Bid in Land

If any property shall be sold by virtue of any execution, order or sale issued upon any judgment in favor of the State or sale by virtue of any deed of trust—except executions issued upon judgments in cases of scire facias the agent representing the State by and with the advice and consent of the Attorney General is hereby authorized and required to attend such sales and bid on and buy in for the State said property when it shall be deemed proper to protect the interest of the State in the collection of such judgment and debt. His bid shall not exceed the amount necessary to satisfy said judgment and debt and all costs due thereon.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 361, ch. 243, § 1.]

Art. 4402. To Execute Deeds

In all cases where property is so purchased by the State, the officer selling the same shall execute and

deliver to the State a deed to the same, such as is prescribed for individuals in similar cases.

[Acts 1925, S.B. 84.]

Art. 4403. May Sell Such Property

The agent or attorney of the State buying for the State such property at such sales shall be authorized by and with the advice and consent of the Attorney General, at any time to sell or otherwise dispose of said property so purchased in the manner acquired and upon such terms and conditions as he may deem most advantageous to the State. If sold or disposed of for a greater amount than is necessary to pay off the amount due upon the judgment or debt, and all costs accrued thereon, the remainder shall be paid into the State Treasury to the credit of the general revenue. When such sale is made, the Attorney General shall, in the name of the State, execute and deliver to the purchaser a deed of conveyance to said property, which deed shall vest all the rights and title to the same in the purchaser thereof.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 361, ch. 243, § 1.]

Art. 4404. Agent to Bid and Sell

When any such property is sold under execution or order of sale issued upon any judgment in favor of the county, including executions issued upon judgments in cases of scire facias in the name of the State, the attorney or agent so representing the county, by and with the advice and consent of the commissioner's court, shall have the same authority to buy and dispose of such property for the county as the agent or attorney for the State is given in this law in similar cases. When any property is so purchased by the agent or attorney of the county, the officer so selling the same shall execute and deliver to the county a deed of conveyance to the same. Whenever the property so bought in for the county is sold, the commissioner's court shall execute and deliver to the purchaser thereof a deed in the name of the county to such property.

[Acts 1925, S.B. 84.]

Art. 4405. Repealed by Acts 1975, 64th Leg., p. 568, ch. 226, § 1, eff. May 20, 1975

Art. 4406. Official Register

The Attorney General shall keep in proper books a register of all his official acts and opinions, of all actions and demands prosecuted or defended by him or any district or county attorney, in which any portion of the revenue of the State is involved, and of all proceedings had in relation thereto, and shall deliver the same to his successor in office.

[Acts 1925, S.B. 84.]

Art. 4407. Collections

He shall immediately pay into the State Treasury all money received by him for debts due or penalties.

[Acts 1925, S.B. 84.]

Art. 4408. Forfeiture of Charters

The Attorney General, unless otherwise expressly directed by law, whenever sufficient cause exists therefor shall seek a judicial forfeiture of the charters of private corporations. He shall at once take steps to seek such forfeiture in any case where satisfactory evidence is laid before him that any corporation receiving State aid has, by the non-performance of its charter conditions or any violation of its charter, or by any act or omission, mis-user or non-user, forfeited its charter or any rights thereunder.

[Acts 1925, S.B. 84.]

Art. 4409. Inquiry into Charter Rights

He shall also inquire into the charter rights of all private corporations and, in the name of the State, take such legal action as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight or wharfage not authorized by law.

[Acts 1925, S.B. 84.]

Art. 4410. Escheats

The Attorney General shall institute and prosecute, or cause to be instituted and prosecuted, all suits and proceedings necessary to recover for and on behalf of the State all properties, real, personal or mixed, that have escheated or may escheat to the State under the laws of the State.

[Acts 1925, S.B. 84.]

Art. 4411. No Admission to Prejudice

No admission, agreement or waiver, made by the Attorney General, in any action or suit in which the State is a party, shall prejudice the rights of the State.

[Acts 1925, S.B. 84.]

Art. 4412. First Office Assistant

a. In case of the absence or inability of the Attorney General to act, the first office assistant of the Attorney General shall discharge the duties which devolve by law upon the Attorney General.

b. The Attorney General shall designate one (1) or more assistants who shall attend the meetings of any board or commission upon which the Attorney General served as an ex officio member as of the effective date of this Act when requested to do so by such Board or Commission.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 1138, ch. 442, § 17.]

Art. 4412a. Charitable Trusts**Definition**

Sec. 1. As used in this Article, "charitable trust" is defined as:

(1) a corporation, trust, community chest, fund, foundation, or other entity which is organized for scientific, educational, philanthropic, or environmental purposes, social welfare, the arts and humanities, or any other civic or public purpose as described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C.A. 501(c)(3));

(2) any trust whose stated purpose is to benefit in whole or in part an entity of the type previously described in Subdivision (1) of this section;

(3) any gift, by inter vivos or testamentary disposition, to an entity of the type previously described in Subdivision (1) of this section.

**Attorney General as Proper Party to Suits
or Proceedings**

Sec. 2. (a) For and on behalf of the interest of the general public of this state in such matters, the Attorney General shall be a proper party to and shall be given notice, as provided by Section 3 of this Article, in any suit or judicial proceeding, the object of which is:

(1) To terminate a charitable trust or to distribute its assets to other than charitable donees, or

(2) To depart from the objects of a charitable trust as the same are set forth in the instrument creating the trust, including any proceedings for the application of the doctrine of cy pres, or

(3) To construe, nullify or impair the provisions or any instrument, testamentary or otherwise, creating or affecting a charitable trust, or

(4) To contest or set aside the probate of an alleged will by the terms of which any money, property or other thing of value is given, devised or bequeathed for charitable purposes, or

(5) To allow a charitable trust to contest or set aside the probate of an alleged will, or

(6) To determine matters incident to the probate and administration of an estate involving a charitable trust, or

(7) To obtain a declaratory judgment involving a charitable trust.

(b) The Attorney General may intervene in any suit or judicial proceeding in which the Attorney General is a proper party under this section.

Notice

Sec. 3. An interested party, or his attorney, shall give the notice required by Section 2 of this Article by sending through the United States mail, duly certified or registered, a certified copy of the petition or other instrument by which the party's involvement in the suit or proceeding is initiated, to

the Attorney General and making and filing in said cause an affidavit reciting the facts of notice and attaching thereto the customary postal receipts signed by the Attorney General or any Assistant Attorney General.

**Judgment Rendered Without Notice to
Attorney General**

Sec. 4. A judgment rendered in any suit or judicial proceeding referred to in this Article without notice to the Attorney General shall be voidable. Any such judgment shall be set aside upon motion of the Attorney General filed at any time thereafter.

**Compromise, Settlement Agreement, Contract,
or Judgment**

Sec. 5. (a) The Attorney General may join and enter into a compromise, settlement agreement, contract, or judgment relating to a suit or judicial proceeding in which the Attorney General is a proper party under Section 2 of this Article.

(b) A compromise, settlement agreement, contract, or judgment relating to a suit or judicial proceeding in which the Attorney General is a proper party is voidable on the motion of the Attorney General if the Attorney General has not received notice of the proceeding required by Section 2 of this Article unless the Attorney General:

- (1) has declined in writing to be a party to the proceeding; or
- (2) has approved and joined in the compromise, settlement agreement, contract, or judgment.

Purpose of Article

Sec. 6. It is the purpose of this Article to resolve and clarify what is thought by some to be uncertainties existing at common law with respect to the subject matter hereof. Nothing contained herein, however, shall ever be construed, deemed or held to be in limitation of the common law powers and duties of the Attorney General.

Proceedings by Attorney General for Breach of Fiduciary Duty; Costs, Attorney's Fees, and Venue

Sec. 7. (a) In any proceeding brought by the attorney general alleging breach of fiduciary duty by the trustee of a charitable trust, the attorney general, if successful, is entitled to recover from the trustee the actual costs incurred in bringing the suit and may recover reasonable attorney's fees.

(b) In any proceeding brought by the attorney general under Subsection (a) of this section, venue shall be in a court of competent jurisdiction in Travis County.

[Acts 1959, 56th Leg., p. 203, ch. 115. Amended by Acts 1981, 67th Leg., p. 2151, ch. 501, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 4173, ch. 657, § 1, eff. June 19, 1983.]

Section 2 of the 1983 amendatory act provides:

"This Act does not apply to a cause of action that accrued before the effective date of this Act. Such a cause of action is governed by the law as it existed on the date the cause of action accrued, and that law is continued in effect for this purpose."

**Art. 4412b. Defense of District Judge, Grand
Juror or Commissioner**

(a) The Attorney General of Texas is responsible for defending a state district judge in any action or suit in the federal courts in which the judge is a defendant because of his office as district judge if the district judge requests the attorney general's assistance in the defense of the suit.

(b) The attorney general is responsible for defending a state grand jury commissioner or a state grand juror in an action or suit in the federal courts in which the commissioner or the juror is a defendant if:

(1) the suit involves an act of the defendant while in the performance of his duties as a grand jury commissioner or a grand juror; and

(2) the commissioner or the juror requests the attorney general's assistance in the defense of the suit.

[Acts 1975, 64th Leg., p. 659, ch. 275, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 186, ch. 92, § 1, eff. Aug. 29, 1977.]

Art. 4413. Biennial Report

The Attorney General shall report to the Governor biennially on the first Monday in December next preceding the expiration of his official term the number of indictments which have been found by grand juries in this State for the two preceding years; the offenses charged, the number of trials, convictions and acquittals for each offense; the number of dismissals and also a summary of the judgments rendered on conviction, the nature and amount of penalties imposed and the amount of fines collected. This report shall also give a general summary of all the business, civil and criminal, disposed of by the Supreme Court and Court of Criminal Appeals, so far as the State may be a party, and all civil causes to which the State is a party prosecuted or defended by him in any other courts, State or Federal.

[Acts 1925, S.B. 84.]

Art. 4413a. Acceptance or Use of Money to Investigate or Prosecute Matters

From and after the effective date of this Act, the Attorney General shall not accept or use any money offered by any person, firm, partnership, corporation or association, for the purpose of investigating or prosecuting any matter whatsoever.

[Acts 1963, 58th Leg., p. 732, ch. 270, § 1.]

Art. 4413a.1. Service of Pleadings and Notice of Intent to Take Default Judgment in Action Where State or State Agency is Party

Sec. 1. (a) Upon the filing of any pleading in a civil case in which the State of Texas or any agency in the executive or legislative department is named as a party, the Attorney General of Texas shall be served promptly with a true copy of such pleading at his office in Austin, Texas, by U.S. Postal Service, certified mail, return receipt requested.

(b) The requirement in Subsection (a) of this section does not satisfy any other jurisdictional requirements with regard to service of process upon a state officer, board, commission, agency, or institution that is named as a party in a court proceeding.

Sec. 2. Notice of intent to take a default judgment against the State of Texas or any state agency shall be served upon the attorney general at his office in Austin, Texas, by U.S. Postal Service, certified mail, return receipt requested, at least 10 days prior to the date of the proposed default judgment.

Sec. 3. Failure to perform the requirements of Section 1 or Section 2 shall render any default judgment against the State of Texas or such state agencies void.

[Acts 1983, 68th Leg., p. 4176, ch. 659, eff. Aug. 29, 1983.]

CHAPTER FOUR-A. STATE AUDITOR

Art.

- 4413a-1 to 4413a-7. Repealed.
- 4413a-7a. Administrative Services Division.
- 4413a-7b. Repealed.
- 4413a-8. Legislative Audit Committee.
- 4413a-8a. Application of Sunset Act.
- 4413a-9. State Auditor; Appointment by Committee; Term.
- 4413a-10. Qualifications of State Auditor.
- 4413a-11. Written Appointment; Oath; Bond; Vacancies.
- 4413a-12. Approval of Appointment by Senate.
- 4413a-13. Powers and Duties of State Auditor in General.
- 4413a-14. Examination of State Departments; Reports; Recommendations.
- 4413a-14A. Subpoenas Issued by Committee.
- 4413a-14B. Service of Subpoena; Enforcement.
- 4413a-14C. Compensation of Witnesses.
- 4413a-15. Files to be Kept by State Auditor.
- 4413a-16. Improper Practices; Illegal Transactions; Reports; Hearings; Removal or Replacement.
- 4413a-17. Office of State Auditor; Compensation of Auditor and Assistants; Traveling Expenses; Duties of First Assistant.
- 4413a-18. Personnel; Suggested Appointments Forbidden.
- 4413a-19. Removal or Discharge.
- 4413a-20. State Auditor not to Serve in Other Capacities.
- 4413a-21. Texas Department of Corrections, Auditing.
- 4413a-22. Definitions.
- 4413a-23. Partial Invalidity.

Art.

- 4413a-24. Refusal to Permit or Interference with Examination of Records; Failure to Make Report; Penalty.
- 4413b. Regulation of Style and Format of Agency Periodic Reports to Governor or Legislature.

Arts. 4413a-1 to 4413a-7. Repealed by Acts 1943, 48th Leg., p. 429, ch. 293, § 1

The repealed articles were derived from Acts 1929, 41st Leg., 1st C.S., p. 222, ch. 91, §§ 1 to 7, and related to the appointment, qualifications, duties, reports, assistants, and compensation and removal of the state auditor. These subjects are now covered in articles 4413a-8 to 4413a-24.

Art. 4413a-7a. Administrative Services Division

(a) The State Auditor shall establish within his office a division to be known as the Administrative Services Division.

(b) The Administrative Services Division shall advise and assist all state agencies in the improvement of procedures relating to:

- (1) processing of income and outgoing mail;
- (2) records management;
- (3) microimage recording;
- (4) information retrieval systems;
- (5) supply storage management;
- (6) offset reproduction;
- (7) document copying; and

(8) other management problems with respect to which the State Auditor believes the state agencies need assistance or advice.

[Acts 1969, 61st Leg., p. 1980, ch. 672, § 1, eff. Sept. 1, 1969.]

Art. 4413a-7b. Repealed by Acts 1975, 64th Leg., p. 591, ch. 242, § 7, eff. May 20, 1975

See, now, art. 41b.

Art. 4413a-8. Legislative Audit Committee

There is hereby created a Legislative Audit Committee, which shall be composed of the Speaker of the House of Representatives, the Chairman of the Appropriations Committee of the House of Representatives, the Chairman of the Revenue and Taxation Committee of the House of Representatives, the Lieutenant-Governor, the Chairman of the Finance Committee of the Senate and the Chairman of the Committee on State Affairs of the Senate. In the absence of any such Chairman, the Vice-Chairman of such Committee shall act. The members of said Committee shall receive no compensation for the services performed under the provisions of this Act,¹ but each shall receive his actual and necessary expenses incurred in the discharge of his duties as such member. The Committee shall employ such clerical assistants as it may need within the limits of the appropriations made for such purpose.

The Committee, within ten (10) days from the passage of this Act, shall meet and organize by electing one (1) member of said Committee, Chairman; and another member of said Committee, Secretary. In voting on any question which this Act requires the Legislative Audit Committee to decide, if the full Committee is present and there is a tie vote, and the Committee cannot secure, within a reasonable time, a majority vote either for or against the proposition under consideration, then the Committee shall agree on a seventh member, selected from the membership of either the House or the Senate, and the member so selected shall meet with the Committee and shall vote on the proposition under consideration. When he has voted and the proposition has been decided, his duties as a member of such Committee shall end.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 2.]

¹ Articles 4366, 4413a-8 to 4413a-24.

Art. 4413a-8a. Application of Sunset Act

The Legislative Audit Committee is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the committee is abolished effective September 1, 1989.

[Acts 1977, 65th Leg., p. 1854, ch. 735, § 2.161, eff. Aug. 29, 1977.]

¹ Article 5429k.

Art. 4413a-9. State Auditor; Appointment by Committee; Term

Such Committee, or the majority of the membership thereof, shall appoint an investigator of all custodians of public funds, disbursing agents, and personnel of departments, the title of such officer to be State Auditor. The appointment shall be made during the period from February 1st to February 15th of each odd numbered year, and the person so appointed State Auditor shall hold the office until his successor is appointed and qualifies; provided, however, that within ten (10) days of the effective date of this Act,¹ or as soon thereafter as practicable, such Committee shall appoint an Auditor for the period expiring February 15, 1945. Such Auditor shall be a Certified Public Accountant of Texas.

[Acts 1943, 48th Leg., p. 529, ch. 293, § 3.]

¹ Articles 4366, 4413a-8 to 4413a-24.

Art. 4413a-10. Qualifications of State Auditor

The person appointed State Auditor shall have had at least five (5) years experience as a Certified Public Accountant immediately preceding his appointment, and he shall be a man of unquestioned integrity and moral character and who has had sufficient experience in business and finance to properly discharge the functions of the office. He shall have been a citizen and resident of Texas for at least five (5) years immediately preceding his appointment. He shall qualify by taking the Constitutional oath of office and executing a bond to be approved by the appointing power, payable to the

Governor of the State of Texas and his successors in office, in the sum of Twenty-five Thousand (\$25,000.00) Dollars, conditioned upon the faithful discharge of the duties of his office, with a solvent surety company as surety. The premium due the surety company for the execution of such bond shall be paid by the state.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 4.]

Art. 4413a-11. Written Appointment; Oath; Bond; Vacancies

The Legislative Audit Committee, or a majority of the membership thereof, shall execute a written appointment of the person so appointed as such State Auditor and cause the same to be filed in the office of the Secretary of State. The person so appointed to such office, within ten (10) days after his appointment, shall file in the office of the Secretary of State his oath and approved bond; and if he shall fail to do so, the Committee, or a majority of the membership thereof, shall appoint some other qualified person to fill such office. All vacancies in the office of State Auditor shall be filled by the Committee or a majority of the membership thereof.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 5.]

Art. 4413a-12. Approval of Appointment by Senate

The appointment of the State Auditor shall be by the Legislative Audit Committee immediately certified to the Senate, if the same be in session, and if it not be then in session it shall be certified within ten (10) days after said Senate shall be officially convened for any purpose; and if, after consideration by the Senate, the person so appointed and certified shall not receive the approval of two-thirds (2/3) of the members of the Senate, he shall not be considered as approved, and the Legislative Committee shall at once proceed to the selection of another for such position.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 6.]

Art. 4413a-13. Powers and Duties of State Auditor in General

The State Auditor is hereby granted the authority and it shall be his duty:

1. To perform an audit of all accounts, books and other financial records of the State Government of any officer of the state, department, board, bureau, institution, commission or agency thereof, and to prepare a written report or reports of such audit or audits to the Legislative Audit Committee and such other person or persons hereafter designated in this bill.

2. To personally, or by his duly authorized assistants, examine and audit all fiscal books, records and accounts of all custodians of public funds, and of all disbursing officers of this state, making independent verifications of all assets, liabilities, revenues and expenditures of the state, its departments,

boards, bureaus, institutions, commissions or agencies thereof now in existence or hereafter created.

3. To require such changes in the accounting system or systems and record or records of any office, department, board, bureau, institution, commission or state agency, that in his opinion will augment or provide a uniform, adequate, and efficient system of records and accounting.

4. To work with the executive officers of any and all state offices, departments, boards, bureaus, institutions, commissions or agencies thereof hereafter created, in outlining and installing a uniform, adequate and efficient system of records and accounting.

5. To require the aid and assistance of all executives and officials, auditors, accountants and other employees of each and every department, board, bureau, institution, commission or agency of the state at all times in the inspection, examination and audit of any and all books, accounts and records of the several departments.

The State Auditor shall have access at all times to all of the books, accounts, reports, confidential or otherwise, vouchers, or other records of information in any state office, department, board, bureau, or institution of this state.

In making any changes, the State Auditor shall take into consideration the present system of such books, records, accounts and reports in order that the transition may be gradual. The past and present records shall be coordinated into the new system. It is the object and purpose of this Act,¹ among other things, to install a unified and coordinated system of accounting and records in every department, bureau, board and institution of the State Government.

The State Auditor shall also perform such other duties as may be required of the State Auditor or State Auditor and Efficiency Expert by any other existing law or laws of this State.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 7.]

¹ Articles 4366, 4413a-8 and 4413a-24.

Art. 4413a-14. Examination of State Departments; Reports; Recommendations

In addition to the other duties provided for the State Auditor, he shall thoroughly examine all departments of the State Government with special regard to their activities and the duplication of efforts between departments and the quality of service being rendered by subordinate employees in each of the several departments.

Upon completing the examination of any department, he shall furnish the chief executive officer and governing body thereof with a report of, among other things, (a) the efficiency of the subordinate employees; (b) the status and condition of all public funds in charge of such department; (c) the amount of duplication between work done by the departments so examined and other departments of the

State Government; (d) the expense of operating the department; (e) breaches of trust and duty, if any, by an officer, department, institution, board, bureau, or other custodian or disbursement officer of public funds; (f) any suggested changes looking toward economy and reduction of number of clerical and other employees, and the elimination of duplication and inefficiency. Copies of each report shall be filed with the Governor, the Lieutenant-Governor, the Speaker of the House of Representatives, the Secretary of State, and each member of the Legislature.

The State Auditor shall file an annual report with the Governor; copies of such report shall be filed with the Speaker of the House, the Lieutenant-Governor, and in the office of the Secretary of State. Such annual report shall contain, among other things, copies of, or the substance of reports made to the various departments, bureaus, institutions, and boards, as well as a summary of changes made in the system of accounts and records thereof.

Reports shall also contain specific recommendations to the Legislature for the amendment of existing laws or the passage of new laws designed to improve the functioning of various departments, boards, bureaus, institutions or agencies of State Government to the end that more efficient service may be rendered and the cost of government reduced.

All recommendations submitted by the State Auditor shall be confined to those matters properly coming within his jurisdiction, which is to see that the laws passed by the Legislature dealing with the expenditure of public moneys are in all respects carefully observed, and that the attention of the Legislature is directed to all cases of violation of the law and to those instances where there is need for change of existing laws or the passage of new laws to secure the efficient spending of public funds. The State Auditor shall not include in his recommendations to the Legislature any recommendations as to the sources from which taxes shall be raised to meet the governmental expense.

All reports by the State Auditor shall call attention to any funds, which, in his opinion, have not been expended in accordance with law or appropriations by the Legislature; and shall make recommendations to the Legislature as to the manner or form of appropriations, which will avoid any such improper expenditure of money in the future.

Each of the auditings herein provided for shall be made and concluded as directed by the Legislative Audit Committee, and in accordance with the terms of this Act; but shall be concluded and reports thereof made not later than thirty (30) days before the convening of each Regular Session of the Legislature. The Committee shall direct the Auditor to make any special audit or investigation that in its judgment is proper or necessary to carry out the purpose of this Act, or to assist the Legislature in the proper discharge of its duties.

The Committee shall direct the printing or mimeographing of such number of any reports as it thinks necessary and proper.

All reports filed by the Secretary of State shall be open to public inspection.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 8. Amended by Acts 1979, 66th Leg., p. 2071, ch. 810, § 8, eff. June 13, 1979.]

Art. 4413a-14A. Subpoenas Issued by Committee

(a) At the request of the state auditor or on its own motion the Legislative Audit Committee may subpoena witnesses or any books, records, or other documents reasonably necessary to carrying out an examination under this Act.¹

(b) Each subpoena must be signed by the chairman or secretary of the committee.

[Acts 1979, 66th Leg., p. 236, ch. 123, § 1, eff. May 9, 1979.]

¹ Articles 4366, 4413a-8 to 4413a-24.

Art. 4413a-14B. Service of Subpoena; Enforcement

(a) On the request of the chairman or secretary, the sergeant-at-arms or an assistant sergeant-at-arms of either house of the legislature or any peace officer shall serve a subpoena issued under this Act.¹ The officer shall serve the subpoena in the same manner as a subpoena issued by a district court is served.

(b) If the person to whom a subpoena is directed fails to comply, the committee may bring suit in the district court to enforce the subpoena. If the court determines that good cause exists for the issuance of the subpoena, the court shall order compliance. The court may modify the requirements of a subpoena that the court determines are unreasonable. Failure to comply with the order of the district court is punishable as contempt.

[Acts 1979, 66th Leg., p. 236, ch. 123, § 1, eff. May 9, 1979.]

¹ Articles 4366, 4413a-8 to 4413a-24.

Art. 4413a-14C. Compensation of Witnesses

The Legislative Audit Committee may provide for the compensation of subpoenaed witnesses. The amount of compensation may not exceed the amount paid to a witness subpoenaed by a district court in a civil proceeding.

[Acts 1979, 66th Leg., p. 236, ch. 123, § 1, eff. May 9, 1979.]

Art. 4413a-15. Files to be Kept by State Auditor

The State Auditor shall keep, or cause to be kept, a complete, accurate and adequate set of fiscal transactions of the State Auditor's office. He shall also keep a complete file of copies of all audit reports, examinations, investigations and any and all other reports or releases issued by him or his office, and a complete file of audit work papers and

other evidences pertaining to work of the office of State Auditor.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 9.]

Art. 4413a-16. Improper Practices; Illegal Transactions; Reports; Hearings; Removal or Replacement

If the State Auditor finds, in the course of his audit, evidence of improper practices of financial administration or of any general incompetency of personnel, inadequacy of fiscal records, he shall report same immediately to the Governor, the Legislative Audit Committee, and the Department head or heads affected. If the State Auditor shall find evidence of illegal transactions, he shall forthwith report such transactions to the Governor, the Legislative Audit Committee and the Attorney General.

Immediately upon receipt of a report from the State Auditor of incompetency of personnel and inadequacy of fiscal records, the Legislative Audit Committee shall review the State Auditor's report of same and hold hearings with the Department head or heads concerning such incompetency and inadequacy of fiscal records. The Legislative Audit Committee, after holding such hearings, shall make a report to the Department head or heads requesting the removal or replacement of the incompetent personnel or the installation of the necessary fiscal records. The Legislative Audit Committee shall report to the Legislature any refusal of the Department officials to remedy such incompetency or the installation of proper fiscal records.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 10.]

Art. 4413a-17. Office of State Auditor; Compensation of Auditor and Assistants; Traveling Expenses; Duties of First Assistant

The State Auditor shall devote his entire time to the discharge of the duties herein imposed upon him; shall maintain his office in the Capital; and the Board of Control is directed to furnish suitable quarters, supplies and stationery for him and his assistants and employees. The State Auditor shall receive for his services compensation at the rate of Seven Thousand Five Hundred (\$7,500.00) Dollars per annum until September 1, 1945, and thereafter such sum as may be provided in the biennial appropriation bill, together with the necessary traveling expense, payable monthly in the manner as other state officers are paid. All vouchers issued in the payment of salary and expenses to the State Auditor shall be approved by the Chairman of the Legislative Audit Committee before they are paid; and all vouchers issued for the payment of salaries of assistant auditors and for stenographic and clerical help, as well as all vouchers issued in the payment of other expenses incurred in the operation of the office of the State Auditor, shall be approved by the State Auditor before they are paid. Traveling expenses for all employees in the State Auditor's office, when engaged on official business, shall be

paid to the extent authorized in the appropriation bill for the State Auditor's office. All sums appropriated to the State Auditor for that department shall be expended under the direction and subject to the control of the Legislative Audit Committee. Salaries shall be paid monthly. The salary of no assistant auditor shall exceed the sum of Four Thousand Two Hundred (\$4,200.00) Dollars per annum, except the First Assistant, whose salary shall not exceed Six Thousand (\$6,000.00) Dollars per annum. The First Assistant State Auditor shall perform such duties and assignments as the State Auditor may prescribe, and shall act as State Auditor in the absence of the State Auditor. All such assistant auditors and stenographic and clerical assistants shall be named and appointed by the State Auditor. The salaries paid shall in no event exceed the amounts paid in other departments for similar services.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 11.]

Art. 4413a-18. Personnel; Suggested Appointments Forbidden

The State Auditor shall be free to select the most efficient personnel available for each and every position in his office, to the end that he may render to the members of the Legislature that service which they have a right to expect. It is the intention and desire of the Legislature to free the State Auditor and his staff from partisan politics; and it is hereby declared to be against public policy, and unlawful, for any member of the Legislature or any official or employee of the State Government or any board, bureau, department or institution thereof to recommend or suggest the appointment of any person to a position on the staff of the State Auditor. The State Auditor is hereby authorized to conduct such professional examinations as he may deem expedient in determining the qualifications of the persons whom he contemplates placing on his staff.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 12.]

Art. 4413a-19. Removal or Discharge

The State Auditor may be removed or discharged at any time by the Legislative Audit Committee, or a majority of the members thereof, for any reason satisfactory to said Committee or a majority thereof, and without a hearing, and such office or position filled by appointment, the same as though a vacancy existed in such office. The State Auditor may remove or discharge any assistant auditor or any stenographic or clerical assistants at any time and for any reason satisfactory to himself and without a hearing.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 13.]

Art. 4413a-20. State Auditor not to Serve in Other Capacities

The State Auditor shall not serve in any ex-officio capacity, on any administrative board or commission, or have any financial interest in the transac-

tions of any department, board, bureau, institution, commission or agency of the state.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 15.]

Art. 4413a-21. Texas Department of Corrections, Auditing

The provisions of Section 18 of Chapter 212 of House Bill No. 59, Acts of the Regular Session of the 40th Legislature,¹ shall in no way relieve the State Auditor from the duties and responsibilities of auditing the Texas Prison System² the same as every other department, board, bureau or institution of this state.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 16.]

¹ Article 6166q (now repealed).

² Name changed to Texas Department of Corrections. See art. 6166a-1.

Art. 4413a-22. Definitions

Wherever the word "department", "board", "bureau", "institution", "commission", or other word or words of similar import appear in any prior Section of this Act,¹ such shall mean each and every department, board, bureau, institution, commission or agency of the State Government.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 18.]

¹ Articles 4366, 4413a-8 to 4413a-24.

Art. 4413a-23. Partial Invalidity

If any part or parts of this Act¹ shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such invalid part or parts thereof would be so declared unconstitutional.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 19.]

¹ Articles 4366, 4413a-8 to 4413a-24.

Art. 4413a-24. Refusal to Permit or Interference with Examination of Records; Failure to Make Report; Penalty

Any officer or person employed by the State of Texas or any governmental unit of the state who shall refuse to permit the examination or access to the books, accounts, reports, vouchers, papers, documents or cash drawer or cash of his office, department, institution, board, or bureau by the State Auditor, or who shall in any way interfere with such examination, or who shall refuse to make any report required by this Act,¹ shall be guilty of a misdemeanor, and upon conviction shall be fined not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail for not less than one (1) month nor more than twelve (12) months, or by both such fine and imprisonment.

[Acts 1943, 48th Leg., p. 429, ch. 293, § 14.]

¹ This article and arts. 4366, 4413a-8 to 4413a-23.

Art. 4413b. Regulation of Style and Format of Agency Periodic Reports to Governor or Legislature

Sec. 1. In this Act, "agency" means a department, board, commission, office, or other entity in the executive, legislative, or judicial branch of state government, and includes a public university, senior college, or junior college.

Sec. 2. The state auditor shall promulgate and distribute rules prescribing the style and format of all periodic reports that agencies are required by law to make to the governor, the legislature, or any officer, committee, or agency of the legislature. The rules shall include restrictions on the quality or price of paper used, style or method of printing or typesetting, binding, illustrations, photographs, and other matters relevant to the cost of producing the reports, with the objective of minimizing the cost of the reports without impairing the ability of agencies to make effective reports.

Sec. 3. In making periodic reports referred to in Section 2 of this Act, each agency shall comply with the rules promulgated by the state auditor, and the comptroller shall refuse to issue a warrant to pay any expense incurred by an agency in violation of the rules.

[Acts 1977, 65th Leg., p. 138, ch. 67, eff. April 18, 1977.]

CHAPTER FOUR-B. INTERSTATE COOPERATION

Art. 4413b-1. Commission Established; Composition; Functions; Governor's Committee

Governor's Committee

Sec. 1. There is hereby established a committee to be officially known as the Governor's Committee on Interstate Co-operation, and to consist of six (6) members. Its members shall be: the Secretary of State, ex officio; the Attorney General, ex officio; one (1) citizen of the state, appointed by the Lieutenant Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years; one (1) citizen of the state appointed by the Speaker of the House of Representatives with the advice and consent of the Senate, who shall serve for a term of two (2) years; and two (2) other administrative officials or members of existing Commissions to be designated by the Governor. The Governor shall appoint one (1) of the six (6) members of this Committee as its chairman. In addition to the regular members, the Governor shall be an ex officio honorary non-voting member of this Committee.

Establishment of Membership of Commission

Sec. 2. There is hereby established the Texas Commission on Interstate Cooperation. This Commission shall be composed of nineteen (19) regular members, namely:

The Governor, the Lieutenant Governor and the Speaker of the House of Representatives;

Five members of the Senate to be appointed by the Lieutenant Governor;

Five members of the House of Representatives to be appointed by the Speaker of the House of Representatives;

The six members of the Governor's Committee on Interstate Cooperation.

The Governor shall serve as Chairman of the Commission and the Lieutenant Governor and the Speaker of the House shall serve as First Vice-Chairman and Second Vice-Chairman respectively.

The service of all members shall be ex-officio and in addition to the other duties prescribed by law for their offices.

Application of Sunset Act

Sec. 2a. The Texas Commission on Interstate Cooperation is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1983.

¹ Article 5429k.

Functions of Members

Sec. 3. The said appointed members of the Senate and the said appointed members of the House of Representatives shall function during the Regular Session of the Legislature and also during the interim periods between such sessions; these members shall serve until their successors are designated; and they shall respectively constitute for this State the Senate Council and House Council of the American Legislators' Association. The incumbency of each member of the Governor's Committee shall extend until his successor is appointed.

Functions of Commission

Sec. 4. It shall be the function of this Commission:

(1) To carry forward the participation of this State as a member of the Council of State Governments;

(2) To encourage and assist the legislative, executive, administrative and judicial officials and employees of this State to develop and maintain friendly contact by correspondence, by conference, and otherwise, with officials and employees of the other States, of the Federal Government, and of local units of government;

(3) To endeavor to advance cooperation between this State and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating

(a) The adoption of compacts;

(b) The enactment of uniform or reciprocal statutes;

(c) The adoption of uniform or reciprocal administrative rules and regulations;

(d) The informal cooperation of governmental offices with one another;

(e) The personal cooperation of governmental officials and employees with one another, individually;

(f) The interchange and clearance of research and information, and

(g) Any other suitable process.

(4) In short, to do all such acts as will, in the opinion of this Commission, enable this State to do its part, or more than its part, in forming a more perfect union among the various governments in the United States and in developing the Council of State Governments for that purpose.

Intergovernmental Problems; Personnel; Expenditures

Sec. 4a. In addition to its other duties and functions, the Commission is authorized to study intergovernmental problems and make recommendations with respect thereto and to cooperate with other Texas agencies and the agencies of other States concerned with such problems.

The Commission shall employ necessary personnel, execute necessary contracts, pay for actual travel expenses, printing, supplies and other necessary expenses in accomplishing the above purposes. It is expressly provided that the Governor or any other State Officer or Agency may allocate to the use of said Texas Commission on Interstate Cooperation any portion of any legislative appropriation which, by the terms thereof, may be expended for the accomplishment of any one (1) or more of the purposes set forth in Chapter 569, Acts of the Regular Session of the Forty-seventh Legislature, being Article 4413b-1, Vernon's Annotated Statutes.

Delegations and Committees; Establishment by Commission; Duties

Sec. 5. The Commission shall establish such delegations and committees as it deems advisable, in order that they may confer and formulate proposals concerning effective means to secure intergovernmental harmony, and may perform other functions for the Commission in obedience to its decisions. Subject to the approval of the Commission, the member or members of each such delegation or committee shall be appointed by the Chairman of the Commission. State officials or employees who are not members of the Commission on Interstate Cooperation may be appointed as members of any such delegation or committee, but private citizens holding no governmental positions in this State shall not be eligible. The Commission may provide such other rules as it considers appropriate concerning the membership and the functioning of any such delegation or committee. The Commission may provide for advisory boards for itself and for its vari-

ous delegations and committees, and may authorize private citizens to serve on such boards.

Report to Governor and Legislature; No Compensation

Sec. 6. The Commission shall report to the Governor and to the Legislature within fifteen (15) days after the convening of each regular legislative session, and at such other times as it deems appropriate. Its members and the members of all delegations and committees which it establishes shall serve without compensation for such service.

Names of Committees and Commission

Sec. 7. The Committees and the Commission established by this Act shall be informally known, respectively, as the Senate Cooperation Committee, the House Cooperation Committee, the Governor's Cooperation Committee and the Texas Cooperation Commission.

Joint Governmental Agency

Sec. 8. The Council of State Governments is hereby declared to be a joint governmental agency of this State and of the other states which cooperate through it.

Fund to be Appropriated by Legislature

Sec. 9. It is contemplated that a fund will be appropriated by the Legislature for the purposes of enabling the Commission, by contribution to the Council of State Governments, to participate with other states in maintaining the said Council's District and central secretariats and its other governmental services. Out of any such fund appropriated, also, the members of the Commission and the members of all delegations and committees which it establishes shall be paid their necessary expenses in carrying out their obligations under this Act.

Partial invalidity

Sec. 10. If any clause or other portion of this Act is held to be invalid, that decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that all such remaining portions of this Act are severable, and that it would have enacted such remaining portions if the invalid portions had not been included in this Act.

[Acts 1941, 47th Leg., p. 1109, ch. 569. Amended by Acts 1949, 51st Leg., p. 1106, ch. 565, §§ 1, 2; Acts 1963, 58th Leg., p. 1138, ch. 442, § 9; Acts 1973, 63rd Leg., pp. 755, 756, ch. 330, §§ 1, 2, eff. June 12, 1973; Acts 1977, 65th Leg., p. 1843, ch. 735, § 2.077, eff. Aug. 29, 1977.]

CHAPTER FOUR-C—SOUTHERN STATES ENERGY COMPACT

Art. 4413c-1. Southern States Energy Compact

Enactment and Terms of Compact

Sec. 1. The Southern States Energy Compact is hereby enacted into law and entered into by this state with any and all states legally joining therein

in accordance with its terms, in the form substantially as follows:

SOUTHERN STATES ENERGY COMPACT

Article I—POLICY AND PURPOSE.

The party states recognize that the proper employment and conservation of energy, and employment of energy-related facilities, materials, and products, within the context of a responsible regard for the environment, can assist substantially in the industrialization of the South and the development of a balanced economy for the region. They also recognize that optimum benefit from an acquisition of energy resources and facilities require systematic encouragement, guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and the framework for such a cooperative effort to improve the economy of the South and contribute to the individual and community well-being of the people of this region.

Article II—THE BOARD.

(a) There is hereby created an agency of the party states to be known as the 'Southern States Energy Board' (hereinafter referred to as the Board). The Board shall be composed of three members from each party state, one of whom shall be appointed or designated to represent the Governor and one to represent each house of the state legislature. Each member shall be designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any less period of time) by a deputy or assistant, if the laws of his state make specific provision therefor. The Federal Government may be represented on the Board without vote, if provision is made by Federal law for such representation.

(b) Each party state shall be entitled to one vote on the Board, to be determined by majority vote of each member or member's representative from the party state present and voting on any question. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes by states are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The Board shall appoint an Executive Director who shall serve at its pleasure and who shall also act as secretary and who, together with the treasurer, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel, or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to Federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm, or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations in convenient form and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the Governor of each party state a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said State. The Board may issue such additional reports as it may deem desirable.

Article III—FINANCES.

(a) The Board shall submit to the executive head or designated officer or officers of each state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One-half of the total amount of each budget of estimated expenditures

shall be apportioned among the party states in equal shares; one-quarter of each such budget shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last decennial census; and one-quarter of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the Federal census-taking agency. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff or personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h), the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Board.

(e) The accounts of the Board shall be open at any reasonable time for inspection.

Article IV—ADVISORY COMMITTEES.

The Board may establish such advisory and technical committees as it may deem necessary, membership on which to include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state, and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

Article V—POWERS.

The Board shall have power to:

(a) Ascertain and analyze on a continuing basis the position of the South with respect to energy and energy-related industries and environmental concerns.

(b) Encourage the development, conservation, and responsible use of energy and energy-related facili-

ties, installations, and products as part of a balanced economy and a healthy environment.

(c) Collect, correlate, and disseminate information relating to civilian uses of energy and energy-related materials and products.

(d) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspect of:

(1) Energy, environment, and application of energy, environmental, and related concerns to industry, medicine, education, or the promotion or regulation thereof.

(2) The formulation or administration of measures designed to promote safety in any manner related to the development, use, or disposal of energy and energy-related materials, products, installations, or wastes.

(e) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of energy product, material, or equipment use and disposal and of proper techniques or processes for the application of energy resources to the civilian economy or general welfare.

(f) Undertake such non-regulatory functions with respect to resources of radiation as may promote the economic development and general welfare of the region.

(g) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to energy and environmental fields.

(h) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures, and practices or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(i) Prepare, publish, and distribute (with or without charge) such reports, bulletins, newsletters or other material as it deems appropriate.

(j) Cooperate with the United States Department of Energy or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(k) Act as licensee of the United States Government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

(l)(1) Ascertain from time to time such methods, practices, circumstances, and conditions as may

bring about the prevention and control of energy and environmental incidents in the area comprising the party states, to coordinate the environmental and other energy-related incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with energy and environmental incidents.

(2) The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with energy and environmental incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Article VI—SUPPLEMENTARY AGREEMENTS.

(a) To the extent that the Board has not undertaken any activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program of activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

Article VII—OTHER LAWS AND RELATIONSHIPS.

Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order, or ordinance of a party state or

subdivision thereof now or hereafter made, enacted, or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the United States Department of Energy, any agency successor thereto, or any other Federal department, agency, or officer pursuant to and in conformity with any valid and operative Act of Congress.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the Board own or operate any facility or installation for industrial or commercial purposes.

Article VIII—ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL.

(a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, any state contiguous to any of the foregoing states, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law; Provided, that it shall not become initially effective until enacted into law by seven states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the governor of the withdrawing state shall have sent formal notice in writing to the governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw.

Article IX—SEVERABILITY AND CONSTRUCTION.

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence, or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states

and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

Members of Board; Appointment; Eligibility; Term; Deputy

Sec. 2. The Governor shall appoint one member of the Southern States Energy Board. The Lieutenant Governor shall appoint a member of the Senate, and the Speaker shall appoint a member of the House of Representatives to serve on the Southern States Energy Board. To be eligible for appointment to the Board, a person must be a member of the Texas Energy and Natural Resources Advisory Council. Each member shall serve at the pleasure of the officer who appointed him. If a member of the Board is a member of the legislature or the head of a regularly constituted department or agency of this state, he may designate a subordinate officer or employee of his department, agency, or legislative house to serve in his stead as permitted by Article II(a) of the compact and in conformity with any applicable bylaws of the Board.

Application of Sunset Act

Sec. 2a. The office of Southern States Energy Board Members for Texas is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the office is abolished, and this Act expires effective September 1, 1995.

Coordination of Energy Activities; Energy Advisory Committee

Sec. 3. (a) The members of the Board appointed and serving in accordance with Section 2 of this Act shall assist in the coordination of energy activities within this state.

(b) The Governor may appoint an Energy Advisory Committee to consult and advise in the coordination of energy activities. Said Committee shall consist of not to exceed fifteen (15) persons; two of whom shall be members of the Senate; two of whom shall be members of the House of Representatives; and the remaining members of which shall be chosen from among citizens of this state whose public or private positions, training, and experience give them knowledge of and competence in fields related to the development and use of energy materials or products.

(c) The Board members are authorized and empowered to assist in the orderly development of energy knowledge within the State of Texas.

Duties of Texas Energy and Natural Resources Advisory Council and Staff

Sec. 3a. (a) The Texas Energy and Natural Resources Advisory Council shall provide personnel to the office of Southern States Energy Board Mem-

bers for Texas as necessary to assist that board in carrying out its powers, duties, and functions.

(b) The Texas Energy and Natural Resources Advisory Council shall pay on behalf of the state all dues that are required to be paid by the state as a member of the compact.

(c) On or before January 1 of each year the staff of the Texas Energy and Natural Resources Advisory Council shall prepare and shall file with the Governor and the presiding officers of each house of the legislature a complete and detailed written report describing the activities of the office of Southern States Energy Board Members for Texas relating to Texas's participation in the compact and accounting for all funds received and disbursed by that office during the preceding fiscal year. The Texas Energy and Natural Resources Advisory Council shall include the report as part of its annual report.

Budgets of Estimated Expenditures

Sec. 4. Pursuant to Article III(a) of the compact, the Board shall submit its budgets of estimated expenditures to the Governor and Legislative Budget Board for presentation to the Legislature.

Additional Funds; Supplementary Agreements

Sec. 5. Any supplementary agreement entered into pursuant to Article VI of the compact and requiring the expenditure of funds or the assumption of an obligation to expend funds in addition to those already appropriated shall not become effective as to this state prior to the making of an appropriation by the Legislature therefor.

Cooperation of State Departments, Agencies and Officers

Sec. 6. The departments, agencies, and officers of this state and its subdivisions are hereby authorized to cooperate with the Southern States Energy Board in the furtherance of any of its activities pursuant to the compact.

[Acts 1961, 57th Leg., p. 93, ch. 54. Amended by Acts 1977, 65th Leg., p. 1841, ch. 735, § 2.064, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 2901, ch. 494, §§ 1, 2, eff. Aug. 29, 1983.]

CHAPTER FOUR-D. STATE-FEDERAL RELATIONS

Art.

- 4413d-1. Office of State-Federal Relations.
- 4413d-2. Coordinating Relationships Between Local Governmental Units and Federal Agencies.
- 4413d-3. Contracts with Federal Government for Eradication of Noxious Vegetation from State Waters.

Art. 4413d-1. Office of State-Federal Relations Establishment

Sec. 1. There is established the Office of State-Federal Relations.

Application of Sunset Act

Sec. 1a. The Office of State-Federal Relations is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the office is abolished, and this Act expires effective September 1, 1995.

Director

Sec. 2. The Governor shall appoint a Director of the Office of State-Federal Relations with the advice and consent of the Senate. The director shall serve at the pleasure of the Governor. The director shall remain in office until a successor is appointed and has been duly qualified.

Location

Sec. 3. The director may maintain office space for carrying out the powers and functions assigned to him by this Act inside and outside the State at such places as he may direct.

Staff; Lobbyist Not to Act as General Counsel; Intraagency Career Ladder Program

Sec. 4. (a) The director may employ such staff as is necessary to carry out the powers and functions assigned to him by this Act.

(b) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel of the office.

(c) The director or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least 10 days before any public posting. The director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for staff must be based on the system established under this subsection.

Compensation

Sec. 5. The director and staff are entitled to the compensation and transportation allowances provided for in the General Appropriations Acts. The Director and Deputy Director of the Office of State-Federal Relations may also receive a per diem allowance in addition to the regular compensation and transportation allowances as may be provided for by the Legislature in the General Appropriations Acts.

Open Meetings Law and Administrative Procedure and Texas Register Act; Applicability

Sec. 5a. The office is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Powers and Functions

Sec. 6. The powers and functions of the director shall enable him to act as liaison from the State to the Federal government.

1. The director shall help coordinate State and Federal programs dealing with the same matter.

2. The director will inform the Governor and the Legislature of the existence of Federal programs which will be or may be carried out in the State, or which affect State programs.

3. The director will provide Federal agencies and the Congress with information about State policy and about conditions in the State, on matters about which the Federal Government is concerned.

4. The director will provide the Legislature with information useful to it in measuring the effect of Federal programs on State and Local programs.

5. The director shall make an annual report of its operations and recommendations and shall supply the Governor and all members of the Legislature with a copy thereof.

Legislative Information

Sec. 7. The Legislature may establish interim committees to work with and receive information from the director and develop and recommend legislation the committees think would be beneficial.

Information Describing Director's Functions; Complaints

Sec. 8. (a) The director shall prepare information of general interest describing his functions and describing the procedures by which complaints are filed with and resolved by the director. The director shall make the information available to the general public and appropriate state agencies.

(b) The director shall keep an information file about each complaint filed with the director relating to an activity of the office.

(c) If a written complaint is filed with the director relating to an activity of the office, the director, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Donations and Contributions; Audit

Sec. 9. (a) The office may accept on behalf of Texas such donations and contributions as in its discretion shall further the purposes and objectives of the office. A donation or contribution may not be used to pay any part of the compensation of a person who is an officer or employee of the office on the date the donation or contribution is received by the office.

(b) The State Auditor shall audit the financial transactions of the office during each fiscal year.

[Acts 1965, 59th Leg., p. 687, ch. 326. Amended by Acts 1971, 62nd Leg., p. 1733, c. 504, §§ 1 to 6, eff. Aug. 30, 1971; Acts 1977, 65th Leg., p. 1842, ch. 735, § 2.076, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 799, ch. 358, § 1, eff. Sept. 1, 1979; Acts 1983, 68th Leg., p. 94, ch. 15, § 1, eff. Sept. 1, 1983.]

Section 2 of the 1983 amendatory act provides:

"The requirements under Subsection (c), Section 4, Chapter 326, Acts of the 59th Legislature, Regular Session, 1965 (Article 4413d-1, Vernon's Texas Civil Statutes), as added by this Act, that the director develop an intraagency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of Subsection (c) of Section 4 that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985."

Art. 4413d-2. Coordinating Relationships Between Local Governmental Units and Federal Agencies

Declaration of Public Policy

Sec. 1. The Legislature finds that the federal government has established and continues to establish grant programs of direct assistance to cities, counties, school districts, hospital districts and other political subdivisions of the state and political subdivisions of the county, and that, due to the large number of such local governmental agencies in this state and that the lack of coincidence of service needs and taxing power within such local jurisdictions, it is frequently difficult for local government to marshal the technical and financial resources needed to meet the needs of its residents. For the state to assume its proper responsibility and leadership in meeting the needs of its residents, the declared policy of the state is to render technical assistance and to assume responsibility for coordinating relationships between local governmental units governed by this Act and federal agencies with regard to such programs.

Duty of Governor to Coordinate Actions of Political Subdivisions; Rules and Regulations

Sec. 2. Except where a single state agency is otherwise designated or established pursuant to any other law of this state, it shall be the duty of the Governor of the State of Texas or any state agency designated by the governor for such purpose to coordinate the actions of any city, county, school district, hospital district or any other political subdivision of the state or political subdivision of the county participating in any grant program established pursuant to an Act of Congress or administrative ruling pursuant thereto. Such coordination shall be established under such rules and regulations as the governor or the state agency designated for such purpose shall promulgate. Such rules and regulations shall be approved by the Attorney General of Texas and filed with the secretary of state.

Requesting Governor or State Agency to Stand in Place of Political Subdivision; Revocation of Request

Sec. 3. Any city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county may in the discretion of the governing body of such city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county by order or resolution request the governor or the state agency established for such purpose to stand in the place and stead of such city, county, school district, hospital district or political subdivision of the state or political subdivision of the county in any matter pertaining to requests for financial assistance, either grants or loans, as to any agreement or assurance of compliance or requirement in connection therewith and as to any enforcement action relating thereto, which may be designated in such request. The governing body of any city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county which has requested the governor or the state agency designated by the governor for such purpose to stand in its place and stead may by order or resolution revoke such request under any authority delegated thereby to the governor or the state agency established for such purpose.

Applications for Federal Grants Submitted to Governor or State Agency; Approval or Disapproval of Grants Outlined in Request

Sec. 4. Whenever the governing body of any city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county has requested the Governor of the State of Texas or the state agency established for such purpose to stand in the place and stead of such city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county, all applications for federal grants designated by such local governing body shall be submitted to the governor or such agency of the state established for such purpose. The governor or such state agency shall approve or disapprove grants outlined in the request by the local governing body whenever any federal financial assistance, grant, loan or contract which would accrue to such city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county under any existing federal assistance program is withheld from any such local governmental unit or if payment is deferred because of any action by any agency of the federal government in connection with the federal financial assistance program, the governor or the state agency established for such purpose shall take whatever action in the discretion of the governor or such state agency established for such purpose deems necessary or appropriate to meet the needs of such city, county, school district, hospital district,

or other political subdivision of the state or political subdivision of the county.

[Acts 1967, 60th Leg., p. 920, ch. 403, eff. June 8, 1967.]

Art. 4413d-3. Contracts with Federal Government for Eradication of Noxious Vegetation from State Waters

The Parks and Wildlife Department is hereby authorized to enter into contracts, agreements or perform these services with departmental personnel, for the eradication of noxious vegetation from the waters of this state. Out of any money appropriated to the Parks and Wildlife Department from the Land and Water Recreation and Safety Fund No. 63, for the fiscal biennium ending August 31, 1969, and ensuing bienniums, the Department may expend the sum of \$200,000, or so much of this amount as may be needed to carry out the purposes of this Act.

[Acts 1967, 60th Leg., p. 1795, ch. 685, § 1, eff. June 17, 1967. Amended by Acts 1969, 61st Leg., p. 1480, ch. 439, § 1, eff. June 4, 1969.]

CHAPTER FOUR-E. ENERGY AND WATER RESOURCE CONSERVATION [REPEALED]

Art. 4413e-1. Repealed by Acts 1979, 66th Leg., p. 2007, ch. 785, § 9, eff. June 13, 1979

See, now, Natural Resources Code, § 142.001 et seq.

CHAPTER FIVE. DEPARTMENT OF PUBLIC SAFETY

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Art. 4413(1). Creation of the Department of Public Safety

There is hereby created a Department of Public Safety of the State of Texas, hereinafter designated as "the Department," in which is vested the enforcement of the laws protecting the public safety and providing for the prevention and detection of crime. The Department shall have its principal office and headquarters in the City of Austin, where all of its records shall be kept.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 1.]

Art. 4413(1a). Application of Sunset Act

The Department of Public Safety is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the department is abolished effective September 1, 1987.

[Acts 1977, 65th Leg., p. 1850, ch. 735, § 2.129, eff. Aug. 29, 1977.]

¹ Article 5429k.

Art. 4413(2). Creation of the Public Safety Commission

The control of the Department is hereby vested in the Public Safety Commission, hereinafter designated as "the Commission," which Commission shall consist of three citizens of this State. The Govern-

nor shall, within thirty days after this Act shall take effect, appoint the members of the Commission by and with the advice and consent of the Senate to hold office until December 31, 1935, and they shall constitute the Public Safety Commission; and on the 1st day of January, 1936, the Governor shall appoint one member to hold office for two years, one or four years, and one for six years, and at the end of every two years thereafter, the Governor shall in like manner, by and with the advice and consent of the Senate of the State of Texas, appoint one citizen of Texas as the successor of the member of the Commission whose term shall expire in that year, to serve as such member of six years and until his successor is appointed and qualified. The Commission shall elect annually one member of the Commission to serve as chairman thereof. Two members of the Commission shall constitute a quorum. In the event of a vacancy occurring on said Commission, the Governor shall appoint a new member of the Commission to fill the said vacancy for such unexpired term, such appointment to be subject to the advice and consent of the Senate of the State of Texas, at the next session thereof. The members of the Commission shall be selected because of their peculiar qualifications fitting them for these positions. In the appointment of the members of the Commission, the following qualifications among others shall be observed: Knowledge of laws; experience in the enforcement of law; honesty, integrity; education, training and executive ability. They shall serve without compensation, but shall be entitled to receive Ten (\$10.00) Dollars per day as an expense account and necessary mileage in the performance of their duties, such expense allowance shall not exceed Five Hundred (\$500.00) Dollars annually for each member.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 2.]

Art. 4413(3). Organization of the Commission

The Commission shall meet at such time and places as they may provide for by rules or as the chairman or any two members may call.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 3.]

Art. 4413(4). Duties and Powers of the Commission

(1) The Commission shall formulate plans and policies for the enforcement of the criminal laws and of the traffic and safety laws of the State, the prevention of crime, the detection and apprehension of violators of the laws, and for the education of the citizens of the State in the promotion of public safety and law observance.

(2) It shall organize the Department and supervise its operation; it shall establish grades and positions for the Department, and for each grade and position it shall designate the authority and responsibility within the limits of this Act. For each such grade and position so established, the Commission shall set standards of qualifications and shall fix prerequisites of training, education and

experience, and shall make necessary rules and regulations for the appointment, promotion, reduction, suspension and discharge of all employees after hearings before the said Commission; that any officer or employee of the said Department who shall be discharged shall upon application to the Commission be entitled to a public hearing before said Commission and the Commission shall determine whether such discharge shall be affirmed or set aside. All persons inducted into the service of the Department shall be considered on probation for the first six months and at any time during such period they may be discharged if found to be unsuitable for the work by the director, with the advice and consent of the Commission, and, if so discharged, such persons shall not be entitled to the public hearing hereinabove provided for.

(3) The Commission shall establish and make public proclamation of all rules and regulations for the conduct of the work of the Department as may be deemed necessary and as may not be inconsistent with the provisions of this Act or of the laws of the State.

(4) The Commission shall maintain records of all proceedings and official orders.

(5) The Commission shall biennially submit a report of its work to the Governor, and the Legislature, with its recommendations and those of the Public Safety Director. A quarterly statement containing an itemized list of all moneys received, and from what sources received, and all moneys expended and for what purposes expended, shall be prepared by the Director sworn to and filed in the records of the Department and a copy shall be sent to the Governor.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 4.]

Art. 4413(4a). Expenditure of Public Funds; Purposes

In addition to the authority now provided by law, the Texas Department of Public Safety may expend public funds for the purposes of paying salaries, seasonal or contingent help, travel, transportation, automobile maintenance and repairs, maintenance and repairs of aircraft, gas, oil, tires, bond premiums, office and equipment rentals, storage, repairs, forage, duplicating supplies, printing, telephone, telegraph, postage, stationery, clothing and furnishings, express, freight, drayage, utilities, service materials, office supplies, books, drugs, medical, hospital and laboratory expense, and funeral expense when death results in line of duty, necessary expenses for training and for operating law enforcement training schools, miscellaneous operating expenses, purchase of equipment, guns, automobiles, aircraft, land and construction costs, and any and all necessary equipment, services and supplies for the enforcement of all laws under the supervision of the Department of Public Safety.

[Acts 1957, 55th Leg., 1st C.S., p. 99, ch. 34, § 1.]

Art. 4413(5). Director and Assistant Directors; Salary

The Commission shall appoint a Public Safety Director hereinafter designated as the "Director," who shall be a citizen of this State and who shall hold his position until removed by the Commission. The Commission shall also appoint an Assistant Director who shall perform such duties as may be designated by the Director. The Director and Assistant Director shall be selected on the basis of training, experience, and qualifications for said positions, and shall have at least five (5) years experience, preferably police or public administration. The Director and Assistant Director shall draw annual salaries as fixed by the Legislature. The Director shall be directly responsible to the Commission for the conduct of all the affairs of the Department.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 5. Amended by Acts 1937, 45th Leg., p. 772, ch. 373, § 1.]

Art. 4413(6). Duties and Powers of the Director

(1) The Director shall act with the Commission in an advisory capacity, without vote, and shall quarterly, annually and biennially submit to the Commission detailed reports of the operation of the Department and statements of its expenditures.

(2) He shall be the executive officer of the Department, and subject to the approval of the Commission and to the provisions of this Act, he shall have authority to appoint, promote, reduce, suspend and discharge all officers and employees of the Department. He shall issue and sign requisition as provided by law for the purchase of supplies for the office and officers of the Department, suitable uniforms, arms and equipment; and make such rules and regulations, subject to the approval of the Commission, as are deemed necessary for the control of the Department.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 6.]

Art. 4413(7). Authority to Issue Commissions

The Director, under the direction of the Commission, shall issue commissions as law enforcement officers to all members of the Texas Rangers, to all members of the Texas Highway Patrol, and to such other officers of the Department as may be employed by the said Department.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 7.]

Art. 4413(8). Appointment of Division and Bureau Chiefs

It shall be the duty of the Director with the advice and consent of the Commission to appoint the Chiefs of the several Bureaus provided for in this Act.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 8. Amended by Acts 1937, 45th Leg., p. 772, ch. 373, § 2.]

Art. 4413(9). Appointment, Promotions, and Discharges

(1) The appointment and promotion of all officers and employees, shall be made on the basis of merit, to be determined by examinations under the rules and regulations of the Commission which shall take into consideration the age, physical condition, experience and education of the applicant. All persons who have applications on file for any position in the Department shall be given reasonable written notice of the place and time where said examinations are to be held.

(2) All applicants for positions in the Department shall be citizens of the United States of America. No applicant for a position in the Department shall be questioned at any time as to his religious faith or beliefs, or as to his political affiliations. No person in the Department shall contribute any money or other thing of value for political purposes, nor shall any person in the Department engage in political activities or campaign for or against any candidate for any public office in this state. Any person violating any provision of this subsection shall forfeit his position with the Department.

(3) No officer or employee of the Department shall be discharged without just cause. The Director shall determine whether or not the officer or the employee be discharged; and in case he is ordered discharged, he shall have the right to appeal to the Commission; during such appeal, he shall be suspended without pay.

(4) The chiefs of the several Divisions and Bureaus, after due investigation, shall at least annually make a report to the Commission of the efficiency of each employee within such Division or Bureau. These reports shall be kept in the permanent files of the Commission, and shall be given proper consideration in all matters of promotion and discharge.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 9. Amended by Acts 1967, 60th Leg., p. 61, ch. 35, § 1, eff. April 3, 1967; Acts 1983, 68th Leg., p. 4640, ch. 799, § 1, eff. Aug. 29, 1983.]

Art. 4413(10). Department Divisions

The Department shall be composed of three divisions; i.e.

(a) The Texas Rangers;

(b) The Texas Highway Patrol; and

(c) The Headquarters Division, and such other divisions as the Commission may deem necessary.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 10.]

Art. 4413(11). The Texas Rangers

(1) The Texas Rangers Force and its personnel, property, equipment and records, now a part of the Adjutant General's Department of the State of Texas, are hereby transferred to and placed under the jurisdiction of the Department of Public Safety, and are hereby designated as the Texas Rangers, and as

such, constitute the above mentioned division of the Department.

(2) The Texas Rangers shall consist of six (6) captains, one headquarters sergeant, and such number of privates as may be authorized by the Legislature, except in cases of emergency when the Commission, with the consent of the Governor, shall have authority to increase the force to meet extraordinary conditions.

(3) The compensation of the officers shall be such as allowed by the Legislature.

(4) The officers shall be clothed with all the powers of peace officers, and shall aid in the execution of the laws.

They shall have authority to make arrests, and to execute process in criminal cases; and in civil cases when specially directed by the judge of a court of record; and in all cases shall be governed by the laws regulating and defining the powers and duties of sheriffs when in the discharge of similar duties; except that they shall have the power and shall be authorized to make arrests and to execute all process in criminal cases in any county in the State. All officers operating by virtue of this Act shall have the authority to make arrests, as directed by warrants, and without a warrant under the conditions now authorized by law, and also in all cases when the alleged offender is traveling on a railroad, in a motor vehicle, aeroplane or boat. When any of said force shall arrest any person charged with a criminal offense, they shall forthwith convey said person to the county where he so stands charged, and shall deliver him to the proper officer, taking his receipt therefor. All necessary expenses thus incurred shall be paid by the State.

(5) Special Rangers. The Commission shall have authority to appoint as Special Rangers honorably retired commissioned officers of the Texas Department of Public Safety, and shall, in addition, have authority to appoint such number of Special Rangers as may be deemed advisable, not to exceed three hundred (300) in number; such rangers shall not have any connection with any Ranger Company or uniformed unit of the Department of Public Safety, but they shall at all times be subject to the orders of the Commission and the Governor for special duty to the same extent as the other law enforcement officers provided for in this Act; such Special Rangers, however, shall not have the authority to enforce any laws except those designed to protect life and property, and such rangers are especially denied the authority to enforce any laws regulating the use of the State highways by motor truck and motor buses and other motor vehicles. Such rangers shall not receive any compensation from the State for their services, and before the issuance of the commission each such ranger shall enter into a good and sufficient bond executed by a Surety Company authorized to do business in Texas in the sum of Twenty-five Hundred Dollars (\$2,500), approved by the Director, indemnifying all persons

against damages accruing as the result of any illegal or unlawful acts on the part of such Special Ranger. All Special Ranger Commissions shall expire on January 1st of the odd year after appointment, and the Director can revoke any Special Ranger Commission at any time for cause, and such officer shall be designated in the Commission as Special Ranger.

(6) In the execution of the laws of the State under the Department of Public Safety, the officials shall in all cases where it becomes necessary to seize property and destroy the same, to proceed as now provided by law; and all property so seized shall be stored and a list thereof presented to a District Judge in the District where such property is seized, who shall dispose of same in the mode and manner now provided by Articles Nos. 5112, 5113 and 5114, Revised Civil Statutes, 1925.¹

Any official disregarding these provisions shall by virtue thereof be subject to removal from office.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 11. Amended by Acts 1937, 45th Leg., p. 772, ch. 373 § 3; Acts 1971, 62nd Leg., p. 2072, ch. 637, § 1, eff. Aug. 30, 1971.]

¹ Repealed. See, now, Penal Auxiliary Laws, art. 666-1 et seq.

Acts 1971, 62nd Leg., p. 1986, ch. 614, created a Texas Ranger Commemorative Commission to commemorate the Texas Rangers during their 150th anniversary year (1973).

Art. 4413(12). The Texas Highway Patrol

(1) The State Highway Motor Patrol of Texas and its personnel, property, equipment and records, now a part of the Highway Department of the State of Texas, are hereby transferred to and placed under the jurisdiction of the Department of Public Safety, and are hereby designated as the Texas Highway Patrol, and as such constitute the above mentioned division of the Department.

Text of (2) as amended by Acts 1937, 45th Leg., p. 174, ch. 91, § 1

(2) The Texas Highway Patrol Division of the Department of Public Safety shall consist of Chief Patrol Officer, who shall be the executive officer of the Patrol, and not exceeding fifteen (15) captains, and not exceeding twenty (20) sergeants and not exceeding three hundred (300) privates, and such clerical help as may be determined by the Legislature in its biennium appropriation bill. Provided that if an applicant be otherwise qualified as a private thereunder, his literary attainment shall not preclude his appointment as such private.

Text of (2) as amended by Acts 1937, 45th Leg., p. 772, ch. 373, § 4

(2) The Texas Highway Patrol Division shall consist of the Chief Patrol Officer who shall be the executive officer of the Patrol and such number of captains, sergeants, and privates as may be authorized by the Legislature, and such administrative and clerical help as may be determined by the Commission.

(3) The compensation of the officers shall be such as allowed by the Legislature.

(4) The officers, non-commissioned officers and enlisted men of the Texas Highway Patrol shall be, and they are hereby clothed with all the powers and authority which they now have and exercise as members of the State Highway Motor Patrol of Texas, and their duties and functions shall be the same as the duties and functions they are now performing. In addition they shall be, and they are hereby clothed with all the powers and authority which is in this Act or otherwise by law given to members of the Texas Ranger force.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 12. Amended by Acts 1937, 45th Leg., p. 174, ch. 91, § 1; Acts 1937, 45th Leg., p. 772, ch. 373, § 4.]

Art. 4413(13). The Headquarters Division

There is hereby created, as an integral part of the Department, a Headquarters Division, consisting of the Bureaus of Identification and Records, Communications, Intelligence and Education. With the advice and consent of the Commission, the Director shall employ such chiefs, experts, operators, instructors and assistants as may be necessary for the operation of this Division and the several Bureaus therein.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 13.]

Art. 4413(14). The Bureau of Identification and Records

(1) It shall be the duty of the Director to appoint, with the advice and consent of the Commission, a Chief of the Bureau of Identification and Records, who shall be the executive officer. The Chief of the Bureau and at least one assistant shall be recognized identification experts, and with at least three years' actual experience. This Bureau shall procure and file for record, photographs, pictures, descriptions, fingerprints, measurements and such other information as may be pertinent, of all persons who have been or may hereafter be convicted of a felony within the State, and also of all well known and habitual criminals wheresoever the same may be procured. The Bureau shall collect information concerning the number and nature of offenses known to have been committed in this State, of the legal steps taken in connection therewith, and such other information as may be useful in the study of crime and the administration of justice. It shall be the duty of the Bureau to co-operate with the bureaus in other states, and with the Department of Justice in Washington, D.C. It shall be the duty of the Chief of the Bureau to offer assistance, and, when practicable, instruction, to sheriffs, chiefs of police, and other peace officers in establishing efficient local bureaus of identification in their districts.

(2) The Bureau shall make ballistic tests of bullets and firearms, and chemical analyses of blood-

stains, cloth, materials and other substances, for the officers of the State charged with law enforcement.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 14.]

Art. 4413(15). The Bureau of Communications

(1) It shall be the duty of the Director with the advice and consent of the Commission to name the Chief of the Bureau of Communications.

(2) This Bureau may, when funds are provided, install and operate a police radio broadcasting system for the broadcasting of information concerning the activities of violators of the law, and for the directing of the activities and functions of the law enforcement agencies of the State, the counties and the municipalities. It shall co-operate with county and municipal police authorities and with police radio stations, in this State and in other states.

(3) The Bureau shall establish and operate a State Roads Blockade System, in co-ordination with State, county and municipal law enforcement agencies.

(4) This Bureau shall provide for the rapid exchange of information, concerning the commission of crimes and the detection of violators of the law, between the law enforcement agencies of this State, its counties and municipalities and other states and the national government.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 15. Amended by Acts 1937, 45th Leg., p. 772, ch. 373, § 5.]

Art. 4413(16). The Bureau of Intelligence

(1) It shall be the duty of the Director with the advice and consent of the Commission to name the Chief of the Bureau of Intelligence.

(2) This Bureau shall, with the aid of the other Divisions and Bureaus of the Department, accumulate and analyze information of crime activities in the State, and shall make such information available for the use of the Department and of county and municipal police and law enforcement agencies.

(3) It shall aid in the detection and apprehension of violators of the law.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 16. Amended by Acts 1937, 45th Leg., p. 772, ch. 373, § 6.]

Art. 4413(17). The Bureau of Education

(1) It shall be the duty of the Director with the advice and consent of the Commission to name the Chief of the Bureau of Education. The Chief of said Bureau shall organize schools for the members of the Department and other peace officers, and shall give instruction in such schools, and he shall have had substantial experience in law enforcement work and in the instruction of law enforcement officers.

(2) This Bureau shall establish and operate schools for the training of the personnel of the Department in their respective duties and functions.

(3) This Bureau shall establish and operate schools for the training of county and municipal

police officers who have been selected to attend such schools by the authorities of the law enforcement agencies by which they are employed.

(4) A comprehensive plan shall be established and carried out for the education of the citizens of this State in matters of public safety and crime prevention and detection.

(5) The Adjutant General shall provide suitable buildings, land and State owned equipment located in Camp Mabry, Austin, Texas, for the use of this Bureau in the conduct of its training schools.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 17. Amended by Acts 1937, 45th Leg., p. 772, ch. 373, § 7.]

Art. 4413(17a). Supplemental Pay for Certain Commissioned Officers

(a) This section applies to an officer commissioned by the Department of Public Safety who is not employed in a position the director of the department has declared to be administrative, executive, or professional.

(b) If, during a calendar week, the total of the hours worked by a commissioned officer and the hours of leave taken for which the officer is entitled to compensation, including approved sick leave, vacation, holidays, holiday compensatory time, emergency leave, administrative leave, and jury duty, is more than 40 hours, the excess is overtime. For each calendar month, the overtime for each week ending during that month shall be totaled. If the total overtime for the month exceeds eight hours, the officer may receive, in addition to his regular monthly salary, a supplement according to the following applicable formula:

(1) a commissioned officer who accumulates more than eight hours but less than 16 hours of overtime in a given calendar month may receive five percent of the officer's regular monthly salary;

(2) a commissioned officer who accumulates 16 or more hours but less than 32 hours of overtime in a given calendar month may receive 10 percent of the officer's regular monthly salary; and

(3) a commissioned officer who accumulates 32 or more hours of overtime in a given calendar month may receive 15 percent of the officer's regular monthly salary.

(c) The formula prescribed by Subsection (b) of this section is the exclusive method of computing state compensation for overtime entitlements.

(d) A commissioned officer may receive a supplement paid by the federal government and earned while working on a project funded by the federal government, and that supplement may not be considered in determining a commissioned officer's entitlement to the supplement described in Subsection (b) of this section.

(e) This section applies only to the computation of overtime entitlements and does not apply to the

method of compensating a commissioned officer for working on regularly scheduled state holidays.

(f) If the funds appropriated to the department to provide supplemental pay are insufficient to pay all earned overtime entitlements, the director of the department may provide for compensatory time to be taken during the biennium in which the entitlements are earned.

[Acts 1977, 65th Leg., p. 1377, ch. 548, § 1, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 3196, ch. 549, § 1, eff. Sept. 1, 1983.]

Section 2 of the 1983 amendatory act provides:

"This Act applies only to overtime entitlements earned after the effective date of this Act."

Art. 4413(18). Establishment of District Headquarters

The Commission may establish district headquarters and stations at various places in the State, with the personnel and equipment necessary for the proper functioning and operation thereof.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 18.]

Art. 4413(18a). Branch Crime Detection Laboratories; Counties to Furnish Building Space; Department to Equip and Operate

Sec. 1. The Commissioners Court of each county in this State is hereby authorized to furnish to the State Department of Public Safety the necessary building space for establishing a branch crime detection laboratory to serve the general area of the State in which the county is located. When a county offers to furnish the necessary space, the Department of Public Safety is authorized to equip and operate the laboratory within the limits of its general authority and available appropriations. Except where the Legislature has specifically directed the establishment and operation of a branch laboratory, the Public Safety Commission shall have the discretion to decide whether a branch laboratory should be established or maintained.

Sec. 2. Upon the condition that the Commissioners Court of El Paso County shall furnish without cost to the State the necessary building space, the Department of Public Safety is hereby specifically directed to establish and operate a branch crime detection laboratory in El Paso County for the purpose of serving the West Texas area, whenever in the discretion of the Department of Public Safety the efficient enforcement of law necessitates the establishment of such branch crime detection laboratory, and sufficient funds are available in the department.

[Acts 1957, 55th Leg., p. 1265, ch. 423.]

Art. 4413(19). Law Enforcement Officers Shall Be Associate Members

The sheriffs and constables of the several counties in this State, and the chiefs of police of all incorporated municipalities, are hereby made associ-

ate members of the Department, and are entitled to all rights and privileges granted to them by the Department.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 19.]

Art. 4413(20). Director May Call Upon Law Enforcement Officers for Assistance

The director shall have the authority to call upon any sheriff or other police officer in any county or municipality within the limits of their respective jurisdictions, for aid and assistance in the performance of any duty imposed by this Act; and upon being notified or called upon for such aid and assistance, it shall be the duty of such officer concerned to comply with such order to the extent requested.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 20.]

Art. 4413(21). Director Shall Provide for Cooperation

The Director, with the advice and consent of the Commission, shall formulate and put into effect plans and means of cooperating with the sheriffs and local police and peace officers throughout the State for the purpose of the prevention and discovery of crimes and the apprehension of criminals and the promotion of public safety; and it shall be the duty of all such local police and peace officers to cooperate with the Director in such plans. Every telegraph and telephone company and radio station operating within this State shall grant priority of service to the police agencies and to the Department of Public Safety, when notified that such service is urgent in the interests of the public welfare.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 21.]

Art. 4413(22). State Supported Educational Institutions Shall Assist

The University of Texas and all other State supported educational institutions shall cooperate with the Department in carrying out the provisions of this Act, and shall aid and assist in the giving of instruction in the training schools conducted by the Bureau of Education, and shall aid and assist the Bureau of Identification and Records in the making of such chemical tests and analyses as are necessary, and in the making of statistical analyses, charts and reports of law enforcement and violations of law; the nature and extent of such aid and assistance is to be agreed upon and arranged for by the Commission and the President of the educational institution called upon for such aid and assistance.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 22.]

Art. 4413(23). State Officials and Departments Shall Assist

The Attorney General of the State of Texas, the Highway Department, the Public Health Department and all other departments of the government of the State of Texas shall cooperate with the

Department of Public Safety in the execution of the provisions of this Act and in the enforcement of the laws of the State concerning crime prevention and detection and the public safety. The Board of Control is hereby directed to provide suitable quarters for the Department of Public Safety in the basement of the Land Office Building until more suitable quarters are available.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 23.]

Art. 4413(24). When the Governor Shall Command the Department

Upon the occurrence of a public disaster, riot, or insurrection, or the formation of a dangerous resistance to the enforcement of the law, or for the purpose of performing his constitutional duty to cause the laws to be enforced, the Governor of this State shall have the authority to assume the command of and direct the activities and functions of the Commission and of the Department during the existence of such emergency or necessity. In the event that the Governor of this State shall take such action, he shall first use the officers and personnel of the Department other than the Texas Highway Patrol and the said Patrol shall so be called upon or diverted from its regular duties only in the event that the Department is otherwise unable to cope with the emergency.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 24.]

Art. 4413(25). State Shall Provide Necessary Buildings, Equipment, Et Cetera

The State of Texas shall provide the necessary buildings, offices and quarters for the Department and its officers and employees in the City of Austin, Texas, and in such other places in the State as district headquarters shall be established, and it shall also provide for the equipment of the Department and the Divisions, bureaus and branches thereof, with the furniture, fixtures, automobiles, motorcycles, horses, firearms, ammunition, uniforms, appliances and materials necessary to the proper functioning and operation thereof.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 25.]

Art. 4413(26). Provisions for Transfer of Funds and Appropriations

For the purpose of carrying out the provisions of this Act, there is hereby transferred to the credit of an account to be designated and known as the Department of Public Safety of the State of Texas, any moneys in the General Fund credited to the Texas Ranger Force of the Adjutant General's Department, the Highway Motor Patrol Division of the Highway Department of the State of Texas for the remainder of the biennium commencing on the effective date of this Act, and there is hereby appropriated out of the General Revenue of this State the additional sum of Five Thousand (\$5,000.00) Dollars for the purpose of carrying out the provisions of this Act for the biennium ending August 31, 1935, and thereafter by moneys to be appropriated by the

Legislature of the State of Texas. All appropriations for the Texas Highway Patrol shall be made by the Legislature from and out of the State Highway Fund.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 26.]

Art. 4413(27). Provisions for Transfer of Pending Business

All matters and orders pending before or made by any office or department or unit transferred under this Act to this Department, shall be deemed to be continued with like status in such Department.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 27.]

Art. 4413(28). Provision in Event of Unconstitutionality of a Portion of This Act

Should any section or provision of this Act be held to be unconstitutional by any court of competent jurisdiction, the same shall not affect the validity of the Act as a whole, or any part thereof, other than the portion so held to be invalid. The Legislature hereby declares that it would have passed this Act had such part been omitted.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 28.]

Art. 4413(29). Repeal of Inconsistent Laws

All laws or parts of laws inconsistent or conflicting with the provisions of this Act are hereby repealed.

[Acts 1935, 44th Leg., p. 444, ch. 181, § 29.]

Art. 4413(29a). Plant and Buildings for Department

Sec. 1. The Texas Department of Public Safety is authorized and fully empowered to construct a physical plant consisting of appropriate buildings, structures and equipment, upon the land hereinafter described. Such plant shall be under the control and management of the Texas Department of Public Safety for the use and benefit of the State in the discharge of the official duties of said Department.

Sec. 2. The tract of land now owned by the State of Texas and upon which such building or buildings shall be erected is described as follows, to-wit: 84-¹²/₁₀₀ acres situated about one mile North of the Austin State Hospital and being what is known as the old Linzing home tract, being more particularly described as follows: 84-¹²/₁₀₀ acres of land in Travis County, Texas, about one mile North of the City of Austin, Texas, and a part of the James P. Wallace League Survey No. 57, and by metes and bounds described as follows: Beginning at a stake in the West line of said league 1502 varas from its S. W. corner. Thence S. 60° E. 533½ varas crossing Waller Creek to a stone set in its East Bank. Thence N. 31° 10" E. crossing said creek at 12-240 & 401 varas, at 605 varas a stone on West bank of same. Thence S. 59-¾° E. 160 varas to a stone for corner. Thence parallel with a line of Bois D'Arc Ledge 211½ varas to a stone for corner.

Thence No. 60° W. crossing a tank about 50 varas wide, 706⅞ to a stake on the West line of said League. Thence with said West line S. 30° W. 816 varas to the place of beginning.

There is, however, excepted from this Act, all that lot, tract or parcel of land consisting of 25.69 acres conveyed to the Austin Independent School District by House Bill No. 606, Acts of the 51st Texas Legislature,¹ said 25.69 acres being a part of the 84.12 acres described by metes and bounds herein.

Sec. 3. The Texas Department of Public Safety may employ architects to prepare plans, specifications, drafts, and such other architectural aids as may be necessary and to supervise the construction and equipping of such building or buildings; and may also expend such other sums as are necessarily incidental to such construction and equipping. The contracts for the construction and equipping of any such building shall be let on competitive bids to the lowest and best bidder after reasonable advertisement; the Department may reject any and all bids.

Sec. 4. For the purpose of carrying out the provisions of this Act there is hereby appropriated to the Texas Department of Public Safety all funds remaining in the Operator and Chauffeurs License Fund (created by Section 15 of Article III of House Bill No. 20, as amended), on August 31, 1949, August 31, 1950 and August 31, 1951.

All disbursements hereunder shall be by warrant issued by the Comptroller upon vouchers drawn by the Chairman of the Department of Public Safety and approved by one other member of the Commission or the Director, and such voucher shall be accompanied by itemized sworn statements of the expenditures for which they are issued.

Sec. 5. All laws and parts of laws in conflict herewith are hereby suspended to the extent of such conflict and for the periods of time necessary to give effect to this Act.

[Acts 1949, 51st Leg., p. 882, ch. 475.]

¹ Acts 1949, p. 718, ch. 381.

Art. 4413(29b). Construction of Act; Reorganization or Consolidation by Commission

The enumeration herein of certain designated divisions and chiefs of divisions shall not be construed as mandatory and nothing herein shall prevent the Public Safety Commission from affecting a reorganization or consolidation in the interest of the more efficient and economical management and direction of the Department, it being the purpose of this Act to authorize the Director, with the approval of the Public Safety Commission, to organize and maintain within this Department such divisions of service as are deemed necessary for the efficient conduct of the work of the Department. Provided that the number of divisions shall not exceed the number of divisions existing at the time of passage of this Act.

And further that the division relating to Texas Rangers shall not be abolished.

[Acts 1957, 55th Leg., p. 554, ch. 261, § 1.]

Art. 4413(29c). Licensing Commercial Driver-Training Schools and Instructors

Definitions of Words and Phrases

Sec. 1. The following words and phrases when used in this Act shall, for the purposes of this Act have the meanings respectively ascribed to them in this section:

(a) "Commercial driver-training school" or "school" means any enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition for such services.

(b) "Commercial driver-training school branch office" is a training facility operated by a commercial driver-training school at a different location than the home training facility where the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition therefor is carried on.

(c) "Driver-training instructor" or "instructor" means any person who for hire or for tuition teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles.

(d) "Department" means the Department of Public Safety of this state, acting directly or through its duly authorized officers and agents.

(e) "Hearing Officer" is an officer or employee of the Department appointed by the Director, which officer or employee shall have a minimum of five years' experience as a supervisor and a thorough knowledge of this Act and the rules and regulations of the Department relative thereto.

(f) "Motor vehicle" includes every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(g) "Supervisory driver-training instructor" or "supervisory instructor" means any person who, for hire or tuition, conducts classes of, gives demonstration to, or supervises practice of persons learning to become driver-training instructors, and to operate or drive motor vehicles.

A License Required for Commercial Driver-Training School

Sec. 2. No person, firm, association, partnership, or corporation shall operate a commercial driver-training school after January 1, 1968, unless a license as a commercial driver-training school has been secured from the Texas Department of Public

Safety, provided that training or classes conducted by colleges, universities, high schools, and junior high schools for regularly enrolled students as a part of the normal program for such institutions shall be exempt.

Application for Commercial Driver-Training School License

Sec. 3. The application for a license shall be made on forms supplied by the Texas Department of Public Safety and must state specifically the name and address of such school or training facility, and give the name and address of the person, each member of the firm or association, each member of the partnership or corporation, and of each director and officer of such corporation. The application shall also contain the following information:

(a) The name and address of each branch office of such commercial driver-training school;

(b) The name and address of each instructor;

(c) Such other information relating to the operation of such school as may be required by the Texas Department of Public Safety to insure that the public interest will be protected;

(d) An agreement that the school will be operated in conformity with the rules and regulations established by the Texas Department of Public Safety for the operation of commercial driver-training schools.

Requisites for License

Sec. 4. Before the Department of Public Safety shall issue such license, the person, firm, association, partnership, or corporation shall:

(a) Execute a bond in the sum of \$10,000, signed by a solvent guaranty company authorized to do business in the State of Texas, payable to the Texas Department of Public Safety, conditioned that the principal on said bond will:

(1) Carry out and comply with each and all contracts made or entered into by said school or branch school, acting by and through its officers or agents, with any student who desires to enter such school and to take the course in driver-training; and

(2) To pay back to such student all amounts collected for tuition and fees in case of failure on the part of the school to comply with its contracts to give the instruction contracted for, and for the period evidenced by such contract on a pro rata basis.

(b) Maintain motor vehicle liability insurance covering the school, instructors, and any person taking instruction in the amount as prescribed by the Department but in no event less than \$10,000 for bodily injury to or death of one person in any one accident, and \$20,000 for bodily injury to or death of two or more persons in any one accident, and \$5,000 for damage to property in any one accident. In the event the insurance coverage hereinabove referred to is to be cancelled, a copy of the written notice of

cancellation must be furnished forthwith to the Director by either registered or certified mail.

(c) Provide adequate office, classroom, and motor vehicle facilities in compliance with the rules and regulations established by the Department of Public Safety to insure that the quality of instruction and training shall not be inimical to the public interest.

(d) Comply with such other rules and regulations as may be promulgated by the Department of Public Safety to insure adequate driver instruction.

License Required for Supervisory Driver-Training Instructor and Driver-Training Instructor

Sec. 5. No person shall teach or give driver-training for hire or for tuition, either as an individual or in a commercial driver-training school, or any phase of driver-training or education after January 1, 1968, unless a license as a driver-training instructor or supervisory driver-training instructor has been secured from the Department, provided that instructors in classes conducted by colleges, universities, high schools, and junior high schools for regularly enrolled students as a part of the normal program for such institutions shall be exempt.

Application for Supervisory Driver-Training Instructor's License

Sec. 6. (a) The application for a license as a supervisory driver-training instructor shall be made on forms supplied by the Department of Public Safety. A person is qualified to receive a supervisory driver-training instructor's license who:

- (1) Is at least 21 years of age;
- (2) Is of good moral character;
- (3) Is a citizen of the United States;
- (4) Has no contagious disease;
- (5) Holds a valid Texas chauffeur's license;
- (6) Has successfully completed three semester hours in safety education and three semester hours in driver education or their equivalent;
- (7) Has passed an examination conducted by the Department of Public Safety to determine his competency to obtain a license to practice as a supervisory driver-training instructor;
- (8) Has two years' satisfactory driving experience as approved by the Department.

(b) On the effective date of this Act, any person who is actually engaged or employed as a supervisory driver-training instructor and has a minimum of one year's experience in such activity shall, upon application within 90 days after the effective date of this Act and payment of the required license fees, be issued a supervisory driver-training instructor's license effective no longer than one year from the date of issuance, provided, however, that the Department of Public Safety may require such applicant to submit satisfactory proof that he is so engaged and comply with the requirements set out

in Section 6(a) above, except the requirement of Subsection (6). Such license shall be renewable annually so long as he complies with Department rules and regulations.

Application for Driver-Training Instructor's License

Sec. 7. (a) The application for a license as a driver-training instructor shall be made on forms supplied by the Department of Public Safety. A person is qualified to receive a driver-training instructor's license who:

- (1) Is at least 21 years of age;
- (2) Is of good moral character;
- (3) Is a citizen of the United States;
- (4) Has no contagious disease;
- (5) Holds a valid Texas chauffeur's license;
- (6) Has successfully completed 40 clock hours in safety education and driver-training under the supervision of a supervisory driver-training instructor;
- (7) Has passed an examination conducted by the Department of Public Safety to determine his competency to obtain a license to practice as an instructor;
- (8) Has two years' satisfactory driving experience as approved by the Department.

(b) On the effective date of this Act, any person who is actually engaged or employed as a driver-training instructor and has a minimum of one year's experience in such activity shall, upon application within 90 days after the effective date of this Act and payment of the required license fees, be issued a driver-training instructor's license effective no longer than one year from the date of issuance, provided, however, that the Department of Public Safety may require such applicant to submit satisfactory proof that he is so engaged and comply with the requirements set out in Section 7(a) above, except the requirement of Subsection (6). Such license shall be renewable annually so long as he complies with Department rules and regulations.

License Fees

Sec. 8. Each application for an original commercial driver-training school or branch office license shall be accompanied by a \$150 investigation fee and upon approval shall pay an annual license fee of \$200. The investigation fee shall be payable only once, at the time of the original application. The license of each commercial driver-training school or branch office may be renewed subject to the same requirements as the original license, and upon payment of the annual renewal license fee of \$200. Each application for an original supervisory instructor's or instructor's license shall be accompanied by an investigation and examination fee of \$50 and upon approval such applicant shall pay an annual license fee of \$25. The investigation and examination fee shall only be payable with the original

application. No license fee shall be refunded in the event that the license is suspended or revoked.

The fee for a duplicate license shall be \$2. A duplicate license may be issued to replace an original license if the original is lost or destroyed and an affidavit of such fact is made and filed with the Department.

All licenses issued to commercial driver-training schools, branch offices, supervisory instructors, and driver-training instructors shall expire automatically on December 31 of the calendar year for which the license was issued, unless sooner suspended or revoked as provided by this Act.

All fees collected under this Act shall be deposited in the State Treasury in the Operator's and Chauffeur's License Fund.

A commercial driver-training school or branch office license must be prominently displayed at the place of business of the commercial driver-training school or branch office. The supervisory driver-training instructor and driver-training instructor license must be carried by the instructor at all times while instructing. Each license shall be signed by the Director of the Department of Public Safety and shall be issued under the seal of the Department.

Refusal, Suspension, Revocation Grounds

Sec. 9. The Department may suspend, revoke, or refuse a license to any commercial driver-training school or branch school, supervisory instructor or driver-training instructor on any one or more of the following grounds;

(a) When the Department is satisfied that the applicant or licensee fails to meet the requirements to receive or hold a license under this Act;

(b) When the applicant or licensee permits fraud or engages in fraudulent practices either with reference to the application to the Department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license or permit, or permits or engages in any other fraudulent practice in any action between the applicant or licensee and the public;

(c) When the applicant or licensee fails to comply with the rules and regulations of the Department of Public Safety regarding the instruction of drivers in this state or fails to comply with any section of this Act.

Hearing

Sec. 10. (a) When there is cause to refuse an application or to suspend or revoke the license of any commercial driver-training school, branch office, supervisory driver-training instructor, or driver-training instructor, the Department, not less than 30 days before refusal, suspension, or revocation action is taken, shall notify such person in writing, in person, or by certified mail at the last address supplied to the Department by such person, of such impending refusal, suspension, or revocation, the

reasons therefor, and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the Department. If, within 20 days after the personal service of such notice or such notice has been deposited in the United States mail, such person has not made a written request to the Department for this administrative hearing, the Department is authorized to suspend or revoke the commercial driver-training school's, branch office's, supervisory driver-training instructor's, or driver-training instructor's license without a hearing. Upon receipt by the Department of such written request of such person within the 20-day period as set out above, an opportunity for an administrative hearing shall be afforded as early as is practical. In no case shall the hearing be held less than 10 days after written notification thereof, including a copy of the charges, shall have been given the person by personal service or by certified mail sent to the last address supplied to the Department by the applicant or licensee. Administrative hearing in such cases shall be before a qualified Hearing Officer of the Department.

(b) The Department, represented by the Hearing Officer, shall conduct the administrative hearing and the Hearing Officer is authorized to administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, documents, etc. On the basis of the evidence submitted at the hearing, the Department shall take whatever action it deems necessary in refusing the application or suspending or revoking the license.

Judicial Review

Sec. 11. Any person dissatisfied with the action of the Department in refusing his application, or suspending or revoking his license, or any other action of the Department, may appeal the action of the Department by filing a petition within 30 days thereafter in the district court in the county where the person resides or in the District Court of Travis County, Texas, and the court is vested with jurisdiction, and it shall be the duty of the court, to set the matter for hearing upon 10 days' written notice to the Department and the attorney representing the Department. The court in which the petition of appeal is filed shall determine whether or not the suspension or revocation of the license shall be abated until the hearing shall have been consummated with final judgment thereon, or whether any other action of the Department shall be suspended pending hearing and enter its order accordingly, which shall be operative when served upon the Department, and the court shall provide the attorney representing the Department with a copy of the petition and order. The Department shall be represented in such appeals by the district or county attorney of the county, or the Attorney General, or any of their assistants. The trial on such appeal

shall be *de novo* as in cases appealed from the justice to the county court.

Surrender of License

Sec. 12. Upon the revocation or suspension of any license, the licensee shall within five days surrender the license or licenses to the Department; failure of a licensee to do so shall be a violation of this Act and upon conviction shall be subject to the penalties hereinafter set forth. The Department may restore a suspended license to the former licensee upon full compliance with the provisions of this Act. No suspension invoked hereunder shall be for a period less than 30 days nor longer than one year.

Proceedings Through the Attorney General

Sec. 13. If any person violates any of the provisions of this Act, the Director of the Department of Public Safety shall, in the name of the State of Texas through the Attorney General of the State of Texas, apply in any district court of competent jurisdiction for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition to the court, if the court or any judge thereof is satisfied by affidavit or otherwise that the person has violated this Act, it may issue a temporary injunction without notice or bond enjoining such continued violation, and if after a hearing it is established that the person violated or is violating this Act the court or any judge thereof may enter a decree perpetually enjoining the violation of or enforcing compliance with this Act. In case of violation of any order or decree issued under the provisions of this section, the court or any judge thereof may try and punish the offender for contempt of court. Proceedings under this section shall be in addition to and not in lieu of all other remedies and penalties provided by this Act.

Driver-Training Instruction for Hire in Licensed School

Sec. 14. No motor vehicle driver-training instruction shall be conducted for hire or tuition unless in a licensed commercial driver-training school or one of its branch offices except as set out in Section 2 and in counties with a population of less than 50,000 where driver-training instruction may be given by a supervisory instructor or instructor not connected with or in a commercial driver-training school.

Penalties

Sec. 15. Any person who violates any provision of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for a term of not to exceed six months, or both.

[Acts 1967, 60th Leg., p. 794, ch. 332, eff. Aug. 28, 1967. Amended by Acts 1975, 64th Leg., p. 1839, ch. 569, § 1, eff. June 19, 1975.]

Section 16 of Acts 1967, 60th Leg., p. 794, ch. 332 provides:

"Constitutionality. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional."

Arts. 4413(29d) to 4413(29z). Reserved for Future Legislation

Art. 4413(29aa). Commission on Law Enforcement Officer Standards and Education

Creation

Sec. 1. There is hereby created the Commission on Law Enforcement Officer Standards and Education, hereinafter called "Commission."

Application of Sunset Act

Sec. 1a. The Commission on Law Enforcement Officer Standards and Education is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1995.

Powers and Duties of Commission and Executive Director; Meetings; Audits

Sec. 2. (a) The Commission shall have the authority and power to:

(1) Promulgate rules and regulations for the administration of this Act including the authority to require the submission of reports and information by any state, county, or municipal agency within this state which employs peace officers, jailers or guards of county jails, or reserve law enforcement officers.

(2) Establish minimum standards that relate to competence and reliability, including educational, training, physical, mental and moral standards for licensing as a peace officer, jailer or guard of a county jail, or reserve law enforcement officer: (A) in permanent positions, and (B) in temporary or probationary status.

(3) Issue temporary or permanent licenses to persons qualified under the provisions of this Act to be peace officers, jailers or guards of county jails, or reserve law enforcement officers.

(4) Certify persons as having qualified as instructors under such conditions as the Commission may prescribe.

(5) Establish minimum curriculum requirements for preparatory, in-service and advanced courses and programs for schools or academies operated by or for the state or any political subdivisions thereof for the specific purpose of training peace officers, jailers and guards of county jails, or reserve law enforcement officers, or recruits for those positions.

(6) Consult and cooperate with counties, municipalities, agencies of this state, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of training schools and programs of courses of instruction for peace officers, jailers or guards of county jails, or reserve law enforcement officers.

(7) Approve, or revoke the approval of, institutions and facilities for schools operated by or for the state or any political subdivision thereof for the specific purpose of training peace officers, jailers and guards of county jails, reserve law enforcement officers, or recruits for those positions, and issue certificates of approval to such institutions and revoke such certificates of approval.

(8) Operate schools and facilities thereof and conduct courses therein, both preparatory, in-service, basic and advanced courses, for peace officers, jailers or guards of county jails, or reserve law enforcement officers, and recruits for those positions as the Commission may determine.

(9) Contract with other agencies, public or private, or persons, as the Commission deems necessary for the rendition and affording of such services, facilities, studies and reports as it may require to cooperate with municipal, county, state and federal law enforcement agencies in training programs, and to otherwise perform its functions.

(10) Make or encourage studies of any aspect of law enforcement, including police administration.

(11) Conduct and stimulate research by public and private agencies which shall be designed to improve law enforcement and police administration.

(12) Employ an Executive Director and such other personnel as may be necessary in the performance of its functions.

(13) Visit and inspect all institutions and facilities conducting courses for the training of peace officers, jailers or guards of county jails, or reserve law enforcement officers, and recruits for those positions, and make evaluations as may be necessary to determine if they are complying with the provisions of this Act and the Commission's rules and regulations.

(14) Adopt and amend rules and regulations, consistent with law, for its internal management and control.

(15) Accept any donations, contributions, grants or gifts from private individuals or foundations or the federal government.

(16) Report to the Governor and to the Legislature on its activities, with its recommendations relating to any matter within its purview, and make such other reports as it deems desirable.

(17) In addition to meeting in the manner required by Subsection (b) of this section, meet at such times and places in the State of Texas as it deems proper; meetings shall be called by the

Chairman upon his own motion, or upon the written request of five members.

(18) Establish procedures for the revocation of licenses issued to a peace officer, a jailer or a guard of a county jail, or a reserve law enforcement officer under the provisions of this Act.

(19) Establish procedures for the issuance of professional achievement or proficiency certificates based upon law enforcement training, education, and experience.

(20) Establish reasonable and necessary fees for the administration of this Act.

(b) The Commission shall meet not less than one time during each biennium to receive public comment on training and standards for peace officers, jailers or guards of county jails, and reserve law enforcement officers. Within a reasonable time after the meeting, the Commission shall report to the Governor and the Legislature findings and recommendations resulting from the meeting.

(c) The Commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) During January of each year, the Commission shall file with the Governor and the presiding officer of each house of the Legislature a complete and detailed written report accounting for all funds received and disbursed by the Commission during the preceding year.

(e) The State Auditor shall audit the financial transactions of the Commission during each fiscal year.

(f) The Executive Director of the Commission or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least 10 days before any public posting.

(g) The Executive Director of the Commission or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for Commission employees must be based on the system established under this section.

(h) The Commission may recognize, prepare, or administer continuing education programs for peace officers, jailers or guards of county jails, and reserve law enforcement officers. Participation in the programs is voluntary.

(i) The Commission may require a state, county, or municipal agency that employs peace officers to provide each officer with a Commission-approved training course during a 24-month period. The course may not exceed 40 hours in length.

(j) The Executive Director shall prepare and maintain a written plan to assure implementation of

a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The plans shall include:

(1) a comprehensive analysis of all the agency's work force by race, sex, ethnic origin, class of position, and salary or wage;

(2) plans for recruitment, evaluation, selection, appointment, training, promotion, and other personnel policies;

(3) steps reasonably designed to overcome any identified underutilization of minorities and women in the agency's workforce; and

(4) objectives and goals, timetables for the achievement of the objectives and goals, and assignments of responsibility for their achievement.

The plans shall be filed with the Governor's office within 60 days of the effective date of this Act, cover an annual period, and be updated at least annually. Progress reports shall be submitted to the Governor's office within 30 days of November 1 and April 1 of each year and shall include the steps the agency has taken within the reporting period to comply with these requirements.

**Advisory Board of Institution Offering School,
Program, or Course**

Sec. 2A. The Commission may not approve a training school, program, or course of instruction for peace officers, jailers or guards of a county jail, or reserve law enforcement officers unless the institution that offers the school, program, or course has created an advisory board for the purpose of developing a curriculum. Not less than one-third of the members of the board must be members of the general public. For the purposes of this section, a person is a member of the general public if the person is qualified under Section 3 of this Act to serve as a public member on the Commission.

**Reporting Standards and Procedures;
Dissemination of Information**

Sec. 2B. (a) The Commission shall establish such reporting standards and procedures for matters of appointment and termination of peace officers, jailers or guards of county jails, and reserve law enforcement officers by law enforcement agencies, for matters concerning the activities of certified training academies, and for other matters it deems necessary for the administration of this Act.

(b) The Commission shall furnish each agency and certified training academy with the required reporting forms.

(c) The chief administrative officer of a law enforcement agency or certified training academy shall be responsible for compliance with the reporting standards and procedures prescribed by the Commission.

(d) The Commission shall maintain the records submitted evidencing the qualifications of persons

as required by Sections 6, 7A, and 7B of this Act. When the person has this evidence on file with the Commission and a temporary or permanent license has been issued, no additional documentation is required for a subsequent appointment as a peace officer, jailer or guard of a county jail, or reserve law enforcement officer. However, if a six-month period elapses between appointments, the Commission shall require the submission of a current criminal history check and fingerprints.

(e) The Commission shall prepare information of public interest describing the regulatory functions of the Commission and describing the Commission's procedures by which public complaints are filed with and resolved by the Commission. The Commission shall make the information available to the general public and appropriate state agencies.

**Membership; Qualifications and Terms; Vacancies;
Grounds for Removal**

Sec. 3. (a) The Commission is composed of nine members, residents of the State of Texas, and appointed by the Governor with the advice and consent of the Senate.

(b) Three members must be either a sheriff, a constable, or a chief of police. Two members must be licensed peace officers who at the time of their appointments hold nonsupervisory positions with a law enforcement agency. One member must be a person who is licensed under the provisions of this Act. Each licensed member must have been licensed for the five consecutive years preceding his appointment. Three members must be members of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of law enforcement;

(2) is employed by or participates in the management of a business entity or other organization related to the field of law enforcement; or

(3) has, other than as a consumer, a financial interest in a business entity related to the field of law enforcement.

(c) The Commissioner of Higher Education of the Coordinating Board, Texas College and University System, the Commissioner of the Texas Education Agency, the Director of the Texas Department of Public Safety, the Executive Director of the Criminal Justice Division of the Governor's Office, and the Attorney General shall serve as ex officio members of the Commission.

(d) In the event a public officer shall be appointed, service by such officer or officers shall be an additional duty of the office. Such appointive members shall be appointed for a term of six years, provided, however, that of the members first appointed, three shall be appointed for a term of two years, three for a term of four years, and three for a term of six years. Any member chosen by the

Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed. Such appointment for unexpired term shall be with the advice and consent of the Senate.

(e) A member or employee of the Commission may not be an officer, employee, or paid consultant of a trade association in the law enforcement industry. For the purposes of this section, "trade associations in the law enforcement industry" does not include associations whose purpose and membership is solely for the benefit of law enforcement officers themselves.

(f) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the Commission may not serve as a member of the Commission or act as the general counsel to the Commission.

(g) Appointments to the Commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(h) It is a ground for removal from the Commission that a member:

(1) does not have at the time of appointment the qualifications required by Subsection (b) of this section for appointment to the Commission;

(2) does not maintain during the service on the board the qualifications required by Subsection (b) of this section for appointment to the board; or

(3) violates a prohibition established by Subsection (e) or (f) of this section.

(i) The validity of an action of the Commission is not affected by the fact that it was taken when a ground for removal of a member of the Commission existed.

Officers; Quorum; Voting Rights of Ex Officio Members

Sec. 4. The Commission shall elect a chairman, vice-chairman, and secretary from among the appointed members at its first meeting succeeding new appointments to fill regular terms. Five members, excluding ex officio members, shall constitute a quorum. An ex officio member of the Commission may not vote in an election of officers of the Commission or on any matter before the Commission.

Compensation; Expenses

Sec. 5. Members of the Commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

Peace Officers and Reserve Officers; Tenure; Probationary Appointments; Training

Sec. 6. (a) A peace officer serving under a permanent appointment prior to September 1, 1970, is not required to meet a requirement under Subsection (b) of this section as a condition of tenure, continued employment, or promotion unless the officer seeks a new appointment on or after September 1, 1984.

(b) Except as provided by Subsection (a) of this Section, a person who has not satisfactorily completed preparatory training in law enforcement at a school that is operated by or approved by the Commission is eligible to be appointed as a peace officer or reserve law enforcement officer only on a probationary basis. A probationary peace officer or a probationary reserve law enforcement officer who fails to complete the required training within the probationary period must be removed from office and may not be reappointed on a probationary basis. The probationary period expires 12 months after the date of the original appointment except that:

(1) if a probationary peace officer is enrolled in and attending approved law enforcement training at the end of the one-year period, the probationary period is extended until the peace officer completes or ceases to attend the training course; and

(2) if a probationary peace officer is employed in a regional planning commission area in which no approved course is offered during the one-year period, the probationary period is extended until the date the first course in that area is offered and, if the peace officer enrolls in and attends the course, until the date on which the peace officer completes or ceases to attend the course.

(c) No person who does not have a license issued by the Commission shall be appointed as a peace officer, jailer or guard of a county jail, or reserve law enforcement officer. A law enforcement agency hiring a person desiring a Commission license must file an application with the Commission in accordance with Commission rule.

(d) A person who appoints an individual possessing a license issued by the Commission as a peace officer, jailer or guard of a county jail, or reserve law enforcement officer shall notify the Commission of the appointment within 30 days of the date of appointment.

(e) A person who appoints or retains an individual as a peace officer, jailer or guard of a county jail, or reserve law enforcement officer in violation of Subsection (b), (c), or (d) of this section or in violation of Section 7A of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

(f) Nothing herein shall be construed to preclude an employing agency from establishing qualifications and standards for hiring or training peace officers, jailers or guards of county jails, or reserve

law enforcement officers which exceed the minimum standards set by the Commission nor shall anything herein be construed to affect any sheriff, constable or other law enforcement officer elected under the provisions of the Constitution of the State of Texas.

(g) Any peace officer already serving under permanent appointment prior to September 1, 1970, and any sheriff, constable, or other law enforcement officer elected to office under the provisions of the Constitution of the State of Texas, shall be eligible to attend peace officer training courses subject to the rules and regulations established by the Commission.

(h) "Peace officer," for the purposes of this Act, means only a person so designated by Article 2.12, Code of Criminal Procedure, 1965, or by Section 51.212 or 51.214, Texas Education Code.

(i) The Commission shall not adopt or enforce rules or regulations that set the date of employment or appointment of a peace officer at a later date than appears on employment records of the hiring law enforcement agency. The provisions of this subsection shall be retroactive.

(j) The Commission shall maintain records submitted in accordance with Sections 6(c) and 7A(c) of this Act as evidence of qualifications for employment of peace officers or of jailers or guards of a county jail, including records that relate to age, education, physical standards, citizenship, good moral character, experience, and other matters relating to competence and reliability, and the Commission shall maintain records of a psychologist's or physician's declaration of psychological and emotional health of a peace officer or of a jailer or guard of a county jail. If the Commission has on record evidence of fulfillment of employment or appointment qualifications of a peace officer or of a jailer or guard of a county jail, the peace officer, jailer, or guard may not be required to submit duplicate records of qualifications if the peace officer, jailer, or guard is employed or appointed by another law enforcement agency as a peace officer or a jailer or guard of a county jail.

(k) After submitting the proper application, a peace officer, reserve law enforcement officer, or a jailer or guard of a county jail who has completed the required training, received a passing grade on the examination required by Section 6B of this Act, is declared to be in satisfactory psychological and emotional health as required by Section 7A of this Act, has demonstrated weapons proficiency if required to by Section 7(c) of this Act, and has acquired the necessary experience for certification shall be certified by the Commission. A certified peace officer, a certified reserve law enforcement officer, or a certified jailer or guard of a county jail may be employed or appointed by a law enforcement agency and the law enforcement agency shall report the employment or appointment to the Commission within 30 days after the date of employ-

ment or appointment. If there is a break in employment of a peace officer, reserve law enforcement officer, or of a jailer or guard of a county jail for a period of 180 days or more, the appointing law enforcement agency shall also include with its report a new criminal history record check, a new declaration of psychological and emotional health, and two completed fingerprint cards.

(l) "Reserve law enforcement officer," for the purposes of this Act, means only a person so designated by Chapter 829, Acts of the 62nd Legislature, Regular Session, 1971 (Article 998a, Vernon's Texas Civil Statutes), and by Chapter 506, Acts of the 62nd Legislature, Regular Session, 1971 (Article 6869.1, Vernon's Texas Civil Statutes).

(m) "Jailer or guard of a county jail," for the purposes of this Act, means only a person so designated by Article 6871, Revised Civil Statutes of Texas, 1925.

(n) The Commission shall issue professional achievement or proficiency certificates based upon law enforcement training, education, and experience. For purposes of this subsection, the Commission shall use the employment records of the employing agency.

(o) Except in an emergency, the combined hours that a licensed peace officer is required to work at his employing agency and attend a Commission-approved basic preparatory school may not exceed 40 hours in a week.

Disciplinary Actions; Complaints; Hearings; Procedure

Sec. 6A. (a) The Commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a licensee for a violation of this Act or a rule of the Commission.

(b) The Commission shall keep an information file about each complaint filed with the Commission relating to a licensee.

(c) If a written complaint is filed with the Commission relating to a licensee, the Commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(d) If the Commission proposes to suspend or revoke a person's license, the person is entitled to a hearing before the board.

(e) Proceedings for the suspension or revocation of a license are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Examinations

Sec. 6B. (a) The Commission shall conduct an examination of applicants for a license required by

this Act at least four times each year at times and places designated by the Commission.

(b) The Commission shall prescribe the content of an examination for a peace officer's license, for a reserve law enforcement officer's license, and for a jailer's or guard's license and shall include in each examination a written examination that tests the knowledge of the applicant about the occupation for which he is seeking a license.

(c) The Commission shall determine the standards for acceptable performance on the examination.

(d) Not later than the 30th day after the day on which a licensing examination is administered under this Act, the Commission shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the Commission shall notify examinees of the results of the examination not later than the 14th day after the day on which the Commission receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the Commission shall notify the examinee of the reason for the delay before the 90th day.

(e) If requested in writing by a person who fails the licensing examination administered under this Act, the Commission shall furnish the person with an analysis of the person's performance on the examination.

Training Programs for Peace Officers, Reserve Officers; and Jailers

Sec. 7. (a) The Commission shall establish and maintain peace officer and reserve law enforcement officer training programs and training programs in the operation of county jails to be conducted by its own staff or through such agencies and institutions as the Commission may deem appropriate.

(b) The Commission may authorize reimbursement for each political subdivision and each state agency for expenses in attending such training programs as authorized by the Legislature.

(c) The commission shall include in the peace officer training program instruction in weapons proficiency and shall require a person seeking certification as a peace officer to demonstrate weapons proficiency.

Psychological and Emotional Health

Sec. 7A. (a) A person may not be licensed by the Commission to be a peace officer, jailer or guard of a county jail, or reserve law enforcement officer unless, before licensing, the person is examined by a licensed psychologist or a licensed physician and is declared in writing by the psychologist or physician to be in satisfactory psychological and emotional health to be a peace officer, jailer or guard of a county jail, or reserve law enforcement officer. The psychologist's or physician's declaration is not public information.

(b) The examining psychologist or physician shall be selected by the agency hiring a person desiring to be licensed as a peace officer, jailer or guard of a county jail, or reserve law enforcement officer.

(c) The agency hiring a person desiring to be licensed as a peace officer, jailer or guard of a county jail, or reserve law enforcement officer shall forward a copy of the psychologist's or physician's declaration to the Commission with the person's application for Commission licensing. The Commission shall keep the copy on file.

Jailers and Guards; Training Requirements; Exceptions; Temporary Appointees

Sec. 7B. (a) A jailer or a guard of a county jail serving under permanent appointment before September 1, 1979, is eligible to attend training courses in the operation of a county jail subject to the rules of the Commission.

(b) A jailer or guard of a county jail serving under permanent appointment before September 1, 1979, whether or not that person's employment was terminated before that date because of failure to satisfy standards adopted under Section 14, Chapter 480, Acts of the 64th Legislature, 1975, as amended (Article 5115.1, Vernon's Texas Civil Statutes), is not required to meet a requirement imposed by Subsection (c) of this section as a condition of continued employment or promotion unless:

(1) in an attempt to meet those standards the person took an examination and failed or was not allowed to finish the examination because of making a dishonest act in regard to the examination;

(2) the person forged a document purporting to show that he met the standards; or

(3) the person seeks a new appointment as a jailer or guard on or after September 1, 1984.

(c) After September 1, 1979, a person may not be appointed as a jailer or guard of a county jail, except on a temporary or probationary basis, unless the person has satisfactorily completed a preparatory program of training in the operation of a county jail at a school approved or operated by the Commission. A jailer or guard of a county jail who has received a temporary or probationary appointment on or after September 1, 1979, and who fails to satisfactorily complete a basic course in the operation of a county jail, as prescribed by the Commission, within a one-year period from the date of his original appointment, forfeits his position and shall be removed from the position. The temporary or probationary employment may not be extended beyond one year by renewal of appointment or otherwise, except that after the lapse of one year from the date of the person's forfeiture and removal, the sheriff may petition the Commission for reinstatement of the person to temporary or probationary employment.

Powers and Duties of Municipal or County Governments

Sec. 8. Except as expressly provided in this Act, nothing herein contained shall be deemed to limit the powers, rights, duties and responsibilities of municipal or county governments, nor to affect provisions of Article 1269m, Fire and Police Civil Service Acts of the Vernon's Civil Statutes.

Convicted Felons

Sec. 8A. (a) No person who has been convicted of a felony under the laws of this state, another state, or the United States may be licensed by the Commission as qualified to be a peace officer, jailer or guard at a county jail, or reserve law enforcement officer.

(b) Conviction of a felony under the laws of this state, another state, or the United States disqualifies a person previously licensed by the Commission to be a peace officer, jailer or guard at a county jail, or reserve law enforcement officer, and the Commission shall immediately revoke the license of a person so convicted.

(c) For the purposes of this section, a person is convicted of a felony when an adjudication of guilt on a felony offense is entered against the person by a court of competent jurisdiction, whether or not:

- (1) the sentence is subsequently probated and the person is discharged from probation;
- (2) the accusation, complaint, information, or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense; or
- (3) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.

Funds

Sec. 9. The Legislature of the State of Texas shall appropriate the necessary funds for the purpose of carrying out the provisions of this Act.

Appeals

Sec. 9A. Any person dissatisfied with the action of the Commission may appeal the action of the Commission by filing a petition within thirty (30) days thereafter in a district court of Travis County, Texas, and the court is vested with jurisdiction, and it shall be the duty of the court, to set the matter for hearing upon ten (10) days written notice to the Commission and the attorney representing the Commission. The court in which the petition of appeal is filed shall determine whether any action of the Commission shall be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the Commission, and the Commission shall provide the attorney representing the Commission with a copy of the petition and order. The Commission shall be represented in such appeals by the district or county attorney of

the county, or the Attorney General, or any of their assistants.

Law Enforcement Officer Standards and Education Fund

Sec. 9B. (a) There is hereby created and established in the State Treasury a special fund to be known as the Law Enforcement Officer Standards and Education Fund to be used by the Commission in administering this Act and performing other duties imposed on the Commission by law.

(b) The sum of One Dollar (\$1.00) shall be paid as costs of court, in addition to other taxable court costs, by any person convicted of any criminal offense. Convictions arising under the traffic laws of this state are specifically included as follows:

(1) any offense defined in Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes); and

(2) any offense defined in the Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), except Sections 34, 76, 77, 78, 79, 80, 81, 93, 94, 95, 96, and 97 of that Act.

(c) Court costs due under this section shall be collected in the same manner as other fines or costs are collected in the case.

(d) The officer collecting the costs in a municipal court case shall keep separate records of the funds collected as costs under this section, and shall deposit the funds in the municipal treasury. The officer collecting the costs in a justice, county, and district court case shall keep separate records of the funds collected as costs under this section, and shall deposit the funds in the county treasury.

(e)(1) All officers collecting court costs under this section shall file the reports required by Articles 1001 and 1002, Code of Criminal Procedure, 1925.

(2) If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report shall state that no funds due under this section were collected.

(f) On receipt, the custodians of the municipal and county treasuries may deposit the funds collected under this section in interest-bearing accounts. The custodians shall keep records of the amount of funds on deposit collected under this section, and shall on or before the last day of the month following each calendar quarter period of three months remit to the Comptroller of Public Accounts the funds collected under this section during the preceding quarter. Each city and county collecting funds under this section is hereby authorized to retain ten percent (10%) of the funds collected by them as a service fee for said collection. The city or county may also retain all interest accrued on the funds. All funds collected shall be subject to audit by the Comptroller of Public Accounts. All funds expend-

ed shall be subject to audit by the State Auditor. Additionally, all funds collected or expended shall be subject to audit by the Governor's Division of Planning Coordination.

(g) The Comptroller of Public Accounts shall deposit the funds received by him under this section in the Law Enforcement Officer Standards and Education Fund.

(h) The Comptroller of Public Accounts shall, on requisition of the Commission, draw warrants from time to time on the State Treasury for the amount specified in the requisition, not exceeding, however, the amount in the fund at the time of making a requisition. All money expended by the Commission in the administration of this Act and in performing the duties otherwise imposed upon it by law, shall be specified and determined by itemized appropriation in the general appropriations bill for the Commission on Law Enforcement Officer Standards and Education, and not otherwise. At the end of each state fiscal year, any unused portion of the money in this special fund, except those funds theretofore appropriated to the Commission to administer this Act and to perform the duties otherwise imposed on it by law for the next fiscal year, shall be paid into the state General Revenue Fund.

(i) This Act takes effect September 1, 1977.

[Acts 1965, 59th Leg., p. 1158, ch. 546. Amended by Acts 1969, 61st Leg., p. 998, ch. 323, §§ 1 to 5, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1739, ch. 506, § 3, eff. Aug. 30, 1971; Acts 1975, 64th Leg., p. 637, ch. 262, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 1807, ch. 547, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 1808, ch. 547, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 1809, ch. 549, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 246, ch. 114, § 1, eff. Sept. 1, 1977; Acts 1977, 65th Leg., p. 876, ch. 328, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1851, ch. 735, § 2.136, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 499, ch. 230, § 1, eff. May 17, 1979; Acts 1979, 66th Leg., p. 1140, ch. 546, §§ 1, 2, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1150, ch. 555, § 1, eff. June 11, 1979; Acts 1979, 66th Leg., p. 1293, ch. 599, §§ 1 to 5, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 857, ch. 303, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 988, ch. 370, § 1, eff. June 10, 1981; Acts 1981, 67th Leg., p. 1810, ch. 399, § 3, eff. June 11, 1981; Acts 1981, 67th Leg., p. 2124, ch. 495, § 9, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2613, ch. 699, §§ 1, 2, 5, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2792, ch. 757, §§ 1 to 8, 10, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 1738, ch. 335, § 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 2793, ch. 479, §§ 1 to 3, eff. Sept. 1, 1983.]

Acts 1981, 67th Leg., p. 988, ch. 370, § 2, provides:

"The probationary period of a peace officer appointed on a probationary basis before the effective date of this Act is covered by the law in effect on the date the appointment was made."

Acts 1981, 67th Leg., p. 2614, ch. 699, § 3, provides:

"Conduct constituting an offense under the law amended by this Act that does not constitute an offense under that law as amended by this Act may not be prosecuted after the effective date of this Act. If, on the effective date of this Act, a criminal action is pending for conduct that was an offense under the laws repealed by this Act, the action is dismissed on the effective date of this Act. However, a conviction existing on the effective date of this Act for conduct constituting an offense under the law amended by this Act is valid and unaffected by this Act. For purposes of this section, "conviction" means a finding of guilt in a court of compe-

tent jurisdiction, and it is of no consequence that the conviction is not final."

Acts 1981, 67th Leg., p. 2797, ch. 757, § 9, provides:

"All certificates issued by the Commission on Law Enforcement Officer Standards and Education before the effective date of this Act that are valid on the effective date of this Act shall be treated as if they were licenses issued under Chapter 546, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 4413(29aa), Vernon's Texas Civil Statutes), as amended by this Act."

Section 4 of Acts 1983, 68th Leg., p. 2810, ch. 479, provides:

"(a) The requirements under Section 2, Chapter 546, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 4413(29aa), Vernon's Texas Civil Statutes), as amended by this Act, that the director develop an intraagency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of Subsection (g) of Section 2 that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985.

"(b) As incumbent members of the commission vacate their offices or as their terms expire, the governor shall appoint members to the commission to achieve as soon as possible the membership scheme established by Section 3, Chapter 546, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 4413(29aa), Vernon's Texas Civil Statutes), as amended by this Act."

Art. 4413(29aa-1). Persons Convicted of Unlawful Interception, Use, or Disclosure of Oral or Wire Communications; Denial or Revocation of Certification

Text of article added effective until September 1, 1985

(a) A person who has been convicted of an offense under Section 16.02, Penal Code, may not be certified by the Commission on Law Enforcement Officer Standards and Education to be a peace officer.

(b) Final conviction of an offense under Section 16.02, Penal Code, disqualifies a person previously certified by the Commission on Law Enforcement Officer Standards and Education as qualified to be a peace officer, and the commission shall immediately revoke the certification of a person so convicted.

[Acts 1981, 67th Leg., p. 740, ch. 275, § 4, eff. Aug. 31, 1981.]

Section 5 of the 1981 Act provides:

"This Act shall not be in force after September 1, 1985."

Art. 4413(29aa-2). Periodic Demonstration of Weapons Proficiency

An agency or institution that employs more than two peace officers shall designate a firearms proficiency control officer and require each peace officer it employs to demonstrate to a firearms proficiency control officer weapons proficiency based on the minimum basic training standards as prescribed by the commission at least once every 12 months. The records of this proficiency shall be maintained by the agency or institution that employs peace officers. "Peace officer" means those persons so designated by Article 2.12, Code of Criminal Procedure, 1965, as amended, and Section 51.212, Texas Education Code.

[Acts 1981, 67th Leg., p. 858, ch. 303, § 2, eff. Sept. 1, 1981.]

Art. 4413(29aa-3). Purchase of Firearms From State by Retiring Peace Officers or Survivors

Sec. 1. (a) A peace officer commissioned by an agency of the state who is honorably retired from his commission by the state may purchase for an amount set by the agency, not to exceed fair market value, one firearm issued to him by the agency if the firearm is not listed as a prohibited weapon under Section 46.06(a), Penal Code. Except as provided by Subsection (b) of this section, the purchase must be made before the second anniversary of the date of the officer's retirement.

(b) If the agency employing the officer is unable to immediately replace a firearm purchased from the agency's stock under this section, the agency may delay the sale until the agency can replace the firearm.

Sec. 2. If a peace officer commissioned by an agency of the state dies while commissioned, whether or not the death occurred in the discharge of his official duties as a peace officer, the following classes of persons, in descending order of precedence, may purchase a firearm issued to the officer under the same conditions imposed on a purchase by a retiring officer by Section 1 of this Act:

- (1) the surviving spouse of the officer;
- (2) any children of the officer; or
- (3) the parents of the officer.

Sec. 3. (a) This Act applies to the purchase of a firearm included in the agency's inventory on or after the effective date of this Act by a peace officer who died or honorably resigned his commission on or after September 1, 1979.

(b) If the final date on which a peace officer or a survivor of a peace officer would otherwise be eligible to purchase a firearm under this Act occurs before the 181st day after the effective date of this Act, the final date on which the firearm may be purchased is extended to the later date.

[Acts 1983, 68th Leg., p. 949, ch. 222, eff. May 24, 1983.]

Art. 4413(29bb). Private Investigators and Private Security Agencies Act

SUBCHAPTER A. GENERAL PROVISIONS

Short Title

Sec. 1. This Act may be cited as the Private Investigators and Private Security Agencies Act.

Definitions

Sec. 2. In this Act, unless the context requires a different definition:

(1) "Board" means the Texas Board of Private Investigators and Private Security Agencies.

(2) "Person" includes individual, firm, association, company, partnership, corporation, nonprofit organization, institution, or similar entity.

(3) "Investigations company" means any person who engages in the business or accepts employment to obtain or furnish information with reference to:

(a) crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, damages or injuries to persons or to property; or

(e) the securing of evidence to be used before any court, board, officer, or investigating committee.

(4) "Guard company" means any person engaging in the business of or undertaking to provide a private watchman, guard, or street patrol service on a contractual basis for another person and performing any one or more of the following or similar functions:

(a) prevention of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

(b) prevention, observation, or detection of any unauthorized activity on private property;

(c) control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of property; or

(d) protection of individuals from bodily harm.

(5) "Alarm systems company" means any person that sells, installs, services, or responds to burglar alarm signal devices, burglar alarms, television cameras, still cameras or any other electrical, mechanical, or electronic device used to prevent or detect burglary, theft, shoplifting, pilferage, and other losses of that type.

(6) "Armored car company" means any person that provides secured transportation and protection from one place or point to another place or point of money, currency, coins, bullion, securities, bonds, jewelry, or other valuables.

(7) "Courier company" means any person that transports or offers to transport under armed guard from one place or point to another place or point documents, papers, maps, stocks, bonds, checks, or any other item that requires expeditious delivery.

(8) "Guard dog company" means any person that places, leases, rents, or sells an animal for the purpose of protecting property and/or any person or company that is contracted to train an animal for the purpose of protecting property.

(9) "Security services contractor" means any guard company, alarm systems company, armored car company, courier company or guard dog company as defined herein.

(10) "Security department of a private business" means the security department of any person, if the security department has as its general purpose the protection and security of its own property and grounds, and if it does not offer or provide security services to any other person.

(11) "Private investigator" means any person who performs one or more services as described in Section 2(3) of this Act.

(12) "Undercover agent" means an individual hired by another individual, partnership, corporation, or other business entity to perform a job in and/or for that individual, partnership, corporation, or other business entity, and while performing such job, to act as an undercover agent, an employee, or an independent contractor of a licensee, but supervised by a licensee.

(13) Except as provided by Subsection (e) of Section 3 of this Act, "private security officer" means any individual employed by a security services contractor or the security department of a private business to perform the duties of a security guard, security watchman, security patrolman, armored car guard, courier guard, or alarm systems response runner.

(14) "Manager" means in the case of a corporation, an officer or supervisor, or in the case of a partnership, a general or unlimited partner meeting the experience qualifications set forth in Section 14 of this Act for managing a security services contractor or an investigations company.

(15) "License" means a permit granted by the board entitling a person to operate as a security services contractor or investigations company.

(16) "Branch office license" means a permit granted by the board entitling a person to operate as a security services contractor or investigations company at a location other than the principal place of business as shown in the board records.

(17) "Licensee" means any person to whom a license is granted under this Act.

(18) "Security officer commission" means an authorization granted by the board to an individual employed as a private security officer to carry a firearm.

(19) "Commissioned security officer" means any private security officer to whom a security officer commission has been issued by the board.

(20) "Branch office" means an office established or maintained at some place other than the principal place of business as shown in board records and identified to the public as a place from which business is conducted, solicited, or advertised.

(21) "Registration" means a permit granted by the board to an individual to perform the duties of a private investigator, manager, branch office manager, alarm systems installer, noncommissioned private security officer, or private security consultant.

(22) "Registrant" means an individual who has filed an application with the board to perform the duties of a private investigator, manager, branch office manager, alarm systems installer, noncommissioned private security officer, or private security consultant.

(23) "Firearm" has the meaning given in Section 46.01(3), Penal Code.

(24) "Director" means the director of the Texas Board of Private Investigators and Private Security Agencies.

(25) "Alarm systems response runner" means a person who responds to the first signal of entry.

(26) "Letter of authority" means a permit granted by the board entitling the security department of a private business to employ commissioned security officers.

(27) "Alarm systems installer" means a person who installs or services burglar alarm signal devices, burglar alarms, television cameras, still cameras, or any other electrical, mechanical, or electronic device used to prevent or detect burglary, theft, shoplifting, pilferage, and other losses of that type.

(28) "Private security consultants" are persons who offer advice or services in the field of private security.

Exceptions

Sec. 3. (a) This Act does not apply to:

(1) a person employed exclusively and regularly by one employer in connection with the affairs of an employer only and where there exists an employer-employee relationship; provided, however, any person who shall carry a firearm in the course of his employment shall be required to obtain a private security officer commission under the provisions of this Act;

(2) except as provided by Subsection (e) of this Section, an officer or employee of the United States of America, or of this State or a political subdivision of either, while the employee or officer is engaged in the performance of official duties;

(3) a person who has full-time employment as a peace officer as defined by Article 2.12, Code of Criminal Procedure, 1965, who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, or watchman if such person is:

(A) employed in an employee-employer relationship; or

(B) employed on an individual contractual basis;

(C) not in the employ of another peace officer; and

(D) not a reserve peace officer;

(4) a person engaged exclusively in the business of obtaining and furnishing information for purposes of credit worthiness or collecting debts or ascertaining the financial responsibility of applicants for property insurance and for indemnity or surety bonds, with respect to persons, firms, and corporations;

(5) an attorney-at-law in performing his duties;

(6) admitted insurers, insurance adjusters, agents, and insurance brokers licensed by the State, performing duties in connection with insurance transacted by them;

(7) a person who engages exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(8) a locksmith who does not install or service detection devices, does not conduct investigations, and is not a security service contractor;

(9) a person who owns and installs burglar detection or alarm devices on his own property or, if he does not charge for the device or its installation, installs it for the protection of his personal property located on another's property, and does not install the devices as a normal business practice on the property of another;

(10) an employee of a cattle association who is engaged in inspection of brands of livestock under the authority granted to that cattle association by the Packers and Stockyards Division of the United States Department of Agriculture;

(11) the provisions of this Act shall not apply to common carriers by rail engaged in interstate commerce and regulated by state and federal authorities and transporting commodities essential to the national defense and to the general welfare and safety of the community;

(12) registered professional engineers practicing in accordance with the provisions of the Texas Engineering Practice Act;¹

(13) a person whose sale of burglar alarm signal devices, burglary alarms, television cameras, still cameras, or other electrical, mechanical, or electronic devices used for preventing or detecting burglary, theft, shoplifting, pilferage, or other losses is exclusively over-the-counter or by mail order;

(14) a person who holds a license or other form of permission issued by an incorporated city or town to practice as an electrician and who installs fire or smoke detectors in no building other than a single family or multifamily residence;

(15) a person or organization in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm or detection device if:

(A) the person or organization is a party to a contract that provides that the installation will be performed under the direct supervision of and in-

spected and certified by a person or organization licensed to install and certify such an alarm or detection device and that the licensee assumes full responsibility for the installation of the alarm or detection device; and

(B) the person or organization does not service or maintain burglar alarms or detection devices;

(16) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(17) response to a burglar alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity; or

(18) a person who, by education, experience, or background has specialized expertise or knowledge such as that which would qualify or tend to qualify such person as an expert witness, authorized to render opinions in proceedings conducted in a court, administrative agency, or governing body of this state or of the United States, in accordance with applicable rules and regulations and who does not perform any other service for which a license is required by provisions of this Act.

(b) Licensees and employees of licensees under the provisions of this Act shall not be required to obtain any authorization, permit, franchise, or license from or pay any other fee or franchise tax to or post a bond in any city, county, or other political subdivision of this State to engage in business or perform any service authorized under this Act.

(c) Except as otherwise specifically provided in this subsection, no city, county, or other political subdivision of this State shall impose any charge, service charge, fee, or any other type of payment for the use of city, county, or other public facilities in connection with businesses or services rendered by the licensees under this Act, except that any city or town may levy and collect reasonable charges for the use of central alarm installations located in a police office, that is owned, operated, or monitored by such city or town. Provided further, that any city or town may require discontinuation of service of any alarm signal device which, because of mechanical malfunction or faulty equipment, causes at least five false alarms in any 12-month period. Such city or town may cause the disconnection of any such device until the same is repaired to the satisfaction of the appropriate municipal official, and the city or town may levy and collect reasonable inspection and reinspection fees in connection therewith. "Mechanical malfunction" and "faulty equipment" shall not relate, for the purposes of this section, to false alarms caused by human error or an act of God.

(d) Although under the provisions of this Act the security department of a private business that hires or employs an individual in the capacity of a private security officer to possess a firearm in the course and scope of his duties is required to make applica-

tion for a security officer commission for the individual according to the provisions of this Act, the security department of a private business shall not be required to make application to the board for any license under this Act.

(e) The provisions of this Act relating to security officer commissions apply to a person employed by a political subdivision whose duties include serving as a security guard, security watchman, or security patrolman on property owned or operated by the political subdivision if the governing body of the political subdivision files a written request with the board for the board to commission the political subdivision's employees with those duties. The board may not charge a fee for commissioning those officers. The board shall issue the officer a pocket card designating the political subdivision employing him. The commission expires when the officer's employment as a security officer by the political subdivision is terminated. The board may approve a security officer training program conducted by the political subdivision under the provisions of Section 20 of this Act applicable to approval of a private business' training program.

¹ Article 3271a.

SUBCHAPTER B. ADMINISTRATION

Creation of Board

Sec. 4. (a) A Texas Board of Private Investigators and Private Security Agencies is created to carry out the functions and duties conferred on it by this Act.

(b) The position of director of the Texas Board of Private Investigators and Private Security Agencies is created. He shall serve as chief administrator of the board. He shall not be a member of the board, but shall be a full-time employee of the board, fully compensable in an amount to be determined by the Legislature. The director shall perform such duties as may be prescribed by the board, and shall have no financial or business interests, contingent or otherwise, in any security services contractor or investigations company.

(c) All legal process and all documents required by law to be served upon or filed with the board shall be served or filed with the director at the designated office of the board. All official records of the board or affidavits by the director as to the content of such records shall be prima facie evidence of all matters required to be kept by the board.

(d) The Texas Board of Private Investigators and Private Security Agencies is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1993.

Text of subsecs. (e) and (f) as added by Acts 1981, 67th Leg., p. 862, ch. 306, § 2

(e) Except as provided by Subsection (f) of this section, all sums of money paid to the board under this Act shall be deposited in the State Treasury and placed in a special fund to be known as the Texas Board of Private Investigators and Private Security Agencies Fund and may be used only for the administration of this Act.

(f) The fines collected under this Act shall be deposited to the credit of the General Revenue Fund and may not be used for the administration of this Act.

Text of subsecs. (e) and (f) as added by Acts 1981, 67th Leg., p. 2895, ch. 773, § 1.

(e) Funds paid to the board under this Act shall be deposited in the State Treasury to the credit of the General Revenue Fund.

(f) The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Board Membership

Sec. 5. (a) The board is composed of the following members:

(1) the director of the Texas Department of Public Safety or his designated representative shall serve as an ex officio member of such board, and such service shall not jeopardize the individual's official capacity with the State of Texas;

(2) the Attorney General or his designated representative shall serve as an ex officio member of such board, and such service shall not jeopardize the individual's official capacity with the State of Texas;

(3) one city or county law enforcement officer shall be appointed by the Governor, without regard to the race, creed, sex, religion, or national origin of the appointee and with the advice and consent of the Senate;

(4) two members shall be appointed by the Governor, without regard to the race, creed, sex, religion, or national origin of the appointees and with the advice and consent of the Senate, who are citizens of the United States and residents of the State of Texas;

(5) two members shall be appointed by the Governor, without regard to the race, creed, sex, religion, or national origin of the appointees and with the advice and consent of the Senate, who are licensed under this Act, who have been engaged for a period of five consecutive years as a private investigator or security services contractor, and who are not employed by the same person as any other member of the board; and

(6) one member shall be appointed by the Governor, without regard to the race, creed, sex, religion, or national origin of the appointee and with the advice and consent of the Senate, who:

(A) is a senior supervisory or senior administrative official of the security department of a private business that employs commissioned security officers;

(B) has served in the supervisory or administrative capacity for not less than five years; and

(C) is not employed by a person who employs any other member of the board.

(b) A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of private security;

(2) is employed by or participates in the management of a business entity or other organization related to the field of private security; or

(3) has, other than as a consumer, a financial interest in a business entity or other organization related to the field of private security.

(c) A member or employee of the board may not be an officer, employee, or paid consultant of a trade association in the private security industry.

(d) A member or employee of the board may not be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee or paid consultant of a trade association in the regulated industry. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the board or act as the general counsel to the board.

(e) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) or (b) of this section for appointment to the board;

(2) does not maintain during the service on the board the qualifications required by Subsection (a) or (b) of this section for appointment to the board;

(3) violates a prohibition established by Subsection (c) or (d) of this section; or

(4) does not attend at least one-half of the regularly scheduled meetings held by the board in a calendar year, excluding meetings held when the person was not a member of the board.

(f) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

Oath of Office

Sec. 6. (a) The members of the board appointed by the Governor and confirmed by the Senate shall take the constitutional oath of office before an officer authorized to administer an oath within this state.

(b) Upon presentation of the oath, together with the certificate of appointment, the secretary of state shall issue commissions to appointees as evidence of their authority to act as members.

Terms of Office

Sec. 7. (a) The appointed members of the board serve staggered six-year terms, and the terms of two appointed members expire on January 31 of each odd-numbered year. Each appointed member shall hold office until his successor is appointed and has qualified.

(b) The director of the Department of Public Safety and the attorney general, or their representatives, serve on the board during their terms of office and shall perform the duties required of members of the board by this Act in addition to those duties required of them in other official capacities.

Vacancies

Sec. 8. The governor, with the advice and consent of the Senate, shall fill vacancies occurring among appointed members of the board with appointments for the duration of the unexpired term.

Designated Representatives

Sec. 9. (a) The Attorney General and the director of the Department of Public Safety may delegate to a personal representative from their respective offices the authority and duty to represent them on the board.

(b) The designated representative may exercise all of the powers, duties, and responsibilities of the member while engaged in the performance of official board business, but a member is responsible for the acts and decisions of his delegated representative.

Compensation of Board Members; Personnel Matters

Sec. 10. (a) A member of the board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the General Appropriations Act. The number of employees and the salaries of each shall be fixed in the General Appropriations Act.

(b) The director of the board or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of each job opening with the board in a nonentry level position. The intraagency posting shall be made at least 10 days before any public posting is made.

(c) The director of the board or his designee shall develop a system of annual performance evaluations of the board's employees based on measurable job tasks. Any merit pay authorized by the director

shall be based on the system established under this subsection.

Rules of Procedure and Seal

Sec. 11. (a) The board shall have the following powers and duties:

(1) to determine the qualifications of licensees, registrants, and commissioned security officers as provided in this Act;

(2) to investigate alleged violations of the provisions of this Act and of any rules and regulations adopted by the board;

(3) to promulgate all rules and regulations necessary in carrying out the provisions of this Act; and

(4) to establish and enforce standards governing the safety and conduct of persons licensed, registered, and commissioned under the provisions of this Act.

(b) The board shall have a seal, the form of which it shall prescribe.

(c) On or before January 1 of each year, the board shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board in the preceding year.

(d) The board may recognize, prepare, or administer continuing education programs for persons regulated by the board under this Act. Participation in the programs is voluntary.

Subpoenas and Injunctions

Sec. 11A. (a) In the conduct of any investigation conducted under the provisions of this Act, the board may issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The officer conducting a hearing may administer oaths and may require testimony or evidence to be given under oath.

(b) No witness is privileged to refuse to testify to any fact, or to produce any paper, respecting which he is properly examined by the officer conducting the hearing. Any person called upon to testify or to produce papers upon any matter properly under inquiry by the board, who refuses to so testify or produce papers upon the ground that his testimony or the production of papers would incriminate him or tend to incriminate him, shall nevertheless be required to testify or to produce papers, but when so required under these objections he is not subject to indictment or prosecution for any transaction, matter, or thing concerning which he truthfully testifies or produces evidence.

(c) If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the board, then the board may petition a district court of the county in which the hearing is held to compel the witness to obey the subpoena or to give the

evidence. The court shall immediately issue process to the witness and shall hold a hearing on the petition as soon as possible. If the witness then refuses, without reasonable cause or legal grounds, to be examined or to give any evidence relevant to proper inquiry by the board, the court shall punish the witness for contempt.

(d) Investigators employed by the board are authorized to take statements under oath in any investigation of a matter covered by this Act.

(e) The board may institute an action in its name against a person to enjoin a violation of this Act or a rule or regulation of the board. For the board to sustain the action, the board does not have to allege or prove that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation. The board may not be required to give an appeal bond in any cause arising under this Act.

Revocation, Suspension, etc.

Sec. 11B. (a) The board shall revoke or suspend any registration, license, or security officer commission, reprimand any registrant, licensee, or commissioned security officer, or deny an application for a registration, license, or security officer commission, or renewal thereof, or may place on probation a person whose registration, license, or security officer commission has been suspended, on proof:

(1) that the applicant, licensee, commissioned security officer, or registrant has violated any provisions of this Act or of the rules and regulations promulgated under this Act;

(2) that the applicant, licensee, commissioned security officer, or registrant has committed any act resulting in conviction of a felony;

(3) that the applicant, licensee, commissioned security officer, or registrant has committed an act after the date of application for a registration, license, or security officer commission that results in a conviction of a misdemeanor involving moral turpitude;

(4) that the applicant, licensee, commissioned security officer, or registrant has practiced fraud, deceit, or misrepresentation; or

(5) that the applicant, licensee, commissioned security officer, or registrant has made a material misstatement in the application for or renewal of a license, registration, or security officer commission.

(b) If the board proposes to refuse a person's application for a registration, license, or security officer commission, to suspend or revoke a person's registration, license, or security officer commission, or to place on probation a person whose registration, license, or security officer commission has been suspended, the person is entitled to a hearing before the board.

(c) Proceedings for the refusal, suspension, or revocation of a registration, license, or security

officer commission or for the probation of a person are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) Deleted by Acts 1981, 67th Leg., p. 2898, ch. 773, § 9, eff. Sept. 1, 1981.

(e) If the board is authorized to suspend a license under this Act, the board may give the licensee the opportunity to pay a civil penalty rather than have the license suspended. The amount of the civil penalty may not be more than \$200 for each day the license was to have been suspended. If the licensee does not pay the penalty before the sixth day after the board notifies him of the amount, he loses the opportunity to pay it and the board shall impose the suspension.

Organization and Meetings of the Board

Sec. 12. (a) The board shall meet within 30 days after the effective date of this Act, and thereafter at regular intervals to be decided by a majority vote of the board.

(b) The board, including the representative of the director of the Department of Public Safety if he so designates one, shall elect from among its members a chairman, vice-chairman, and secretary to serve two-year terms commencing on September 1, of each odd-numbered year. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the board and perform the other duties prescribed in this Act.

(c) A majority of the board constitutes a quorum to transact business.

(d) At the first meeting, the board shall specify the date and place of the first examinations for licenses to be held.

Consumer Information

Sec. 12A. (a) The board shall prepare information of consumer interest describing the regulatory functions of the board and describing the board's procedures by which consumer complaints are filed with and resolved by the board. The board shall make the information available to the general public and appropriate state agencies.

(b) Each written contract for services in this state of a company licensed under this Act shall contain the name, mailing address, and telephone number of the board.

(c) There shall be displayed prominently in the place of business of each licensee regulated under this Act, a sign containing the name, mailing address, and telephone number of the board and a statement informing consumers that complaints against licensees can be directed to the board.

SUBCHAPTER C. LICENSES

License Required and False Representation Prohibited

Sec. 13. (a) It shall be unlawful and punishable as provided in Section 44 of this Act for any person to engage in the business of, or perform any service as an investigations company, guard company, alarm systems company, armored car company, courier company, or guard dog company or to offer his services in such capacities or engage in any business or business activity required to be licensed by this Act unless he has obtained a license under the provisions of this Act.

(b) It is unlawful and punishable as provided in Section 44 of this Act for any person to represent falsely that he is employed by a licensee or represent falsely that he is licensed, registered, or commissioned.

(c) It shall be unlawful and punishable as provided in Section 44 of this Act for any individual to make application to the board as manager or to serve as manager of an investigations company, guard company, alarm systems company, armored car company, courier company, or guard dog company unless the individual intends to maintain and maintains that supervisory position on a daily basis for the company.

Qualifications

Sec. 14. (a) An applicant for a license or his manager must:

- (1) be at least 18 years of age;
- (2) not have been convicted in any jurisdiction of any felony unless a full pardon has been granted;
- (3) not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude during the seven-year period preceding the date of application unless a full pardon has been granted for the conviction;
- (4) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and has not been restored;
- (5) not be suffering from habitual drunkenness or from narcotics addiction or dependence; and
- (6) not have been discharged from the armed services of the United States under other than honorable conditions.

(b) An applicant who applies for a license to engage in the business of an investigations company or his manager shall have three (3) years consecutive experience prior to the date of said application in the investigative field, as an employee, manager, or owner of an investigations company or other requirements as shall be set by the board. The experience of the applicant must be reviewed by the board or by the director, and determined to be adequate to qualify the applicant to engage in the business of an investigations company.

(c) An applicant who applies for a license to engage in the business of a security services contractor or his manager shall have two (2) consecutive years experience prior to the date of said application in each security services field for which he applies, as an employee, manager, or owner of a security services contractor or other requirements as shall be set by the board. The experience of the applicant must have been obtained legally and must be reviewed by the board or by the director and determined to be adequate to qualify the applicant to engage in the business of a security services contractor.

Application and Examination

Sec. 15. (a) An application for a license under this Act shall be in the form prescribed by the board. The application shall include:

- (1) the full name and business address of the applicant;
 - (2) the name under which the applicant intends to do business;
 - (3) a statement as to the general nature of the business in which the applicant intends to engage;
 - (4) a statement as to the classification under which the applicant desires to be qualified;
 - (5) the full name and residence address of each of its partners, officers, and directors, and its manager, if the applicant is an entity other than an individual;
 - (6) two recent photographs of a type prescribed by the board of the applicant, if the applicant is an individual, or of each officer and of each partner or shareholder who owns a 25 percent or greater interest in the applicant, if the applicant is an entity;
 - (7) one classifiable set of fingerprints of the applicant, if the applicant is an individual, or of each officer and of each partner or shareholder who owns a 25 percent or greater interest in the applicant, if the applicant is an entity;
 - (8) a verified statement of his experience qualifications in the particular field of classification in which he is applying;
 - (9) a letter from the police department and a letter from the sheriff's department of the city and county wherein the applicant resides concerning the character of the applicant and containing any objection or recommendation as to his application; and a letter from the Texas Department of Public Safety setting forth the record of any convictions of any applicant for a felony or a crime involving moral turpitude; and
 - (10) any other information, evidence, statements, or documents as may be required by the board.
- (b) An application for a license under this Act shall include the Social Security number of the one making application.

(e) The board may require an applicant or his manager to demonstrate qualifications in his field of classification by an examination to be determined by the board.

(d) Payment of the application fee prescribed by this Act entitles the applicant or his manager to one examination without further charge. If the person fails to pass the examination, he shall not be eligible for any subsequent examination except upon payment of the reexamination fee which shall be set by the board in an amount not in excess of the renewal fee for the license classification for which license application was originally made.

(e) Within 30 days after the day on which a licensing examination is administered under this Act, the board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the board shall notify each examinee of the results of the examination within two weeks after the day that the board receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the board shall notify the examinee of the reason for the delay before the 90th day.

(f) If requested in writing by a person who fails the licensing examination administered under this Act, the board shall furnish the person with an analysis of the person's performance on the examination.

Classification of License

Sec. 16. (a) No person may engage in any operation outside the scope of his license.

(b) For the purpose of defining the scope of licenses, the following license classifications are established:

- (1) Class A: investigations company license, covering operations as defined in Subdivision (3), Section 2, of this Act;
- (2) Class B: security services contractor license, covering operations as defined in Subdivision (9), Section 2, of this Act;
- (3) Class C: covering the operations included within Class A and Class B.

(c) A person licensed only as a security services contractor may not make any investigation except as incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property which he has been hired or engaged to protect.

(d) A Class A, B, or C license does not authorize the licensee to perform any services for which he has not qualified. The board shall indicate on the license which services the licensee is authorized to perform, and the licensee may not perform any service not indicated on the license.

Fees

Sec. 17. (a) The board shall establish reasonable and necessary fees for the administration of this Act in amounts not to exceed:

Class A license (original and renewal)	\$225
Class B license (original and renewal)	225
Class C license (original and renewal)	340
Reinstate suspended license	150
Assignment of license	150
Change name of license	75
Delinquency fee	—
Branch officer certificate and renewal	150
Registration fee for private investigators, managers, branch office managers, and alarm system installers (original and renewal)	
Registration fee for consultants	50
License termination fee	10
Noncommissioned security officer up- grade fee	5
Security officer commission fee (original and renewal)	15
School instructor fee	100
School approval fee	250
Letter of authority fee	225

(b) The State Auditor shall audit the financial transactions of the board in each fiscal biennium.

Manager to Control Business

Sec. 18. (a) The business of each licensee shall be operated under the direction and control of one manager, and no licensee shall make application to qualify more than one individual to serve as manager.

(b) No person shall act as a manager of a licensee until he has complied with each of the following:

(1) demonstrated his qualifications by a written examination;

(2) made a satisfactory showing to the board that he has the qualifications prescribed by Section 14 of this Act, and that none of the facts stated in Subsection (a), Section 11B, of this Act exist as to him.

(c) If the manager, who has qualified as provided in this section, ceases to be manager for any reason whatsoever, the licensee shall notify the board in writing within 14 days from such cessation. If notice is given, the license shall remain in force for a reasonable length of time to be determined by the rules of the board pending the qualifications as provided in this Act, of another manager. If the licensee fails to notify the board within the 14-day period, his license shall be subject to suspension or revocation.

(d) When the individual on the basis of whose qualifications a license under this Act has been obtained ceases to be connected with the licensee for any reason whatsoever, the business may be carried on for such temporary period and under such terms and conditions as the board shall provide by regulation.

(e) If a manager lacks the experience to qualify to manage all categories of service included in a license or application, a supervisor qualified as required in Subsection (b) of this section must be responsible for each service for which the manager is unqualified.

Firearm; Security Officer Commission

Sec. 19. (a) It is unlawful and punishable as provided in Section 44 of this Act:

(1) for an individual employed as a private security officer to knowingly carry a firearm during the course of performing his duties as a private security officer if the board has not issued him a security officer commission under this section;

(2) for any person to hire or employ an individual or for any individual to accept employment in the capacity of a private security officer to carry a firearm in the course and scope of his duties unless the private security officer is issued a security officer commission by the board; or

(3) for a commissioned security officer to carry a firearm unless:

(A) he is engaged in the performance of his duties as a security officer or is engaged in traveling directly to or from his place of assignment;

(B) he wears a distinctive uniform indicating that he is a security officer; and

(C) the firearm is in plain view.

(b) The board, with the concurrence of the Texas Department of Public Safety, may issue a security officer commission to an individual employed as a uniformed private security officer provided the geographical scope of the security officer commission is restricted to one named county in the State of Texas and all counties contiguous to the named county, except as allowed in Subsection (c) of this section.

(c) The board, with the concurrence of the Texas Department of Public Safety, may issue a security officer commission that is broader in geographical scope within the State of Texas than that specified in Subsection (b) of this section if the broader scope is shown to be in the public interest and necessary to the performance of the duties of the private security officer.

(d) The board, with the concurrence of the Texas Department of Public Safety, shall issue a security officer commission to a qualified employee of an armored car company that is a carrier that has a permit from the proper federal or state regulatory authority to conduct the armored car business in accordance with the permit or certificate. A securi-

ty officer commission issued to an employee of an armored car company shall be broad enough in its geographical scope to cover the county or counties in this state in which the armored car company has a permit or certificate to conduct its business.

(e) The employer of a private security officer who applies for a security officer commission must submit an application to the board on a form provided by the board. The security department of a private business that applies for a security officer commission for a person employed by the department must submit an application to the board for a letter of authority on a form provided by the board.

(f) No security officer commission may be issued to any individual who is under 18 years of age, who is a convicted felon, or who has committed any act which if committed by a licensee would be grounds for suspension or revocation of a license under this Act.

(g) The board shall send a copy of each application for a security officer commission to the Texas Department of Public Safety and to the sheriff of the county and the chief of police of the principal city of the county in which the applicant resides. A sheriff or chief of police who wishes to object to the issuance of a security officer commission to a particular applicant may do so by mailing or otherwise delivering a written statement of his objection and his reasons to the board.

(h) If the board decides to issue a security officer commission over the objections of a sheriff or chief of police, it shall mail a notice of its decision to the objecting officer and give him an opportunity to request a hearing before the board to contest the board's decision. If the objecting officer files a request for a hearing within 30 days after the date the notice was mailed to him, the board shall set the matter for a hearing. The board may not issue a security officer commission over the objection of a sheriff or chief of police unless it finds at the hearing that there is good cause to issue the commission over the objection or, if no hearing is requested, until the time for requesting a hearing has passed.

(i) Each security officer commission issued under this section shall be in the form of a pocket card designed by the board, and shall identify the licensee or the security department of a private business by whom the holder of the security officer commission is employed. A security officer commission expires on the date the license of the licensee who employs the officer expires or, if the officer is employed by the security department of a private business, one year after the date it is issued. No charge may be imposed for the pocket card.

(j) If the holder of the security officer commission terminates his employment with the licensee or the security department of a private business or transfers his residence to another county, he must return the pocket card to his employer and his employer must return the pocket card to the board within 14

days of the date of termination of the employment or transfer of business.

(k) The board shall provide by rule the procedure by which a licensee or the security department of a private business may issue a temporary security officer commission to a private security officer who has made application to the board for a security officer commission.

(l) Subsection (a) of this section does not apply to the holder of a valid temporary security officer commission issued under this section if the holder is in uniform and in possession of only one firearm and engaged in the performance of his duties.

Training Programs

(a) The board shall establish a basic training course for private security officers. The course must be offered and taught by schools and instructors approved by the board. To receive board approval, a school or an instructor must submit an application to the board on a form provided by the board. The board may approve a training course conducted by a licensee if the licensee offers the subjects listed in Subsection (b) of this section, and if the instructors of the training course are qualified instructors approved by the board. The board shall approve a training course conducted by the security department of a private business to train its own personnel, without regard to its curriculum, if it is adequate for the business' security purposes.

(b) The basic training course approved by the board shall consist of a minimum of 30 hours and shall include:

- (1) legal limitations on the use of firearms and on the powers and authority of a private security officer;
- (2) familiarity with this Act;
- (3) field note taking and report writing;
- (4) range firing and procedure, and firearms safety and maintenance; and
- (5) any other topics of security officer training curriculum which the board deems necessary.

(c) The board shall develop a commissioned security officer training manual to be used in the instructing and training of commissioned security officers.

(d) The board shall promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this Act.

(e) The board may not issue a security officer commission to an applicant employed by a licensee unless the applicant submits evidence satisfactory to the board that:

- (1) he has completed the basic training course at a school or under an instructor approved by the board;
- (2) he meets all qualifications established by this Act and by the rules of the board;

(3) he has satisfied his firearm training instructor that he has attained with a handgun a minimum average marksmanship competency of 160 out of 300 on an "Army I" target or a minimum of 80 out of 150 on an F.B.I. Silhouette target (N.R.A. B-27), at 50 feet with 10 shots slow fire, 10 shots time fire and 10 shots double-action or complies with the standards of marksmanship set by the board;

(4) he has satisfied his firearm training instructor that he has complied with the standards of marksmanship set by the board for minimum marksmanship competency with a shotgun.

(f) The board may not issue a security officer commission to an applicant employed by the security department of a private business unless the applicant submits evidence satisfactory to the board that:

(1) he has completed an approved training course conducted by the security department of the business; and

(2) he meets all qualifications established by this Act and by the rules of the board.

(g) In addition to the requirements of Subsections (e) and (f) of this section, the board by rules and regulations shall establish other qualifications for persons who are employed by licensees or the security department of a private business in positions requiring the carrying of firearms. These qualifications may include physical and mental standards, standards of good moral character, and other requirements that relate to the competency and reliability of individuals to carry firearms. The board shall prescribe appropriate forms and rules and regulations by which evidence that the requirements are fulfilled is presented. The board shall require commissioned security officers at least once every 24 months to demonstrate proficiency in the use of firearms to the satisfaction of a firearm training instructor who is employed by a board approved training school. The records of this proficiency shall be maintained by the school and available for inspection by the board.

(h) The board shall prescribe appropriate rules and regulations for the maintenance of records relating to persons issued security officer commissions by the board.

Psychological Testing

Sec. 20A. The board shall contract with one or more licensed psychologists practicing to study the feasibility of developing psychological and emotional standards of applicants for a private security officers commission and the possibility of developing an examination that will test those standards. If the examination can be validated, the board shall implement the examination by January 1, 1981. In the event no examination is being utilized by the board by January 1, 1981, it shall be incumbent upon the legislature to review this section.

Failure to Pass Psychological Test; Licensee or Private Business Security Department Held Harmless and Defense Provided

Sec. 20B. Should an applicant for a private security commission file legal action against a licensee or a security department of a private business as a result of failing to pass a psychological and emotional standards examination approved by the board, the State of Texas agrees to hold harmless and provide legal defense for the licensee or the security department of a private business.

Form of Licenses

Sec. 21. A license or a branch office license, when issued, shall be in the form prescribed by the board, and shall include:

(1) the name of the licensee;

(2) the name under which the licensee is to operate; and

(3) the number and date of the license.

Posting

Sec. 22. (a) The license shall at all times be posted in a conspicuous place in the principal place of business of the licensee.

(b) Each branch office license shall at all times be posted in a conspicuous place in each branch office of the licensee.

Change of Address and New Officers

Sec. 23. Notification to the board shall be made within 14 days after the change of address of the principal place of business of a licensee, the change of address of a branch office, or the change of a business name under which a licensee does business. A licensee shall within 14 days after such change, notify the board of any and all changes of his address, of the name under which he does business and of any changes in its officers or partners.

License Not Assignable

Sec. 24. A license issued under this Act is not assignable unless the assignment is approved in advance by the board.

Termination of License

Sec. 25. The board shall prescribe by rule the procedure under which a license issued under this Act may be terminated.

Notice to Local Officials

Sec. 26. Notice of the issuance, revocation, reinstatement, or expiration of every license, commission, or registration card issued by the board shall be furnished to the sheriff of the county and the chief of police of the principal city of the county in which every person regulated under this Act resides.

Licensee Responsible for Conduct of Employees

Sec. 27. A licensee may be legally responsible for the conduct in the business of each employee while the employee is performing his assigned duties for the licensee.

Divulgence of Information

Sec. 28. (a) Any licensee or officer, director, partner, or manager of a licensee shall divulge to any law enforcement officer or a district attorney, or his representative, any information he may acquire as to any criminal offense, but he shall not divulge to any other person except as he may be required by law so to do, any information acquired by him except at the direction of the employer or client for whom the information was obtained.

(b) No licensee or officer, director, partner, manager, or employee of a licensee shall knowingly make any false report to his employer or client for whom information was being obtained.

(c) No written report shall be submitted to a client except by the licensee, qualifying manager, or a person authorized by one or either of them, and such person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such a report are true and correct.

(d) No licensee or officer, director, partner, manager, or employee of a licensee shall use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he is connected in any way with the federal government, a state government, or any political subdivision of a state government. No licensee or officer, director, partner, manager, or employee of a licensee shall use a title, an insignia, or an identification card or wear a uniform containing the designation "police." This subsection does not prohibit an officer employed by a political subdivision commissioned as provided by Subsection (e) of Section 3 of this Act from using a title, insignia, or identification card, wearing a uniform, or making a statement indicating his employment by the political subdivision.

(e) Information that is contained in alarm systems records held by a governmental body and that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the board or as otherwise required by law.

Employee Records

Sec. 29. Each licensee shall maintain a record containing such information relative to his employees as may be prescribed by the board.

Advertisements

Sec. 30. (a) An advertisement by a licensee soliciting or advertising business shall contain the

company name and address as they appear in the records of the board.

(b) The board may not adopt rules restricting competitive bidding or advertising by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person. The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

- (1) restricts the person's use of any medium for advertising;
- (2) restricts the person's personal appearance or use of his personal voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name.

Branch Offices

Sec. 31. (a) Each licensee shall file in writing with the board the address of each branch office, and within 14 days after the establishment, closing, or changing of location of a branch office shall notify the board in writing of such fact.

(b) Upon application of a licensee the board shall issue a branch office license.

Registration

Sec. 32. (a) An individual who is employed as a private investigator, manager, branch office manager, alarm systems installer, noncommissioned private security officer, or private security consultant must register with the board within 10 days after the commencement of such employment.

(b) The minimum age of a person registered under this section, except an alarm systems installer, shall be 18 years of age. An alarm systems installer must be 16 years of age or older.

(c) An employee of a licensee who is employed in a capacity that is not subject to mandatory registration under this section may register with the board on a voluntary basis.

(d) The board may promulgate by rule any additional qualifications of an individual registered under this section as a private investigator, manager, branch office manager, alarm systems installer, noncommissioned private security officer, or private security consultant.

(e) The board, with the concurrence of the Texas Department of Public Safety, shall issue a security officer commission to a registered uniformed noncommissioned private security officer on receipt of the noncommissioned security officer upgrade fee and presentation of evidence of completion of a board-approved training program. The geographical scope of the security officer commission is restricted to one named county and to each county contiguous to the named county, except as provided by Subsection (c) of Section 19 of this Act.

Application for Registration

Sec. 33. (a) The application for registration must be verified and must include:

(1) the full name, residence address, residence, telephone number, date and place of birth, and the Social Security number of the applicant;

(2) a statement listing any and all names used by the applicant, other than the name by which he is currently known, together with an explanation setting forth the place or places where each name was used, the date or dates of each use, and a full explanation of the reasons why each such name was used. If the applicant has never used a name other than that by which he is currently known, this fact must be set forth in the statement;

(3) the name and address of the applicant's employer and applicant's consulting firm, the date the employment commenced, and a letter from the licensee requesting that the applicant be registered;

(4) the title of the position occupied by the applicant and a description of his duties;

(5) two recent photographs of the applicant, of a type prescribed by the board, and two classifiable sets of his fingerprints; and

(6) other information, evidence, statements, or documents, as required by the board.

(b) The board shall send a copy of each application for registration to the Texas Department of Public Safety and to the sheriff of the county and the chief of police of the principal city of the county in which the applicant resides. A sheriff or chief of police who wishes to object to the registration of a particular applicant may do so by mailing or otherwise delivering a written statement of his objection and his reasons to the board.

(c) If the board decides to register a particular applicant over the objections of a sheriff or chief of police, it shall mail a notice of its decision to the objecting officer and give him an opportunity to request a hearing before the board to contest the board's decision. If the objecting officer files a request for a hearing within 30 days after the date the notice was mailed to him, the board shall set the matter for a hearing. The board may not register an applicant over the objection of a sheriff or chief of police unless it finds at the hearing that there is good cause to issue the registration over the objection or, if no hearing is requested, until the time for requesting a hearing has passed.

Pocket Card

Sec. 34. A pocket card of such size, design, and content as may be determined by the board shall be issued to each registrant under this Act. The date of issuance shall be noted on such pocket card, and the date of expiration shall also be noted. Such pocket card shall contain a color photograph and signature of the registrant.

Undercover Agents: Exemption

Sec. 35. Notwithstanding any other provision of this Act, employees of a licensee who are employed exclusively as undercover agents shall not be required to register under this Act with the board.

Pocket Card: Annual Renewal

Sec. 36. The pocket card of each registrant expires on the date the license of the licensee who employs the registrant expires. On notification from the board the month before expiration of the registrant's pocket card, each registrant shall file for renewal of registration on a form designed by the board.

Pocket Card: Return

Sec. 37. When an individual to whom a pocket card has been issued under Section 32 of this Act terminates his position, he shall return the pocket card to the licensee within five days after his date of termination.

Cancellation

Sec. 38. Within seven days after the licensee has received the pocket card of a terminated registered employee, the licensee shall mail or deliver the pocket card to the board for cancellation, along with a letter from the licensee stating the date the registered employee terminated, the date the licensee received the pocket card of the terminated registered employee, and the cause for which or the conditions under which the registered employee terminated.

Sec. 39. Repealed by Acts 1981, 67th Leg., p. 2902, ch. 773, § 11, eff. Sept. 1, 1981

Bonds and Insurance Filed for Licensee

Sec. 40. (a) No license shall be issued under this Act unless the applicant files with the board a surety bond executed by a surety company authorized to do business in this State in the sum of Ten Thousand Dollars (\$10,000) conditioned to recover against the principal, its servants, officers, agents and employees by reason of its wrongful or illegal acts in conducting such business licensed under this Act.

(b) No license shall be issued under this Act unless the applicant files with the board proof of a policy of public liability insurance in the form of a certificate of insurance executed by a local recording agent licensed in this state or a surplus lines agent licensed in this state. The policy of public liability insurance shall be conditioned to pay on behalf of the licensee all sums which the licensee becomes legally obligated to pay as damages because of bodily injury, limit of liability Fifty Thousand Dollars (\$50,000), property damage, limit of liability Twenty-five Thousand Dollars (\$25,000), and personal injury, limit of liability Fifty Thousand Dollars (\$50,000), caused by an occurrence involving the principal, its servants, officers, agents, or em-

ployees in the conduct of any business licensed under this Act.

Action on Bonds to Recover Damages

Sec. 41. The bond required by this Act shall be made payable to the State of Texas, and anyone so injured by the principal, its servants, officers, agents and employees, shall have the right and be permitted to sue directly upon this obligation in their own names, and this obligation shall be subject to successive suits for recovery until complete exhaustion of the face amount hereof.

Suspension for Failure to File Surety Bond or Insurance

Sec. 42. (a) Every licensee shall at all times maintain on file with the board the surety bond and certificate of insurance required by this Act in full force and effect and upon failure to do so, the license of such licensee shall be forthwith suspended and shall not be reinstated until an application therefor, in the form prescribed by the board, is filed together with a proper bond, insurance certificate, or both.

(b) The board may deny the application notwithstanding the applicant's compliance with this section:

(1) for any reason which would justify refusal to issue or a suspension or revocation of a license; or

(2) for the performance by applicant of any practice while under suspension for failure to keep his bond or insurance certificate in force, for which a license under this Act is required.

(c) Bonds executed and filed with the board pursuant to this Act shall remain in force and effect until the surety has terminated future liability by a 30-day notice to the board.

(d) Insurance certificates executed and filed with the board pursuant to this Act shall remain in force and effect until the insurer has terminated future liability by a 10-day notice to the board.

Cash Deposited in Lieu of Surety Bond

Sec. 43. The sum of \$10,000 in cash may be deposited with the State of Texas, in lieu of the surety bond required by this Act.

SUBCHAPTER D. ENFORCEMENT PROVISIONS

Penal Provisions

Sec. 44. Any person who knowingly falsifies the fingerprints or photographs submitted under Subdivisions (6) and (7) of Subsection (a), Section 15, is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not more than five years. Any person who violates any of the other provisions of this Act is guilty of a misdemeanor punishable by fine not to exceed \$500 or by imprisonment in the county jail not to exceed one year, or both.

Expiration and Renewal of License

Sec. 45. (a) A license issued under this Act expires at 12 midnight on the last day of the 11th month after the month in which it is issued.

(b) Removal of a license shall not prohibit the bringing of disciplinary proceedings for an act committed before the effective date of the renewal.

(c) The renewal period for a license is the month preceding the month in which it expires.

(d) A person may renew an unexpired license by paying to the board before the expiration date of the license the required renewal fee.

(e) If a person's license has been expired for not longer than 90 days, the person may renew the license by paying to the board the required renewal fee and a fee that is one-half of the examination fee for the license.

(f) If a person's license has been expired for longer than 90 days but less than two years, the person may renew the license by paying to the board all unpaid renewal fees and a fee that is equal to the examination fee for the license.

(g) If a person's license has been expired for two years or longer, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

Expiration Dates of Licenses; Proration of Fees

Sec. 46. The board by rule may adopt a system under which the expiration date of a license may be changed at renewal time so that a licensee may pay only that portion of the license renewal fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Activity During Suspension of License

Sec. 47. A suspended license is subject to expiration and shall be renewed as provided in this Act, but such renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

Reinstatement of a Revoked License

Sec. 48. A revoked license may not be reinstated.

Notification of Conviction for Felony or Crime Involving Moral Turpitude

Sec. 49. The Texas Department of Public Safety shall notify the board, and the police department and the sheriff's department of the city and county wherein any person licensed, commissioned, or registered under this Act resides of the conviction of

such person for a felony or a crime involving moral turpitude.

Sec. 50. Repealed by Acts 1981, 67th Leg., p. 2902, ch. 773, § 11, eff. Sept. 1, 1981

Complaints

Sec. 50A. (a) The board shall keep an information file about each complaint filed with the board relating to a person regulated by the board.

(b) If a written complaint is filed with the board relating to a person regulated by the board, the board, at least as frequently as quarterly, shall notify the parties to the complaint of the status of the complaint until final disposition unless the notification would jeopardize an undercover investigation.

Severability Clause

Sec. 51. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1969, 61st Leg., p. 1807, ch. 610, eff. Sept. 1, 1969. Amended by Acts 1971, 62nd Leg., p. 2835, ch. 929, §§ 1 to 23, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 280, ch. 130, § 1, eff. Aug. 27, 1973; Acts 1973, 63rd Leg., p. 627, ch. 266, § 17, eff. June 11, 1973; Acts 1975, 64th Leg., p. 788, ch. 303, § 1, eff. May 27, 1975; Acts 1975, 64th Leg., p. 1312, ch. 494, §§ 1 to 49, eff. July 19, 1975; Acts 1977, 65th Leg., p. 1836, ch. 735, § 2.032, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1871, ch. 746, §§ 1 to 25, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 518, ch. 242, § 1, eff. May 17, 1979; Acts 1979, 66th Leg., p. 1041, ch. 471, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1811, ch. 738, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 2179, ch. 830, §§ 2 to 4, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 858, ch. 304, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 861, ch. 306, §§ 1 to 5, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2569, ch. 685, §§ 1 to 4, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2609, ch. 697, § 1, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2895, ch. 773, §§ 1 to 9, 11, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 355, ch. 81, § 1(a) to (d) eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 2915, ch. 496, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 3045, ch. 523, §§ 1 to 3, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4150, ch. 654, §§ 1 to 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4884, ch. 866, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5168, ch. 938, § 1, eff. June 19, 1983; Acts 1983, 68th Leg., p. 5269, ch. 969, § 1, eff. Sept. 1, 1983.]

Section 24 of the 1971 amendatory act provided:

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

Section 27 of Acts 1977, 65th Leg., ch. 746 provided:

"A person licensed on the effective date of this Act may continue to offer the services he is currently offering without reapplication or additional qualifications."

Section 2 of Acts 1979, 66th Leg., p. 519, ch. 242, provided:

"Section 3(a), Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), as amended by this Act, does not affect any right or duty that matured, any penalty that was incurred, any civil or criminal liability that arose, or any proceeding that began before the effective date of this Act."

Section 2 of Acts 1979, 66th Leg., p. 1042, ch. 471, provided:

"Section 20(b), Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), as amended by this Act, applies only to an individual who completes a basic training course after the effective date of this Act."

Acts 1981, 67th Leg., p. 2902, ch. 773, §§ 10, 12, 13, provide:

"Sec. 10. A rule adopted by the Texas Board of Private Investigators and Private Security Agencies before September 1, 1981, that conflicts with the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), as amended by this Act, is void. Within 90 days after September 1, 1981, the board shall repeal the rule."

"Sec. 12. A person holding office as a member of the Texas Board of Private Investigators and Private Security Agencies on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

"Sec. 13. (a) This Act takes effect September 1, 1983.

"(b) The requirements of Subsections (b) and (c), Section 10, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), as added by this Act, that the director of the board develop an intraagency career ladder and a system of annual performance evaluations, shall be implemented before September 1, 1982. The requirement of Subsection (c) of Section 10 that merit pay is to be based on this system shall be implemented before September 1, 1983."

Acts 1983, 68th Leg., p. 357, ch. 81, § 1(e) provides:

"The school instructor fee, school approval fee, and letter of authority fee that are established pursuant to Subsection (b) of this section apply only to an application for a letter of authority or board approval of a school or an instructor made on or after the effective date of this section."

Acts 1983, 68th Leg., p. 3049, ch. 523, § 4, provides:

"A person who, on the effective date of this Act, is acting as an alarm systems installer, noncommissioned private security officer, or private security consultant may act in that capacity without being registered under this Act until December 1, 1983."

Acts 1983, 68th Leg., p. 4885, ch. 866, § 2, provides:

"The governor shall designate the member appointed under Section 5(a)(6), Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), as added by this Act to a term commencing January 31, 1985, replacing a member appointed under Section 5(a)(5), Private Investigators and Private Security Agencies Act, whose term expires on that date."

Art. 4413(29cc). Polygraph Examiners Act

Short Title

Sec. 1. This Act shall be known, and may be cited, as the Polygraph Examiners Act.

Purpose

Sec. 2. It is the purpose of this Act to regulate all persons who purport to be able to detect deception or to verify truth of statements through the use of instrumentation (as lie detectors, polygraphs, deceptographs, and/or similar or related devices and instruments without regard to the nomenclature applied thereto) and this Act shall be liberally construed to regulate all such persons and instruments. No person who purports to be able to detect deception or to verify truth of statements through instrumentation shall be held exempt from the provisions of this Act because of the terminology which

he may use to refer to himself, to his instrument, or to his services.

Definitions

Sec. 3. In this Act, unless the context requires a different definition,

(1) "board" means the Polygraph Examiners Board;

(2) "secretary" means that member of the Polygraph Examiners Board selected by the board to act as secretary;

(3) "internship" means the study of polygraph examinations and of the administration of polygraph examinations by a trainee under the personal supervision and control of a polygraph examiner in accordance with a course of study prescribed by the board at the commencement of such internship;

(4) "person" means any natural person, firm, association, copartnership, or corporation; and

(5) "polygraph examiner" means any person who purports to be able to detect deception or verify truth of statements through instrumentation or the use of a mechanical device.

Minimum Instrumentation Required

Sec. 4. Any instrument used to test or question individuals for the purpose of detecting deception or verifying truth of statements shall record visually, permanently, and simultaneously: (1) a subject's cardiovascular pattern and (2) a subject's respiratory pattern. Patterns of other physiological changes in addition to (1) and (2) may also be recorded. The use of any instrument or device to detect deception or to verify truth of statements which does not meet these minimum instrumentation requirements is hereby prohibited and the operation or use of such equipment shall be subject to penalties and may be enjoined in the manner hereinafter provided.

Creation of the Board

Sec. 5. (a) There is hereby established a Polygraph Examiners Board consisting of six members who shall be citizens of the United States and residents of the state for at least two years prior to appointment. Four members shall each have been engaged for a period of five consecutive years as a polygraph examiner prior to appointment to the board, and at the time of appointment as an active polygraph examiner. Two members must be representatives of the general public. A person is eligible for appointment as a public member if the person and the person's spouse are not licensed by an occupational regulatory agency in the field of polygraph examining, are not employed by and do not participate in the management of an agency or business entity related to the field of polygraph examining, and do not have, other than as consumers, a financial interest in a business entity related to the field of polygraph examining. No two board members may be employed by the same person or

agency. Two of the members who are polygraph examiners must be qualified examiners of a governmental law enforcement agency, one of which shall be the supervisor of the polygraph section of the Department of Public Safety, and two of the members who are polygraph examiners must be qualified polygraph examiners in the commercial field. The members shall be appointed by the Governor of the State of Texas with the advice and consent of the Senate for a term of six years. Any vacancy in an unexpired term shall be filled by appointment of the Governor with the advice and consent of the Senate for the unexpired term. Appointments shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(b) The board shall contract with the Department of Public Safety for the administrative functions of the board including the collection of all fees and money due and the payment of all expenses, including travel expenses of board members. Each member of the board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the General Appropriations Act.

(c) The board shall meet within 30 days after the effective date of this Act and elect a chairman, vice-chairman, and secretary from among its members. At the meeting, the board shall specify dates spaced at three month intervals on which examinations for polygraph examiners' licenses will be held. A copy of those dates shall forthwith be delivered to the secretary.

(d) The vote of a majority of the board members is sufficient for passage of any business or proposal which comes before the board.

(e) The Polygraph Examiners Board is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1993.

(f) A member or employee of the board may not be an officer, employee, or paid consultant of a trade association in the polygraph examining field. A member or employee of the board may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry.

(g) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the board or act as the general counsel to the board.

(h) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of this section for appointment to the board;

(2) does not maintain during his service on the board the qualifications required by Subsection (a) of this section for appointment to the board;

(3) violates a prohibition prescribed by Subsection (f) or (g) of this section; or

(4) fails to attend at least half of the regularly scheduled board meetings held in a calendar year, excluding meetings held while the person was not a board member.

(i) If a ground for removal of a member from the board exists, the board's actions taken during the existence of the ground for removal are not invalid for that reason.

(j) The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(k) The board may recognize, prepare, or implement continuing education programs for polygraph examiners and trainees. Participation in the programs is voluntary.

Administration and Expenses

Sec. 6. (a) The board shall issue regulations consistent with the provisions of this Act for the administration and enforcement of this Act and shall prescribe forms which shall be issued in connection therewith. The board may not adopt rules restricting competitive bidding or advertising by a licensee of the board except to prohibit false, misleading, or deceptive practices by the licensee. The board may not include in its rules to prohibit false, misleading, or deceptive practices by a licensee a rule that:

(1) restricts the licensee's use of any medium for advertising;

(2) restricts the licensee's personal appearance or use of his voice in an advertisement;

(3) relates to the size or duration of an advertisement by the licensee; or

(4) restricts the licensee's advertisement under a trade name.

(b) An order or a certified copy thereof, over the board seal and purporting to be signed by the board members, shall be prima facie proof that the signatures are the genuine signatures of the board members, and that the board members are fully qualified to act.

(c) All fees collected under the provisions of this Act shall be paid to the Treasurer of the State of Texas. Funds necessary for the enforcement of this Act and the administration of its provisions

shall be appropriated by the Legislature, but the funds so appropriated for a biennium shall not exceed the total amount of the fees which it is anticipated will be collected hereunder during such biennium.

(d) During each fiscal biennium, the state auditor shall audit the financial transactions of the Department of Public Safety that relate to the administration of this Act.

(e) On or before January 1 of each year, the Department of Public Safety shall make in writing to the governor and the presiding officer of each house of the legislature a complete and detailed report accounting for all funds received and disbursed by the department under this Act during the preceding year.

(f) If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as added (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the board receives the committees' statements.

Unauthorized Practice

Sec. 7. It shall be unlawful for any person, including a city, county or state employee, to administer polygraph or other examinations utilizing instrumentation for the purpose of detecting deception or verifying truth of statements or to attempt to hold himself out as a polygraph examiner or to refer to himself by any other title which would indicate or which is intended to indicate or calculated to mislead members of the public into believing that he is qualified to apply instrumentation to detect deception or to verify truth of statements without first securing a license as herein provided.

Examiner's License Qualifications

Sec. 8. (a) A person is qualified to receive a license as an examiner

(1) who has not been convicted of a felony or a misdemeanor involving moral turpitude; and

(2) who holds a baccalaureate degree from a college or university accredited by an organization that the board designates and that the board determines has accreditation standards to ensure a high level of scholarship for students, or in lieu thereof, has five consecutive years of active investigative experience immediately preceding his application; and

(3) who is a graduate of a polygraph examiners course approved by the board and has satisfactorily completed not less than six months of internship training, provided that if the applicant is not a graduate of an approved polygraph examiners course, satisfactory completion of not less than 12

months of internship training may satisfy this subdivision; and

(4) who has passed an examination conducted by the board, or under its supervision, to determine his competency to obtain a license to practice as an examiner.

(b) Prior to the issuance of a license, the applicant must furnish to the board evidence of a surety bond or insurance policy. Said surety bond or insurance policy shall be in the sum of \$5,000.00 and shall be conditioned that the obligor therein will pay to the extent of the face amount of such surety bond or insurance policy all judgments which may be recovered against the licensee by reason of any wrongful or illegal acts committed by him in the course of his examinations.

(c) The board by rule shall establish the criteria by which it determines whether an applicant complies with the active investigative experience requirement established by Subdivision (2) of Subsection (a) of this section.

Acquisition of License by Present Examiners

Sec. 9. On the effective date of this Act, any person who held a license issued by the board established or attempted to be established by Chapter 441, Acts of the 59th Legislature, Regular Session, 1965, and whose license was in effect on the date on which said Act was held invalid, shall be automatically licensed hereunder until such date as his license under the Act aforesaid has expired and thereafter may renew his license on payment of the fee herein provided. The applicant must also satisfy the provisions of Subsection (b) of Section 8 of this Act.

Applications for Original License

Sec. 10. Applications for original licenses shall be made to the secretary of the board in writing under oath on forms prescribed by the board and shall be accompanied by the required fee, which is not refundable. Any such application shall require such information as in the judgment of the board will enable it to pass on the qualifications of the applicant for a license.

Non-Resident Applicants

Sec. 11. (a) Each non-resident applicant for an original license or a renewal license shall file with the board an irrevocable consent that actions against said applicant may be filed in any appropriate court of any county or municipality of this state in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process on any such action may be served on the applicant by leaving two copies thereof with the secretary. Such consent shall stipulate and agree that such service or process shall be taken and held to be valid and binding for all purposes. The secretary of the board shall send forthwith one copy of the process

to the applicant at the address shown on the records of the board by registered or certified mail.

(b) Non-resident applicants must satisfy the requirements of Section 8 of this Act.

Applicant With Out-of-State License

Sec. 12. The board may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

Internship License

Sec. 13. (a) Upon approval by the board, the secretary shall issue an internship license to a trainee provided he applies for such license and pays the required fee within ten days prior to the commencement of his internship. The application shall contain such information as may be required by the board.

(b) An internship license shall be valid for the term of 12 months from the date of issue. Such license may be extended or renewed for any term not to exceed 6 months upon good cause shown to the board.

(c) A trainee shall not be entitled to hold an internship license after the expiration of the original 12 month period and 6 month extension, if such extension is granted by the board, until 12 months after the date of expiration of the last internship license held by said trainee.

Notice and Analysis of Examination Results

Sec. 13A. (a) Within 30 days after the date a license examination is administered under this Act, the board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the board shall notify each examinee of the results of the examination within two weeks after the date the board receives the results from the testing service. If it is foreseeable that the notice of the examination results will be delayed for more than 90 days after the examination date, the board shall notify each examinee of the reason for the delay before the 90th day.

(b) If requested in writing by a person who fails a license examination administered under this Act, the board shall furnish the person with an analysis of the person's performance on the examination.

Fees

Sec. 14. (a) The board shall establish reasonable and necessary fees for the administration of this Act in amounts not to exceed:

- | | |
|---------------------------------------|-------|
| 1. Polygraph examiner's license | \$225 |
| 2. Internship license | 115 |
| 3. Duplicate license | 40 |
| 4. Renewal fee for examiner's license | 210 |

- | | |
|---|----|
| 5. Extension or renewal of an intern-
ship license | 40 |
| 6. Examination fee | 75 |

(b) The fees required by this Act may be paid by the governmental agency employing the examiner.

Display of License and Signature Thereon

Sec. 15. A license or duplicate license must be prominently displayed at the place of business of the polygraph examiner or at the place of internship. Each license shall be signed by the board members and shall be issued under the seal of the board.

Change of Business Address

Sec. 16. Notice in writing shall be given to the secretary by the licensed examiner of any change of principal business location within 30 days of the time he changes the location. A change of business location without notification to the secretary shall automatically suspend the license theretofore issued.

Termination and Renewal of Examiner's License

Sec. 17. (a) Each polygraph examiner's license shall be issued for the term of one year and shall, unless suspended or revoked, be renewed annually.

(b) A person may renew his unexpired license by paying to the board before the expiration date of the license the required renewal fee.

(c) If a person's license has been expired for not more than 90 days, the person may renew the license by paying to the board the required renewal fee and a fee that is one-half of the examination fee for the license.

(d) If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying to the board all unpaid renewal fees and a fee that is equal to the examination fee for the license.

(e) If a person's license has been expired for two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

(f) A polygraph examiner whose license expired while he was in the federal service on active duty with the armed forces of the United States, or the national guard called into service or training, or in training or education under the supervision of the United States preliminary to induction into the military service, may have his license renewed without examination if within two years after termination of such service, training, or education except under condition other than honorable, he pays to the board the required renewal fee and furnishes the board with an affidavit to the effect that he has been so engaged and that his service, training, or education has been so terminated.

Expiration Dates of Licenses; Proration of Fees

Sec. 17A. The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the expiration date is changed, license fees payable on the date in effect at the time the rule is adopted shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

License Required to Maintain Suit

Sec. 18. No action or counterclaim shall be maintained by any person in any court in this state with respect to any agreement or service for which a license is required by this Act, or to recover the agreed price or any compensation under such agreement, or for such services for which a license is required by this Act without alleging and proving that such person had a valid license at the time of making such agreement or performing such services.

Refusal, Probation, Reprimand, Suspension, Revocation—Grounds

Sec. 19. The board shall refuse to issue a license, shall revoke or suspend a license, shall reprimand a licensee, or may probate a license suspension on any one or more of the following grounds:

- (1) for failing to inform a subject to be examined as to the nature of the examination;
- (2) for failing to inform a subject to be examined that his participation in the examination is voluntary;
- (3) material misstatement in the application for original license or in the application for any renewal license under this Act;
- (4) wilful disregard or violation of this Act or of any regulation or rule issued pursuant thereto, including, but not limited to, wilfully making a false report concerning an examination for polygraph examination purposes;
- (5) if the holder of any license has been adjudged guilty of the commission of a felony or a misdemeanor involving moral turpitude;
- (6) making any wilful misrepresentation or false promises or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or trainees;
- (7) having demonstrated unworthiness or incompetency to act as a polygraph examiner as defined by this Act;
- (8) allowing one's license under this Act to be used by any unlicensed person in violation of the provisions of this Act;
- (9) wilfully aiding or abetting another in the violation of this Act or any regulation or rule issued pursuant thereto;

(10) where the license holder has been adjudged as a habitual drunkard or mentally incompetent as provided in the Probate Code;

(11) failing, within a reasonable time, to provide information requested by the secretary as the result of a formal complaint to the board which would indicate a violation of this Act;

(12) failing to inform the subject of the results of the examination if so requested; or

(13) violating Subsection (a) of Section 19A of this Act relating to the confidentiality of information acquired from an examination.

Confidentiality of Examination Results

Sec. 19A. (a) Except as provided by Subsection (c) of this section, a licensed polygraph examiner, licensed trainee, or employee of a licensed polygraph examiner may not disclose to another person information acquired from a polygraph examination.

(b) Except as provided by Subsection (d) of this section, a person for whom a polygraph examination is conducted or an employee of the person may not disclose to another person information acquired from the examination.

(c) A licensed polygraph examiner, licensed trainee, or employee of a licensed polygraph examiner may disclose information acquired from a polygraph examination to:

(1) the examinee or any other person specifically designated in writing by the examinee;

(2) the person, firm, corporation, partnership, business entity, or governmental agency that requested the examination;

(3) members or their agents of governmental agencies such as federal, state, county, or municipal agencies that license, supervise, or control the activities of polygraph examiners;

(4) other polygraph examiners in private consultation, all of whom will adhere to this section; or

(5) others as may be required by due process of law.

(d) A person for whom a polygraph examination is conducted or an employee of the person may disclose information acquired from the examination to a person described by Subdivisions (1) through (5) of Subsection (c) of this section.

(e) The board or any other governmental agency that acquires information from a polygraph examination under Subdivision (3) of Subsection (c) of this section shall keep the information confidential.

Information About Complaints

Sec. 19B. (a) The board shall keep an information file about each complaint filed with the board relating to a licensee.

(b) If a written complaint is filed with the board relating to a licensee, the board, at least as fre-

quently as quarterly, shall notify the complainant of the status of the complaint until its final disposition unless the notification would jeopardize an undercover investigation.

Violation by One Examiner or Trainee Not To Affect Employer

Sec. 20. Any unlawful act or violation of any of the provisions of this Act on the part of any polygraph examiner or trainee shall not be cause for revocation of the license of any other polygraph examiner for whom the offending examiner or trainee may have been employed, unless it shall appear to the satisfaction of the board that the polygraph examiner-employer has willfully or negligently aided or abetted the illegal actions or activities of the offending polygraph examiner or trainee.

Registration of Examiners With County Clerks

Sec. 21. Each polygraph examiner shall register with the county clerk in the county wherein he maintains a business address. The county clerk of each county shall maintain a list of all polygraph examiners registered in his county.

Board Hearing

Sec. 22. (a) If the board proposes to refuse a person's application for a license or to suspend or revoke a person's license, the person is entitled to a hearing before the board.

(b) Proceedings for the refusal, suspension, or revocation of a license are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Judicial Review

Sec. 23. Any person dissatisfied with the action of the board in refusing his application or suspending or revoking his license, or any other action of the board, may appeal the action of the board by filing a petition within the appropriate time in the district court in the county where the person resides or in the district court of Travis County, Texas. An appeal of an action of the board is governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). Judicial review of an action of the board shall be conducted under the substantial evidence rule.

Surrender of License

Sec. 24. Upon the revocation or suspension of any license, the licensee shall forthwith surrender the license or licenses to the secretary; failure of a licensee to do so shall be a violation of this Act and upon conviction, shall be subject to the penalties hereinafter set forth. At any time after the suspension or revocation of any license, the secretary shall restore it to the former licensee, upon the written recommendations of the board.

Consumer Information

Sec. 24A. (a) The board shall prepare information of consumer interest describing the regulatory functions of the board and the board's procedures by which consumer complaints are filed with and resolved by the board. The board shall make the information available to the general public and appropriate state agencies.

(b) Each written contract for the services in this state of a licensed polygraph examiner and each waiver of liability that is signed by the subject of a polygraph examination shall contain the name, mailing address, and telephone number of the board.

Proceedings Through the Attorney General

Sec. 25. If any person violates any provisions of this Act, the secretary shall, upon direction of a majority of the board, in the name of the State of Texas, through the Attorney General of the State of Texas, apply in any district court of competent jurisdiction, for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in the court, the court or any judge thereof, if satisfied by affidavit or otherwise that the person has violated this Act, may issue a temporary injunction, without notice or bond, enjoining such continued violation and if it is established that the person has violated or is violating this Act, the court, or any judge thereof, may enter a decree perpetually enjoining the violation or enforcing compliance with this Act. In case of violation of any order or decree issued under the provisions of this Section, the court, or any judge thereof, may try and punish the offender for contempt of court. Proceeding under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

Penalties

Sec. 26. (a) Any person who violates any provision of this Act or any person who falsely states or represents that he has been or is a polygraph examiner or trainee or that he is qualified to apply instrumentation of the detection of deception or verification of truth of statements shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail for a term of not to exceed six months, or both.

(b) A person commits an offense if the person intentionally, knowingly, recklessly, or with criminal negligence violates Section 19A of this Act relating to the confidentiality of information acquired from a polygraph examination. An offense under this subsection is a Class B misdemeanor.

Admissibility of Results as Evidence

Sec. 27. Nothing in this Act shall be construed as permitting the results of truth examinations or polygraph examinations to be introduced or admitted as evidence in a court of law.

Validating Clause

Sec. 28. All acts and governmental proceedings performed by the Polygraph Examiners Board and its officers since the creation or attempted creation of such Board by Acts, 1965, 59th Leg., R.S., Ch. 441, p. 888, are hereby in all respects validated as of the date of such acts or proceedings.

Savings Clause

Sec. 29. The provisions of this Act are severable. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provisions to other persons or circumstance shall not be affected thereby.

Emergency Clause

Sec. 30. The fact that Acts, 1965, 59th Leg., R.S., Ch. 441, p. 888, has been held by the Texas Supreme Court to be invalid solely because of a defect in the caption to the bill and that this state will have no law licensing and regulating the use of lie detection or polygraph examination techniques and instruments by reason of said decision, and that untrained and unlicensed examiners, and examiners using inadequate techniques and equipment cause great harm to the general public, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days in each House be suspended, and this Rule is hereby suspended; and that this Act take effect and be in force from and after its passage, and it is so enacted.

[Acts 1969, 61st Leg., p. 2504, ch. 839, eff. June 18, 1969. Amended by Acts 1973, 63rd Leg., p. 628, ch. 266, § 23, eff. June 11, 1973; Acts 1977, 65th Leg., p. 1836, ch. 735, § 2.031, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 2867, ch. 768, §§ 1 to 4, eff. Sept. 1, 1981.]

Acts 1965, 59th Leg., p. 888, ch. 441 enacted a Polygraph Examiners Act, classified as art. 2615f-2. Said Act was held unconstitutional by *Fletcher v. State* (Sup. 1969) 439 S.W.2d 656, on ground of insufficiency of the title of the Act under Const. Art. 3, § 35.

Acts 1969, 61st Leg., p. 2504, ch. 839 was editorially classified as art. 2615f-3 and subsequently re-classified as this article.

Sections 5 and 6 of the 1981 amendatory act provides:

"Sec. 5. A rule adopted by the Polygraph Examiners Board before September 1, 1981, that conflicts with the Polygraph Examiners Act, as amended (Article 4413(29cc), Vernon's Texas Civil Statutes), as amended by this Act, is void. Within 90 days after September 1, 1981, the board shall repeal the rule.

"Sec. 6. (a) A person holding office as a member of the Polygraph Examiners Board on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

"(b) The governor shall appoint two public members to fill the offices of the incumbent members who are not polygraph examiners in the commercial field and whose terms expire June 18, 1983, and June 18, 1985."

Art. 4413(29dd). Fingerprinting by Law Enforcement Agencies Upon Request

(a) A state law enforcement agency or the law enforcement agency of any political subdivision of

the state shall comply with the request of a person to have a record of his fingerprints made or a record of the fingerprints of a child or ward of the person made.

(b) A law enforcement agency may not charge for the service provided under this Act and may not retain records of fingerprints made under this Act unless specifically requested to do so by the person requesting the service.

[Acts 1983, 68th Leg., p. 2629, ch. 451, § 1, eff. June 17, 1983.]

CHAPTER SIX. VETERANS' PREFERENCES

Art.

4413(30). Repealed.

4413(31). Preference of Veterans in Appointment or Employment.

Art. 4413(30). Repealed by Acts 1945, 49th Leg., p. 627, ch. 357, § 8

This article was derived from Acts 1939, 46th Leg., p. 617, and related to preference of veterans in appointment or employment. The subject is now covered by art. 4413(31).

Art. 4413(31). Preference of Veterans in Appointment or Employment

Persons Entitled to Preference

Sec. 1. From and after the effective date of this Act, in every public department, commission, board, and government agency, and upon all public works of this State, all honorably discharged soldiers, sailors, marines, members of the air corps and coast guard of the United States, nurses in military service of the United States, and all women in military service of the United States in the different auxiliary services thereof, in the Spanish-American War, Philippine Insurrection, China Relief Expedition, World War I and World War II, or in any other military conflict in which the United States of America has been a participant, or the war in Korea after June 24, 1950, or the Viet Nam conflict after July, 1953, and the widows and orphans of such personnel of the Armed Forces of the United States, who are and have been citizens of Texas for not less than five (5) years preceding the date of application in pursuance of this Act, and are competent and fully qualified, shall be entitled to preference in appointment or employment over other applicants for the same position having no greater qualification; provided, that this Act shall not apply or benefit any person who was a conscientious objector at the time of his or her discharge from any of the military services herein mentioned.

Percentage of Employees Entitled to Preference

Sec. 2. The person or persons whose duty it is or may be to appoint or employ persons for or on behalf of the public departments, commissions, boards and other governmental agencies and public works as set out in Section 1 hereof, shall ascertain the number of employees therein and shall give

preference to persons entitled thereto under and in accordance with this Act, to the extent that not less than forty per cent (40%) of the total number of employees so employed shall be selected from those by this Act given preference; provided, however, that on and after the effective date of this Act, those public departments, commissions, boards and other governmental agencies and public works of this State which do not have a forty per cent (40%) quota as herein prescribed, shall, upon replacing employees in vacancies existing give preference to persons granted preference hereby, until such time as it or they shall have reached the prescribed total of forty per cent (40%); provided, however, that not less than twenty-five per cent (25%) of said employees hereby given preference shall be so employed not later than January 1, 1947, and not less than the full forty per cent (40%) by January 1, 1948; provided further, however, that wherever possible ten per cent (10%) of those given preference under this Act shall be taken from those veterans who have been discharged from the armed services of the United States within the preceding eighteen (18) months.

Age or Service-Connected Disability as Affecting Rights

Sec. 3. Persons entitled to preference under this Act shall not be disqualified from holding any position or employment hereinbefore mentioned on account of age or by reason of any service-connected disability, provided such age or disability does not render him or her incompetent to properly and capably perform the duties of the position or employment applied for. In all public departments, commissions, boards and other governmental agencies and public works of this State which now require or may hereafter require a competitive examination under a Merit System or Civil Service Plan of either or both selecting and promoting employees, such person who is otherwise eligible and qualified for and entitled to preference under this Act, who shall have been so examined and shall have attained at least the minimum required score for such test or tests, shall have a service credit amounting to ten (10) points added to the earned rating, and a service credit amounting to five (5) additional points shall be added to the earned rating of each such person who has a service-connected disability which has been or may be established by official records, which records such disabled person shall furnish to the person or persons whose duty it is to fill the position or employment applied for. In any public departments, commissions, boards, governmental agencies and public works of this State where competitive examinations for such purposes are not now or hereafter held, those entitled to preference under this Act having such service-connected disability so to be established and proof of the existence thereof furnished as hereinbefore provided, shall be entitled to preference for employment or appointment over all other applicants for the same position without any such disability and having no greater qualifications.

**Veterans Receiving Military Retirement Pay;
Inapplicability of Act**

Sec. 3(a). The veteran's preference authorized under this Act shall not apply to veterans who are receiving or who are entitled to receive military retirement pay, other than disability retirement pay, from the United States of America.

Investigation as to Qualifications

Sec. 4. When any person entitled to preference under Section 1 of this Act shall apply for appointment or employment under this Act, the officer, executive head of the department or person or persons whose duty it is to appoint or employ some person to fill the position or employment applied for, shall, before appointing or employing any one to fill such position or employment, make an investigation as to the qualifications of such applicant for such position or employment, and if the applicant is a person of good moral character, and can perform the duties of the position or employment applied for as hereinabove provided, such officer, head of department, or other person or persons having the appointive duty and power shall appoint or employ the applicant to such position or employment. Provided, however, that the provision of this Section shall not be operative if the said department, board, commission, governmental agency or public works shall have in its employment at the time the percentage required under Section 2 hereof of those entitled to preference under this Act.

Federal Grants

Sec. 5. If any provision of this Act shall be found to be in conflict with the Federal Laws, or any limitations fixed by Federal grants of funds to the public departments or governmental agencies, this Act shall be so construed as to operate to the extent only with reference to such Federal grants as it may be found to be in harmony therewith, and shall be in force with reference to said funds, to the extent of its harmonious provisions, and no further.

Inapplicable to Certain Positions

Sec. 6. Nothing in this Act shall be construed to apply to the position of private secretary or deputy of any official or department or to any person holding a strictly confidential relation to the appointing or employing officer.

Partial Invalidity

Sec. 7. If any section, subsection or paragraph hereof be held unconstitutional or invalid for any reason, it shall be presumed that this Act would have been passed by the Legislature without such invalid section, subsection, paragraph, sentence, provision, clause or phrase and such holding shall not in any way affect the remainder of the Act.

Repeal; Act as Cumulative

Sec. 8. Senate Bill No. 190, Chapter 1 of the Acts of the Forty-sixth Legislature, 1939, Regular

Session, is hereby repealed.¹ The provisions of this Act shall be cumulative of all laws on this subject, and whenever the provisions of this Act are in conflict with any existing law or laws on this subject, the provisions hereof in so far as same are in conflict with any existing law or laws, shall govern and control.

[Acts 1945, 49th Leg., p. 627, ch. 357. Amended by Acts 1951, 52nd Leg., p. 374, ch. 238, § 1; Acts 1967, 60th Leg., p. 712, ch. 295, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1185, ch. 284, §§ 1, 2, eff. Aug. 30, 1971.]

¹ Article 4413(30).

**CHAPTER SEVEN. INTERGOVERNMENTAL
COOPERATION**

Art.

- 4413(32). Interagency Cooperation Act.
- 4413(32a). Interagency Planning Councils.
- 4413(32b). Intergovernmental Cooperation Act.
- 4413(32c). Interlocal Cooperation Act.
- 4413(32d). Cultural Basin Act of 1973.
- 4413(32e). Joint Advisory Committee on Government Operations.
- 4413(32f). Closeup Act.
- 4413(32g). Uniform Grant and Contract Management Act of 1981.
- 4413(32h). Automated Information Systems Advisory Council.

Art. 4413(32). Interagency Cooperation Act

Short Title

Sec. 1. This Act may be referred to as "The Interagency Cooperation Act."

Agency Defined

Sec. 2. When used in this Act the word "agency" includes department, board, bureau, commission, court, office, authority, council, institution, university, college, and any service or part of a State institution of higher education.

**Authority to Contract to Furnish Services;
Reimbursement of Cost**

Sec. 3. Any state agency may enter into and perform a written agreement or contract with other agencies of the state for furnishing necessary and authorized special or technical services, including the services of employees, the services of materials, or the services of equipment. The actual cost of rendering the services, or the nearest estimate of the cost that is practicable, shall be reimbursed, except in case of service rendered in the fields of national defense or disaster relief, or in cooperative efforts, proposed by the Governor, to promote the economic development of the state. Provided, however, nothing herein shall authorize any agency to construct any highway, street, road, or other building or structure for any other agency, except as otherwise specifically authorized by existing law, and, except as to the right of the Texas Highway Department to enter into interagency agreements with any state college or university or public junior

colleges providing for the maintenance, improvement, relocation or extension of existing on-campus streets, parking lots and access-ways. Provided, however, no agency shall supply any services, supplies, or materials to another agency which are required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder.

Written Agreement or Contract

Sec. 4. Before any services may be rendered or received, a written agreement or contract shall be entered into, specifying the kinds and amounts of services to be rendered, the bases for calculating reimbursable costs, and the maximum amount of the costs during the time period covered by the agreement. In emergency situations for the defense or safety of the civil population, or in planning and preparation therefor, or in cooperative efforts, proposed by the Governor, for the economic development of the State, or where the amount involved is less than Three Hundred and Fifty Dollars (\$350), no written contract or advance approval by the Board of Control is required. To be valid, the written agreement or contract must have the advance approval of the administrator of the State agencies which are parties thereto, and of the Board of Control.

Restrictions on Contracts; Review by Board of Control

Sec. 5. No agreement or contract may be entered into or performed which will require or permit an agency of the State to exceed its constitutional or statutory duties and responsibilities, or the limitations of its appropriated funds. In reviewing proposed agreements or contracts of the character described in this Act, the Board of Control is authorized and directed to consider the following factors, which shall not be construed to be exclusive:

(a) Whether the services specified are necessary and essential for activities and work that are properly within the statutory functions and programs of the affected agencies of the State Government;

(b) Whether the proposed arrangements serve the interests of efficient and economical administration of the State Government; and

(c) Whether the specified bases for reimbursing actual costs are fair, equitable, and realistic and in conformity with the limitations of funds prescribed in the current appropriations act or other applicable statutes.

Payments

Sec. 6. Payments for such services by a receiving agency shall be made from the appropriation items or accounts of the receiving agency from which like expenditures would normally be made, based upon vouchers drawn for this purpose by the receiving agency payable to the furnishing agency. Payments received by the State agency performing the services shall be credited to that State agency's

current appropriation items or accounts from which the expenditures of that character were originally made. Payments for intraagency transactions shall be handled in the same manner as interagency transactions or by interdivisional transfer of funds on the records of the agency concerned, subject to the applicable provisions of the biennial appropriations act.

Summary Included in Board's Annual Report

Sec. 7. A summary of all such agreements or contracts entered into during any fiscal year by State departments or agencies and aggregating over One Hundred Dollars (\$100), including descriptions of the purposes of the agreements or contracts, names of the State agencies involved, time period covered, and amounts of reimbursement, shall be included in the Board of Control's annual report.

[Acts 1953, 53rd Leg., p. 841, ch. 340. Amended by Acts 1965, 59th Leg., p. 564, ch. 287, § 1; Acts 1979, 66th Leg., p. 1803, ch. 735, § 1, eff. Aug. 27, 1979.]

Art. 4413(32a). Interagency Planning Councils

Sec. 1. The imperative need to maximize the prudent use of governmental revenues being self-evident, the Legislature recognizes that planning is a governmental purpose and function of the State and its political and legal subdivisions.

Sec. 2. The Governor is hereby designated the Chief Planning Officer of the State.

Sec. 3. The Governor shall appoint Interagency Planning Councils to coordinate joint planning efforts in the various functional areas of government, and each Council shall be composed of a member of the Governor's Office and the Administrative heads of the several State agencies and departments and institutions of higher education represented on the respective Councils. The Interagency Planning Councils shall represent the areas of natural resources, health, education, and such other areas as may require coordinated planning efforts.

Sec. 4. (a) The Governor shall establish a Division of Planning Coordination within his office.

(b) Responsibilities of the Division of Planning Coordination.

(1) The Division shall coordinate the activities of the Interagency Planning Councils. The several councils may participate jointly in studies providing information common to all planning efforts.

(2) The Division shall serve as the State Clearinghouse on all state agency applications for federal grant or loan assistance, and shall be notified of all applications for federal grant or loan assistance prior to actual submittal of such applications.

(3) The Division may provide for the review and comment of all state plans of state agencies required as a condition for federal assistance and may provide for the review and comment on all state agency applications for grant or loan assistance.

(4) The Division shall establish policies and guidelines for the effective review and comment on such state plans and applications for federal grant or loan assistance.

(5) The Division shall cooperate with the Legislative Budget Board in developing information requirements pertaining to the review and comment process.

Sec. 5. [Severability].

Sec. 6. (a) The governor shall establish a Criminal Justice Division within his office to perform the following duties:

(1) to advise and assist the governor in developing policies, plans, programs, and proposed legislation for improving the coordination, administration, and effectiveness of the criminal justice system;

(2) to administer the Criminal Justice Planning Fund;

(3) to prepare a state comprehensive criminal justice plan, to update the plan annually, based on an analysis of the state's criminal justice problems and needs, and to encourage identical or substantially similar local and regional comprehensive criminal justice planning efforts;

(4) to establish goals, priorities, and standards for programs and projects to improve the administration of justice and the efficiency of law enforcement, the judicial system, prosecution, criminal defense, and adult and juvenile corrections and rehabilitation;

(5) to award grants to state agencies, units of local government, school districts, and private, non-profit corporations from the Criminal Justice Planning Fund for programs and projects upon consideration of the goals, priorities, and standards recommended by the Criminal Justice Policy Council;

(6) to apply for, obtain, and allocate for the purposes of this section any federal or other funds which may from time to time be made available for programs and projects which address the goals, priorities, and standards established in or which assist the local and regional comprehensive criminal justice planning efforts;

(7) to administer the funds provided by this Act in such a manner as to ensure that grants received under this section do not supplant state or local funds;

(8) to establish procedures and policies that require that the costs of programs and projects funded to local general purpose units of government be assumed over a period of five years out of local revenues;

(9) to monitor and evaluate programs and projects funded under this section, to cooperate with and render technical assistance to state agencies and local governments seeking to reduce crime or enhance the performance and operation of the criminal justice system, and to collect from any state or

local government entity information, data, statistics, or other material necessary to carry out the purposes of this section;

(10) to submit a biennial report to the legislature reporting the division's activities during the preceding biennium including the comprehensive state criminal justice plans and such other studies, evaluations, crime data analyses, reports, or proposed legislation as the governor may deem appropriate or as the legislature may from time to time request; and

(11) to perform such other duties as may be necessary to carry out the duties enumerated above and adopt such rules, regulations, and procedures as may be necessary.

(b) The governor shall appoint a director for the division to serve at the pleasure of the governor.

(c) When any local grant application is submitted to the Criminal Justice Division, it shall also be submitted to the local governing body for comment as determined by rules of the board.

Sec. 7. Repealed by Acts 1983, 68th Leg., p. 1055, ch. 236, § 4, eff. Sept. 1, 1983.

Sec. 8. The Criminal Justice Division and any project funded by the Criminal Justice Division shall be subject to examination, inspection, and audit by the State Auditor's Office, the Legislative Budget Board, and the Governor's Division of Planning Coordination to determine compliance with this Act and the approved annual comprehensive criminal justice plans.

[Acts 1967, 60th Leg., p. 949, ch. 417, eff. Sept. 1, 1967. Amended by Acts 1975, 64th Leg., p. 1403, ch. 544, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2121, ch. 495, § 1, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 1053, ch. 236, §§ 3, 4, eff. Sept. 1, 1983.]

Section 5 of the 1967 Act provided:

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

Art. 4413(32b). Intergovernmental Cooperation Act

Purpose

Sec. 1. It is the purpose of this Act to improve the coordination and cooperation between the State and its local governments and between the State and the federal government by:

(1) providing a means for continuous evaluation of the State's key role in the federal system;

(2) involving local, State, and federal officials in an advisory capacity to the public agencies of Texas;

(3) establishing a regular system of reporting to public officials on the progress of the State and its political subdivisions toward meeting intergovernmental responsibilities.

Short Title

Sec. 2. This Act may be cited as the Texas Intergovernmental Cooperation Act.

Definitions

Sec. 3. As used in this Act:

(1) "commission" means the Texas Advisory Commission on Intergovernmental Relations;

(2) "local government" means a county, a home rule city or a city, village, or town organized under the general laws of this State, a special district, a school district, a junior college district, any other legally constituted political subdivision of the State or a combination of political subdivisions.

Commission Created

Sec. 4. There is hereby created a Texas Advisory Commission on Intergovernmental Relations.

Application of Sunset Act

Sec. 4a. The Texas Advisory Commission on Intergovernmental Relations is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1995.

Membership

Sec. 5. (a) The commission shall be composed of twenty-four appointed members and two ex officio members as follows: four county officials, four city officials, two public school officials, two representatives of other political subdivisions, two federal officials residing in Texas and responsible for federal programs operating in the State, and four private citizens all appointed by the Governor; three State Senators appointed by the Lieutenant Governor; three State Representatives appointed by the Speaker of the House; and the Lieutenant Governor (ex officio) and Speaker of the House of Representatives (ex officio). Appointments to the commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. The duties to be performed by each public official or employee appointed to the commission or serving ex officio shall be considered duties in addition to those otherwise required by that person's office.

(b) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the commission may not serve as a member of the commission or act as the general counsel to the commission.

Chairman

Sec. 6. The chairman of the commission shall be selected by the Governor and serve at his pleasure.

In the event of the chairman's absence or disability, the members of the commission shall elect a temporary chairman by majority vote of those present at a meeting.

Terms of Office; Vacancies; Records

Sec. 7. (a) Appointed members of the commission shall hold office for staggered terms of six years, with the terms of eight appointed members, including one Senator and one Representative, expiring on the first day of September in each odd-numbered year.

(b) It is a ground for removal from the commission that a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of Section 5 of this Act for appointment to the commission;

(2) does not maintain during the service on the commission the qualifications required by Subsection (a) of Section 5 of this Act for appointment to the commission; or

(3) violates a prohibition established by Subsection (b) of Section 5 of this Act.

(c) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed.

(d) If a vacancy occurs in the office of an appointed member of the commission, the position shall be filled by a person appointed in the same manner as for a regular appointment, and the person so appointed shall serve only to the end of the unexpired term and until his successor is appointed and qualified.

(e) The official records of the commission shall reflect the date each member's certificate of appointment was issued by the Secretary of State, the date he took the oath of office, the person who administered the oath, the date the appointive term began, and the date the term expires.

Open Meetings and Administrative Procedure

Sec. 7A. The commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Expenses

Sec. 8. A member of the commission is not entitled to a salary for duties performed as a member of the commission.

Each member is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.

Staff

Sec. 9. (a) The commission may employ an executive director and such other staff as necessary to carry out its functions and duties.

(b) The executive director of the commission or his designee shall develop an intraagency career-ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least 10 days before any public posting.

(c) The executive director of the commission or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this subsection.

Functions

Sec. 10. The commission shall carry out the following functions and duties:

(1) evaluate on a continuous basis the interrelationships among Texas local, State, and federal government agencies and prepare studies and recommendations to improve these relationships;

(2) evaluate proposed and existing federal programs and assess their impact upon Texas;

(3) evaluate the State's role in assisting its political subdivisions to carry out public responsibilities and make recommendations for improvement;

(4) serve as a forum for the discussion and resolution of serious intergovernmental problems;

(5) encourage, and where appropriate, coordinate studies relating to intergovernmental relations conducted by universities, State, federal and local agencies, and other research-oriented organizations.

Information of General Interest

Sec. 10A. The commission shall prepare information of general interest describing the functions of the commission and describing the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

Complaints

Sec. 10B. (a) The commission shall keep an information file about each complaint filed with the commission relating to activities of the commission.

(b) If a written complaint is filed with the commission relating to an activity of the commission, the commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint.

Reporting

Sec. 11. (a) The commission may issue reports of its findings and recommendations from time to time and shall issue annually a public report on its work.

(b) In January of each year, the commission shall file with the Governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding year.

Finances

Sec. 12. (a) The commission is authorized to apply for, contract for, receive, and expend for its purposes any appropriations or grants from the State of Texas, local government, the federal government, or any other source, public or private.

(b) Local governments are authorized to appropriate moneys to the commission to share in the cost of its operations.

(c) The State Auditor shall audit the financial transactions of the commission during each fiscal year.

Severability Clause

Sec. 13. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 2703, ch. 881, eff. Aug. 30, 1971. Amended by Acts 1975, 64th Leg., p. 165, ch. 69, §§ 1, 2, eff. April 24, 1975; Acts 1977, 65th Leg., p. 1842, ch. 735, § 2.075, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 2759, ch. 474, § 1, eff. Sept. 1, 1983.]

Sections 2 and 3 of the 1983 amendatory act provide:

"Sec. 2. The requirements of Subsections (b) and (c), section 9, Texas Intergovernmental Cooperation Act (Article 4413(32b), Vernon's Texas Civil Statutes), as added by this Act, that the executive director of the commission develop an intraagency career-ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of Subsection (c) of Section 9 that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985.

"Sec. 3. If a member of the commission is a registered lobbyist on the effective date of this Act, the prohibition established by Subsection (b), Section 5, Texas Intergovernmental Cooperation Act (Article 4413(32b), Vernon's Texas Civil Statutes), as added by this Act, does not apply to the member for the term being served on the effective date of this Act."

Art. 4413(32c). Interlocal Cooperation Act**Purpose**

Sec. 1. It is the purpose of this Act to improve the efficiency and effectiveness of local governments by authorizing the fullest possible range of intergovernmental contracting authority at the local level including contracts between counties and cities, between and among counties, between and among cities, between and among school districts, and between and among counties, cities, school districts, and other political subdivisions of the state, and agencies of the state.

Short Title

Sec. 2. This Act may be cited as The Interlocal Cooperation Act.

Definitions

Sec. 3. As used in this Act:

(1) "local government" means a county; a home rule city or a city, village, or town organized under the general laws of this state; a special district; a school district; a junior college district; any other legally constituted political subdivision of the State of Texas or any adjoining state; or a combination of political subdivisions.

(2) "governmental functions and services" means all or part of any function or service included within the following general areas: police protection and detention services; fire protection; streets, roads, and drainage; public health and welfare; parks; recreation; library services; museum services; waste disposal; planning; engineering; administrative functions; and such other governmental functions which are of mutual concern to the contracting parties.

(3) "administrative functions" means functions normally associated with the routine operation of government such as tax assessment and collection, personnel services, purchasing, data processing, warehousing, equipment repair, and printing.

Bicentennial Exposition; "Governmental Functions and Services" Defined

Sec. 3A. For the purpose of providing facilities and services for celebration of the 200th anniversary of the founding of the United States of America, the term "governmental functions and services," as used in this Act, includes the planning, construction, and operation of a bicentennial exposition, which may include a convention center, a museum, a battleground, camping facilities, amusement areas, exhibits, transportation systems, and other facilities and services which are appropriate to the celebration. The exposition may be operated and maintained on a permanent basis.

Authority to Make Interlocal Contracts and Agreements

Sec. 4. (a) Any local government may contract or agree with one or more local governments to perform governmental functions and services under terms of this Act.

(b) The agreements or contracts may be for the purpose of studying the feasibility of contractual performance of any governmental functions or services or may be for the performance of any governmental functions or services which all parties to the contract are legally authorized to perform, provided such contracts or agreements shall be duly authorized by the governing body of each party to the contract or agreement. An interlocal contract or agreement shall state the purpose, terms, rights, objectives, duties, and responsibilities of the con-

tracting parties. Interlocal contracts and agreements may be renewed annually and shall specify that the party or parties paying for the performance of governmental functions or services shall make payments therefor from current revenues available to the paying party.

(c) The authority of a political subdivision to perform a contractual service includes the authority to apply the rules, regulations, and ordinances of either the subdivision receiving the service or of the subdivision providing the service, whichever standard may be agreed upon by the contracting political subdivisions.

(d) The contracting parties to any interlocal contract or agreement shall have full authority to create an administrative agency or designate an existing political subdivision for the supervision of performance of an interlocal contract or agreement and any administrative agency so created or political subdivision so designated shall have the authority to employ personnel and engage in other administrative activities and provide other administrative services necessary to execute the terms of any interlocal contract or agreement. For purposes of this Act any body politic and corporate organized under the laws of this state shall be considered a political subdivision.

(e) The contracting parties to any interlocal contract or agreement shall have full authority to contract with state departments and agencies as defined in Article 4413(32), Vernon's Texas Civil Statutes, or any similar department or agency of an adjoining state. The contracting parties to interlocal contract or agreement shall have specific authority to contract with the Department of Corrections for the construction, operation and maintenance of a regional correctional facility provided that title to the land on which said facility is to be constructed is deeded to the Department of Corrections and provided further that a contract is executed by and between all the parties as to payment for the housing, maintenance and rehabilitative treatment of persons held in jails who cannot otherwise be transferred under authority of existing statutes to the direct responsibility of the Department of Corrections.

(f) No person acting under an interlocal contract or agreement shall be deemed to be holding more than one office of honor, trust, or profit or more than one civil office of emolument.

(g) When governmental units enter a contract or agreement for the furnishing of fire protection services, any civil liability related to the furnishing of those services is the responsibility of the governmental unit which would be responsible for furnishing the services absent the contract or agreement.

(h)(1) By resolution of the governing body, a political subdivision of the state may contract with other political subdivisions of the state to participate in the ownership, construction, and operation of a regional jail facility. The regional jail shall be

located within the geographic boundaries of one of the participating political subdivisions, but the regional jail need not be located in a county seat.

(2) Prior to acquisition and construction of the regional jail facility, bonds to finance the acquisition and construction of the facility shall be issued by the participating subdivisions in the manner prescribed by law for issuance of permanent improvement bonds.

(3) The participating political subdivisions may establish by agreement that the police chief or sheriff of the political subdivision in which the regional jail is located shall be appointed as jailer of the facility and shall have authority to supervise the operation and maintenance of the jail, that a committee composed of the sheriff or police chief of each participating political subdivision may be established to appoint a jailer to supervise the maintenance and operation of the jail, or that each police chief or sheriff may continue the supervision and responsibility over the prisoners he has incarcerated in the regional jail facility. The participating political subdivisions may also employ or authorize the jailer to employ additional personnel necessary to operate and maintain the facility.

(4) When an agreement is established pursuant to Subdivision (3) of this subsection, prisoners incarcerated in the regional jail shall be under the supervision of the person designated to have responsibility for the supervision of the regional jail. If a prisoner is transferred back to the originating political subdivision from a regional jail, the appropriate law enforcement official in the originating political subdivision shall assume supervision and responsibility for the prisoner.

(5) While a prisoner is incarcerated in a regional jail facility, a sheriff or police chief not assigned to supervise the regional jail is not liable for the escape of the prisoner or for any injury or damage caused by or to the prisoner unless the escape, injury, or damage is directly caused by the sheriff or police chief.

(6) A jailer in charge of a regional jail and any assistant jailers he may employ must be commissioned peace officers.

(i) To conserve and coordinate the use of public funds, local governments may enter into agreements for cooperative purchase of goods and services between and among themselves and with the state, including cooperative agreements with the State Purchasing and General Services Commission.

Water Supply and Waste Water Treatment Facility Contracts and Leases

Sec. 5. (a) Any city, town, district, or river authority within the state may enter into a contract with any other city, town, district, or river authority created under the constitution and laws of this state for the purpose of obtaining or providing water supply or waste water treatment facilities or any interest therein. Any city, town, district, or river

authority may also enter into a contract with any other city, town, district, or river authority for the leasing or operation of water supply facilities or waste water treatment facilities or any interest therein.

(b) Any contract authorized by this section may provide that the city, town, district, or river authority obtaining one of the services may not obtain these same services from any other source other than the city, town, district, or river authority with which it contracted except to the extent provided in the contract. If any such contract so provides, payments made thereunder shall be operating expenses of the contracting party's water supply system or waste water treatment facilities, or both, as the case may be.

(c) Except as provided in Subsection (d) of this section, any contract entered into under this section may contain any terms and extend for any period of time to which the parties can agree, and may provide that it will continue in effect until bonds specified in it and refunding bonds issued in lieu of those bonds are paid.

(d) No tax revenues shall be pledged to the payment of amounts agreed to be paid under any contract entered into under this section.

(e) This section is wholly sufficient authority for executing the contracts mentioned in it regardless of any restrictions or limitations contained in any other laws.

Emergency Assistance

Sec. 5A. (a) A local government may provide emergency assistance to another local government, regardless of whether the local governments have previously agreed or contracted to provide that kind of assistance, if:

(1) in the opinion of the presiding officer of the governing body of the local government desiring emergency assistance, a state of civil emergency exists in the local government that requires assistance from another local government and the presiding officer requests the assistance; and

(2) before the emergency assistance is rendered, the governing body of the local government that is to provide the assistance, by resolution or other official action, has authorized the local government to provide the assistance.

(b) This section does not apply to emergency assistance rendered by law enforcement officers under Section 2, Chapter 81, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 999b, Vernon's Texas Civil Statutes).

Saving Clause

Sec. 6. The enactment of this law shall not affect or impair any act done or right, obligation, or penalty existing before enactment of this law.

Cumulative Clause

Sec. 7. The provisions of this Act shall be cumulative of all other laws or parts of laws, general or special.

Severability Clause

Sec. 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 1971, ch. 513, eff. May 31, 1971. Amended by Acts 1973, 63rd Leg., p. 237, ch. 112, § 1, eff. May 18, 1973; Acts 1973, 63rd Leg., p. 1279, ch. 472, § 1, eff. June 14, 1973; Acts 1973, 63rd Leg., p. 1782, ch. 655, § 1, eff. Aug. 27, 1973; Acts 1975, 64th Leg., p. 1235, ch. 460, §§ 1 to 3, eff. June 19, 1975; Acts 1977, 65th Leg., p. 1619, ch. 634, § 2, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1362, ch. 612, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 626, ch. 248, § 1, eff. May 28, 1981.]

Section 4 of the 1975 amendatory act provided:

"Any law in conflict with this Act is hereby repealed to the extent of the conflict."

Art. 4413(32d). Cultural Basin Act of 1973**Short Title**

Sec. 1. This Act may be cited as the Cultural Basin Act of 1973.

Findings

Sec. 2. (a) The Legislature of the State of Texas finds that there is an immediate state interest in an efficient and comprehensive system of local, regional, basinwide, and statewide planning, goal-setting, and decision-making processes.

(b) The legislature finds that the problems and opportunities of the state are not accurately reflected by statewide averages. The diversity of the state and its people, their general well-being, and their quality of life varies tremendously.

(c) The legislature finds a need to form an alliance among local citizens and representatives of federal, state, and local government to focus energies, expertise, and funds into an effective mechanism for solving problems and developing opportunities with the appropriate discretion to meet the diverse needs of all the residents of Texas.

(d) The legislature finds that the efforts by local, state, and federal governments remain fragmented and that current efforts must be orchestrated and redirected to insure that the goals and priority-setting processes are attuned to the needs of local entities and residents of the state.

Statement of Purpose

Sec. 3. It is the purpose of this Act to improve the quality of life for the residents of Texas by stimulating orderly economic and socially desirable development and conservation and utilization of the

state's human and natural resources. The administrative structure provided by this Act is a partnership of local citizens, local governments, state agencies, and federal agencies and creates a vehicle of change broad enough to plan and operate interagency and intergovernmental programs and flexible enough to respond to locally determined needs.

Designation of Cultural Basins

Sec. 4. (a) The Governor of Texas is instructed to designate appropriate cultural basins within the State of Texas where

(1) there is a commonality within a geographic area, culturally, historically, and economically;

(2) areas within a county or counties within the proposed area are contiguous; and

(3) grouping of state planning regions can be utilized as building blocks for the formation of such cultural basins.

(b) The governor shall designate at least four cultural basins; however, no more than seven shall be designated to insure economies of scale. Each of three major metropolitan areas should be in separate commissions.

Formation of Commissions

Sec. 5. A commission shall be appointed in each cultural basin that is designated by the governor. Each commission shall hold quarterly meetings. Additional meetings may be called by a majority of its members or by the chairman at any time.

Membership of Commissions

Sec. 6. The membership of each cultural basin commission shall be appointed by the governor for a term of two years. Cultural basin commission membership shall consist of five local citizens, the chairman or president of each regional council of government within the particular cultural basin, six state agency heads who shall coordinate activities of the commission with all agencies of state government, and representatives of five federal agencies who shall coordinate activities of the commission with all agencies of the federal government.

Functions of the Commission

Sec. 7. (a) In carrying out the purposes of this Act, each cultural basin commission shall have the following functions with respect to its cultural basin:

(1) to foster surveys and studies to provide data required for the preparation of specific plans and programs for the development of such cultural basins;

(2) to advise and assist the governor in the coordination of regional councils of governments, in order to promote maximum benefits from the expenditure of federal, state, and local funds;

(3) to promote increased private investment in such cultural basins;

(4) to prepare legislative and other recommendations with respect to both short-range and long-range programs and projects;

(5) to develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities thereunder, giving due consideration to other federal, state, regional, and local planning in the cultural basin;

(6) to conduct and sponsor investigations, research, and studies including an inventory and analysis of the resources of the cultural basin, and in cooperation with federal, state, regional, and local agencies, sponsor demonstration projects designed to foster cultural basin productivity and growth;

(7) to review and study, in cooperation with the agency involved, federal, state, regional, and local public and private programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in the cultural basin;

(8) to formulate and recommend interstate compacts and other forms of interstate cooperation;

(9) to formulate and recommend international agreements between the United States and Mexico where such agreements have significant impact on the economy or delivery of services to the people of Texas;

(10) to provide a forum for consideration of problems of the cultural basins and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences.

(b) The governor as the commission's chairman shall present such plans and proposals of the commission for review by state agencies primarily interested in such plans and proposals and then, together with the recommendations of such agencies, make selected recommendations to the legislature for such actions as he may deem desirable.

(c) The governor as the commission's chairman shall provide effective and continuing liaison between the federal government, state agencies, and all cultural basin commissions.

(d) Each state agency shall, consonant with law and within the limits of available funds, cooperate with such commissions as may be established in order to assist them in carrying out their functions under this section.

(e) Each commission may, from time to time, make additional recommendations to the legislature and to appropriate local officials, with respect to:

(1) the expenditure of funds by federal, state, and local departments and agencies in its cultural basin in the fields of natural resources, agriculture, education, training, health and welfare, transportation,

recreation, public works, and other fields related to the purposes of this Act; and

(2) such additional state legislation or administrative actions as the commission deems necessary to further the purpose of this Act.

(f) Nothing in this Act shall be construed to give any cultural basin the power of approval or disapproval of funding to any county, city or regional council of government organization.

Functions of Commission Members

Sec. 8. (a) In addition to the functions of the commission as stated in Section 7 of this Act, the commission members shall perform the following duties:

(1) Local officials and citizens are charged with the responsibility of establishing local goals and priorities, basinwide goals and priorities, and making management and policy decisions.

(2) Regional councils of government chairmen and presidents shall coordinate the efforts, programs, goals, and projects of regional councils of governments with those of the cultural basin commission and make management and policy decisions.

(3) State and federal agency representatives are charged with the responsibility of designing programs and allocating funds necessary to implement the goals set by the cultural basin commission. State and federal agencies shall coordinate existing programs and design new state and federal programs through direct contact and communications between local, regional, state, and federal agency representatives on cultural basin commissions.

(b) Whenever possible, existing groups, such as those proposed by The Texas Industrial Commission-Texas Office of Economic Opportunity Selective Economic Development Plan or the local human resources councils shall be used in local goal-setting. Information, studies, and proposed solutions to problems from citizen commissions, such as the Rural Development Commission, shall be utilized.

Technical and Planning Assistance

Sec. 9. The governor is instructed to provide to the several commissions technical assistance and staff support to aid the commissions in carrying out their functions under this Act and to develop recommendations and programs. Such assistance shall include studies and plans evaluating the needs of, and developing potentialities for, economic growth of such cultural basins, and research on improving the conservation and utilization of the human and natural resources of the cultural basins. Such assistance may be provided by the governor through members of his staff, through the payment of funds authorized for this section to other departments or agencies of state government, through the employment of private individuals, partnerships, firms, corporations, or suitable institutions and contracts en-

tered into for such purposes, or through grants to the commission.

Administrative Allocation

Sec. 10. (a) For budgetary purposes, cultural basin commissions shall be attached to and considered part of the governor's office, with necessary expenses of operations to be financed by line-item appropriations made by the legislature to the governor's office for that purpose.

(b) The members of the commission are entitled to receive their actual travel and other necessary expenses in the performance of their duties when not reimbursed from other sources.

(c) The commission may accept gifts and grants of money from any individual, group, association, corporation, or the federal government. Such funds received shall be deposited in the state treasury to be released as appropriated by the legislature in accordance with the specific purpose for which given and under conditions that may be imposed by the donor and in accordance with the annual report or other recommendations of cultural basin commissions.

Development Grant

Sec. 11. (a) The legislature shall appropriate a development grant fund. Upon receipt of the cultural basin commission's report as stated in Subsection (b) of Section 7, the legislature may release appropriate development grant funds in block grant form to be used by the particular cultural basin commission in accordance with its annual report, containing recommendations to the legislature for the development of projects, programs, and studies.

(b) In developing recommendations for programs and projects for cultural basins, and in establishing within those recommendations funding and other appropriate actions and a priority ranking for such programs and projects, the governor shall encourage each commission and reviewing state agency to follow procedures that will insure consideration of the following factors:

- (1) the relationship of the project or projects to overall cultural basin development including its location in an area determined to have a significant potential for growth;
- (2) the population and area to be served by the project or projects including the relative per capita income and the unemployment rates in the area;
- (3) the relative financial resources available to the state or political subdivision or instrumentalities thereof which seek to undertake the project;
- (4) the importance of the project or projects in relation to other projects or classes of projects which may be in competition for the same funds;
- (5) the prospects that the project, on a continuing rather than a temporary basis, will improve the opportunities for employment, the average level of

income, or the economic and social development of the area served by the project; and

- (6) possible environmental impact.

A Pilot Project

Sec. 12. The Greater South Texas Cultural Basin shall be designated by the governor as the first cultural basin. The experience of the Greater South Texas Cultural Basin Commission shall aid in the formulation and development of additional cultural basin commissions statewide.

Annual Report

Sec. 13. On or before December 1 of each year, each cultural basin commission shall make in writing a complete and detailed report of its activities and recommendations, consistent with Subsection (b) of Section 7 and Subsections (a) and (b) of Section 11, to the governor and to the presiding officer of each house of the legislature.

Severability Clause

Sec. 14. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1973, 63rd Leg., p. 1580, ch. 571, eff. Aug. 27, 1973.]

Art. 4413(32e). Joint Advisory Committee on Government Operations

Purpose

Sec. 1. The purpose of this Act is to promote the economical delivery of the services provided by state government by means of a comprehensive review of governmental structure and administration.

Definitions

Sec. 2. In this Act:

- (1) "Committee" means the Joint Advisory Committee on Government Operations.
- (2) "Departments and Agencies" means all departments, bureaus, agencies, boards, commissions, and other instrumentalities of the executive branch of the state government.

Creation of Committee

Sec. 3. There is created the Joint Advisory Committee on Government Operations.

Membership

Sec. 4. (a) The committee consists of the lieutenant governor, the speaker of the house of representatives, the secretary of state, and other members appointed as provided by this section.

(b) The governor shall appoint nine persons, none of whom may be members of the house or of the senate.

(c) The lieutenant governor shall appoint three members of the senate.

(d) The speaker of the house of representatives shall appoint three members of the house of representatives.

Terms and Vacancies

Sec. 5. (a) The initial members of the committee shall take office within 30 days after the effective date of this Act and shall serve until the expiration of the committee.

(b) Vacancies among the appointed members shall be filled for the unexpired terms in the same manner as the original appointments were made.

Compensation

Sec. 6. (a) Legislative members of the committee shall serve without additional compensation. Each member shall be reimbursed from the appropriate fund of the member's respective house for travel, subsistence, and other necessary expenses incurred in performing the duties of the committee.

(b) Persons appointed pursuant to Section 4(b) of this Act shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses from appropriations made by the legislature to the committee.

(c) The duties to be performed by each public official or employee appointed to the committee shall be considered duties in addition to those otherwise required by that person's office.

Officers

Sec. 7. The lieutenant governor shall serve as chairman of the committee. The speaker of the house of representatives shall serve as vice-chairman of the committee.

Quorum

Sec. 8. Ten members of the committee shall constitute a quorum for the conduct of business.

Duties

Sec. 9. The committee shall:

(1) examine and evaluate the organization and methods of operation of the departments and agencies of state government;

(2) develop proposals for improving the structure and administration of state government in order to assure the delivery of governmental services at the lowest possible cost;

(3) recommend policies and programs to minimize creation of new departments and agencies of state government and to control the growth of existing departments and agencies; and

(4) recommend suspension of government programs and services that duplicate and exceed in cost those same services offered by private business.

Powers

Sec. 10. The committee or any subcommittee of its membership designated by the chairman may:

(1) appoint and fix the compensation of necessary staff, including the retention of independent auditors;

(2) hold open hearings, take testimony, and administer oaths or affirmations to witnesses;

(3) secure directly from any department or agency of state government any information deemed necessary for the implementation of this Act;

(4) make findings and issue reports in the execution of the duties imposed by Section 9 of this Act.

Appropriations; Private Funds

Sec. 11. The legislature shall appropriate money necessary to carry out the provisions of this Act in the General Appropriations Act for the biennium ending August 31, 1977, or in special appropriation acts for the purpose. Private funds including public or private foundation funds may be used to defray the cost of conducting any of the affairs of the committee upon authorization by the committee.

Cooperation of Other Departments and Agencies

Sec. 12. (a) The Texas Legislative Council, the Legislative Budget Board, the Legislative Audit Committee, the Advisory Commission on Intergovernmental Relations, and the Division of Planning Coordination shall, through their respective administrative officers, furnish staff assistance to the committee upon request.

(b) Each department and agency of state government is directed to furnish assistance and information to the committee upon request.

Reports; Recommendations; Dissolution

Sec. 13. The committee may make an interim report on its progress, together with any specific recommendations it may deem desirable, to any session of the 64th Legislature, and shall make its final report to the 65th Legislature not later than 30 days after that legislature is organized. Unless extended by the 65th Legislature, the committee is dissolved on May 31, 1977.

[Acts 1975, 64th Leg., p. 949, ch. 357, eff. June 19, 1975.]

Art. 4413(32f). Closeup Act

Short Title

Sec. 1. This Act may be cited as the Texas Closeup Act.

Definitions

Sec. 2. In this Act:

- (1) "Board" means the Texas Closeup Board;
- (2) "Program" means the Texas Closeup Program.

Creation of Program

Sec. 3. The Texas Closeup Program is created. Under this program, 11th and 12th grade students and supervising teachers from participating school districts and private institutions may be brought to Austin in order to observe and evaluate state government.

Texas Closeup Board

Sec. 4. (a) Control of the program is vested in the Texas Closeup Board, which is composed of nine members appointed by the governor with the advice and consent of the senate. The term of office of members is six years, and the terms shall be staggered at two-year intervals. In making the initial appointments, the governor shall designate three members for terms expiring on January 31 of each of the succeeding three consecutive odd-numbered years.

(b) Vacancies in the offices of members must be filled by appointment by the governor for the unexpired term.

(c) The board shall elect from among its members a chairman to serve for a term of one year.

(d) The board shall have its office in Austin.

(e) Members of the board serve without compensation but shall be reimbursed for actual and necessary expenses incurred in carrying out official duties.

(f) Five members constitute a quorum for the transaction of business.

(g) The Texas Closeup Board shall expire on September 1, 1985, unless its existence is extended prior to that date by legislative action.

Duties of Board

Sec. 5. The board shall in conjunction with the board and executive officers of the Closeup Foundation:

- (1) develop the tours, seminars, and other activities of the program;
- (2) promulgate rules necessary for the administration of the program, including rules governing the eligibility requirements for participating students and the compensation to be provided supervising teachers;
- (3) coordinate the program with the National Closeup Foundation;
- (4) prepare and submit annually to the governor and legislature an operating budget; and
- (5) solicit gifts, grants, and endowments from public and private sources.

Executive Director

Sec. 6. (a) The board shall employ an executive director and may delegate to him authority to manage and operate the affairs of the program subject to orders of the board.

(b) The director shall:

- (1) serve as liaison with the board and executive officers of the Closeup Foundation;
- (2) hire adequate staff to carry out the program;
- (3) coordinate the program with administrators of participating school districts and private institutions;
- (4) develop for board approval a plan to divide the state into regions and select regional coordinators for implementation of the program; and
- (5) carry out the orders of the board in the administration and development of the program.

Texas Closeup Advisory Council

Sec. 7. (a) There is created the Texas Closeup Advisory Council, to be composed of the following members:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the secretary of state;
- (4) the comptroller of public accounts;
- (5) the treasurer;
- (6) the commissioner of the General Land Office;
- (7) the attorney general;
- (8) the chairman of the Railroad Commission of Texas;
- (9) the chief justice of the Supreme Court;
- (10) the presiding judge of the Court of Criminal Appeals;
- (11) the speaker of the house;
- (12) two members of the senate, appointed biennially for two-year terms by the lieutenant governor;
- (13) five members of the house of representatives, appointed biennially for two-year terms by the speaker of the house;
- (14) the commissioner of education; and
- (15) one representative from each teacher, school administrator, school board, or other professional organization involved in high school education, as determined by the board, appointed by the board for a term of two years.

(b) The governor or his designee from among the other members shall serve as chairman of the advisory council.

(c) The advisory council shall meet at least once a year and at other times it considers necessary.

(d) The advisory council shall advise and assist the board in the development and implementation of the program and shall recommend changes in the program considered necessary in order to improve its services and functions.

Grants and Gifts; No State Funds

Sec. 8. The board may accept and administer, without appropriation, grants and gifts from the federal government and from any foundation, trust fund, corporation, individual, or organization for the use and benefit of the program. No state funds may be specifically appropriated to support the program.

Contract for Services

Sec. 9. The board may contract with individuals, federal, state, and local government agencies, and corporations or associations to provide services necessary to the administration of the program.

[Acts 1977, 65th Leg., p. 2035, ch. 814, eff. June 16, 1977. Amended by Acts 1979, 66th Leg., p. 1037, ch. 466, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2495, ch. 654, § 1, eff. Aug. 31, 1981.]

Art. 4413(32g). Uniform Grant and Contract Management Act of 1981

Short Title

Sec. 1. This Act may be cited as the Uniform Grant and Contract Management Act of 1981.

Policy

Sec. 2. It is the policy of the state to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies.

Definitions

Sec. 3. In this Act:

(1) "Local government" means a city, county, or other political subdivision of the state, but does not include a school district or other special purpose district.

(2) "State agency" means a state board, commission, department, or officer having statewide jurisdiction, but does not include a state college or university.

(3) "Assurance" means a statement of compliance with federal or state law that is required of a local government as a condition for the receipt of grant or contract funds.

(4) "Financial management conditions" means generally applicable policies and procedures for the accounting, reporting, and management of funds that state agencies require local governments to follow in the administration of grants and contracts.

Uniform Administration of Grants and Contracts With Local Governments

Sec. 4. (a) The governor's office is designated the state agency for uniform grant and contract management.

(b) The governor's office shall develop uniform and concise language for any assurances local governments are required to make to state agencies as a condition for receipt of grant or contract funds.

(c) The governor's office may categorize the assurances according to the type of grant or contract, designate programs to which the assurances are applicable, and periodically revise or update the assurances.

(d) The standards developed under this Act shall not be construed to affect methods of distribution or amounts of federal funds received by state agencies or local agencies.

Standard Financial Management Conditions

Sec. 5. (a) The governor's office shall compile and distribute to state agencies an official compilation of standard financial management conditions that are generally applicable to the administration of grants and contracts by local governments. This compilation shall be developed from Federal Management Circular A-102 or future revisions of that circular and from other applicable statutes and regulations. The compilation shall include official commentary as to administrative or judicial interpretation that affect the application of financial management standards.

(b) The governor's office may categorize the financial management conditions according to the type of grant or contract, designate programs to which the conditions are applicable, and periodically revise or update the conditions.

Adoption of Financial Management Conditions and Assurances

Sec. 6. (a) A state agency must use the standard financial management conditions and uniform assurances applicable to local governments receiving financial assistance from that agency unless variation in the conditions or assurances are required or specifically authorized by federal statute or regulation or by state statute.

(b) Variations from the standard conditions and uniform assurances must be established by agency rule in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). Reasons for the variations must be stated along with proposed rules, and the reasons must be based on the applicable federal statutes or regulations or state statutes.

(c) A notice of each proposed rule that establishes a variation from the standard conditions or uniform assurances must be filed with the governor's office.

(d) This section is effective September 1, 1982.

**State Audits of Grants and Contracts to
Local Governments**

Sec. 7. (a) To avoid duplicate audits and unnecessary audit costs, a local government receiving state-administered financial assistance may request by action of its governing body a single audit or coordinated audits by all state agencies from which it receives funds.

(b) On receipt of a request for a single audit or audit coordination, the governor's office in consultation with the state auditor shall within 30 days designate a single state agency to coordinate state audits of the local government.

(c) The designated agency shall, to the extent practicable, assure single or coordinated state audits of the local government for as long as the designation remains in effect or until the local government by action of its governing body withdraws its request for audit coordination.

(d) This section does not apply to audits performed by the comptroller of public accounts or state auditor.

[Acts 1981, 67th Leg., p. 2611, ch. 698, §§ 1 to 5, 7, eff. Aug. 31, 1981; § 6, eff. Sept. 1, 1982.]

**Art. 4413(32h). Automated Information Systems
Advisory Council**

Definition

Sec. 1. In this Act, "state governmental body" means a board, commission, department, institution, office, or other agency (including an institution of higher education as defined by Section 61.003, Texas Education Code, as amended), that is in the executive branch of state government; or the supreme court, the court of criminal appeals, a court of appeals, or the State Bar of Texas or another judicial agency.

Council

Sec. 2. The Automated Information Systems Advisory Council is established.

Members

Sec. 3. (a) The council is composed of the following seven members:

(1) one person, appointed by the speaker of the house of representatives, who must be a member or employee of the house or an employee of a legislative agency;

(2) one person, appointed by the speaker, who must be employed by a private corporation as a manager of the corporation's automated information system;

(3) one person, appointed by the lieutenant governor, who must be a member or employee of the senate or an employee of a legislative agency;

(4) one person, appointed by the lieutenant governor, who must be employed by private industry as a manager of a large mainframe computer facility;

(5) one person, appointed by the governor, who must be knowledgeable in the management of automated information systems and the computers on which they are automated;

(6) one person, appointed by the governor, who must be an employee of a state-supported institution of higher education in this state and who must be knowledgeable in the management of automated information systems and the computers on which they are automated; and

(7) one person, appointed by the governor, who must be an employee of a state governmental body other than an institution of higher education and who must be knowledgeable in the management of automated information systems and the computers on which they are automated.

(b) A member of the council or employee of the council may not be interested in, or in any manner connected with, any contract or bid for furnishing any state governmental body with automated information systems, the computers on which they are automated, or a service related to the automation of information systems or the computers on which they are automated. A member or employee of the council may not be employed by any state governmental body as a consultant on automated information systems, the computers on which they are automated, or a related service. A member or employee of the council, under penalty of dismissal, may not accept or receive from any person, firm, or corporation to whom any contract may be awarded, directly or indirectly, by rebate, gift, or otherwise, any money or other thing of value, and may not receive any promise, obligation, or contract for future reward or compensation from any such party.

Terms

Sec. 4. Members of the council hold office for staggered terms of two years with three members' terms expiring February 1 of each even-numbered year and four members' terms expiring February 1 of each odd-numbered year.

Officers; Meetings

Sec. 5. (a) The chairman of the council is the member appointed by the governor under Section 3(a)(5) of this Act.

(b) The council shall meet at least once quarterly during each fiscal year of the state. The council may meet at other times at the call of the chairman or as provided by rule of the council.

Expenses

Sec. 6. (a) A member of the council may not receive compensation for serving as a member of the council. A member is entitled to reimbursement

for actual and necessary expenses incurred in performing functions as a member of the council.

(b) A member of the council who is a public officer or employee is entitled to reimbursement for expenses from the funds of the governmental body from which the member is appointed. Other members are entitled to reimbursement from the funds of the council.

Additional Function of Public Office

Sec. 7. The functions performed by a member of the council who holds public office are additional functions of the public office.

Staff

Sec. 8. The council may employ persons necessary for it to perform its functions.

Automated Information Systems Guidelines

Sec. 9. (a) The council shall adopt guidelines to aid state governmental bodies in making economical and efficient use of automated information systems, the computers on which they are automated, or related services. The guidelines shall include, but not be limited to, the areas of long-range planning, common data bases, networking, applications, shared software, security, and disaster recovery.

(b) The council shall adopt guidelines consistent with Section 3.10, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

Review of Actions of Governmental Bodies

Sec. 10. (a) If a state governmental body proposes to take any of the following actions, the governmental body shall at the same time it files an acquisition request with the State Purchasing and General Services Commission also file with the council any information that the council considers necessary for it to prepare its report under Subsection (b) of this section:

(1) a purchase at a cost of more than \$20,000, or a greater amount as may be prescribed by rule of the council, of automated information systems, the computers on which they are automated, or a service related to the automation of information systems or the computers on which they are automated;

(2) a lease at a cost of more than \$1,000 per month, or a greater amount as may be prescribed by rule of the council, of automated information systems or the computers on which they are automated;

(3) a major conversion of automated information systems or the computers on which they are automated.

(b) The council shall review each action proposed by a state governmental body under Subsection (a) of this section and shall within 60 days after receipt of the proposal and any supporting information file with the governor, lieutenant governor, speaker of

the house of representatives, State Purchasing and General Services Commission, and state auditor a report about whether the guidelines adopted under Section 9 of this Act would be fulfilled if the governmental body's action were taken. The council may designate at the discretion of the chairman or as provided by rule of the council those reports on proposed actions which may not be filed under this subsection until they have been reviewed and approved in writing by a majority vote of the council membership. Reports on proposed actions not so designated shall be prepared and filed in the council's name by the council staff. The council may meet as provided in Section 5(b) of this Act for the purpose of meeting the requirements of this subsection.

(c) A state governmental body may not take an action under Subsection (a) of this section until 60 days after receipt of the proposal and any supporting information by the council or until the council has filed the report under Subsection (b) of this section, whichever is earlier. The failure of the council to timely file a report under Subsection (b) of this section may not be grounds for prohibiting a state governmental body from taking the action after the expiration of the 60 day period. The council together with the governmental body involved may agree to an extension of the time limit for filing a report.

Advice

Sec. 11. The council shall advise state governmental bodies about ways in which the governmental bodies may comply with the guidelines adopted under Section 9 of this Act.

Rules

Sec. 12. The council shall adopt rules to administer this Act.

Biennial Report

Sec. 13. The council shall report to the legislature at each regular session about the activities of the council, the guidelines adopted under Section 9 of this Act, and changes to state law or state governmental body procedures that the council considers necessary to promote the economical and efficient use by state governmental bodies of automated information systems and the computers on which they are automated.

Application of Sunset Act

Sec. 14. The council is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the council is abolished and this Act expires September 1, 1993.

[Acts 1981, 67th Leg., p. 2701, ch. 737, §§ 1 to 14, eff. Sept. 1, 1981.]

Section 15 of the 1981 Act provides:

At the time the initial appointments to the council are made, the governor shall designate three members for terms expiring Febru-

ary 1, 1982, and four members for terms expiring February 1, 1983.

**CHAPTER EIGHT. PUBLICATIONS OF
EXECUTIVE DEPARTMENTS AND
STATE AGENCIES**

Art.

4413(33). Charge for Sale of Publications of Executive Departments and State Agencies.

4413(33a). Distribution of State Agency Publications.

**Art. 4413(33). Charge for Sale of Publications of
Executive Departments and
State Agencies**

Sec. 1. Any department or agency in the executive branch of the state government may, unless otherwise specifically directed by statute, set and collect a sales charge for publications and other printed matter when such charges are deemed to be in the public interest.

Sec. 2. In any instances where the amounts of such sales charges are not specifically set by statute, the charge authorized by this Act shall not be greater than an amount deemed sufficient by the publishing department or agency in the executive branch, to reasonably reimburse the state for the actual expense of printing such publications or printed matter.

Sec. 3. Money collected from the charges authorized by this Act shall be deposited in the fund from which the costs of printing the respective publications or materials were originally paid, and such moneys shall be subject to appropriation by the Legislature.

Sec. 4. Nothing in this Act shall be construed as amending or repealing existing laws respecting what publications or materials may be printed by the respective departments or agencies in the executive branch of the government of this state; or as altering the amounts of charges to be made for publications or printed materials specifically set forth in other statutes.

Sec. 5. Pursuant to the principle set forth in Article 16, Section 21, of the Constitution of Texas, no official or employee of the state government may, directly or indirectly, profit by or have any pecuniary interest in the preparation, printing or duplication, or sale, of publications and other printed matter issued by the respective departments or agencies in the executive branch of the government. Any official or employee who violates the provisions of this section shall be dismissed from state employment.

[Acts 1957, 55th Leg., p. 531, ch. 248.]

**Art. 4413(33a). Distribution of State Agency
Publications**

Secs. 1 to 3. [Amends § 17(e) of art. 5446a and art. 5442a; repeals art. 5442]

Definitions

Sec. 4. In this Act:

(1) "Person" means an individual, association, or corporation.

(2) "Publication" means printed matter containing news or other information. It includes magazines, newsletters, newspapers, pamphlets, and reports.

(3) "State agency" means any department, commission, board, office, or other agency that:

(A) is in the executive branch of state government;

(B) has authority that is not limited to a geographical portion of the state; and

(C) was created by the constitution or a statute of the state.

Publication Request Forms

Sec. 5. (a) Each state agency that distributes publications to any person or other state agency shall distribute a publication request form on request or with each copy of the last publication that it distributes before January 1 of each year.

(b) The publication request form provides a means of requesting a state agency's publications.

(c) The comptroller of public accounts shall have the publication request forms printed and shall furnish the forms to each state agency that distributes publications. The comptroller shall furnish the forms in sufficient quantities to enable each state agency annually to distribute a form to each person or state agency that receives a publication.

Publication Distribution List

Sec. 6. (a) If a state agency receives a completed publication request form or a written request for its publications, the agency may place the name of the requestor on its publication distribution list.

(b) A state agency shall compile a distribution list after January 1 of each year from the forms and written requests received for publications for that calendar year.

(c) A state agency may not place the name of a person, state agency, or other entity on the publication distribution list unless the distributing agency has received a completed publication request form or a written request for publications from that person, state agency, or other entity.

Distribution of Publications

Sec. 7. Except as provided by Section 5 of this Act, a state agency may not distribute a publication to a person, state agency, or other entity unless the name of the person, agency, or entity appears on the distributing agency's publication distribution list.

Distribution to Those Not on the List

Sec. 8. (a) A state agency may distribute a copy of a publication to a person, state agency, or other entity that is not listed on the publication distribution list if the person, agency, or entity:

(1) has orally or in writing requested a specific copy of a publication prior to or after this Act; or

(2) is a newly elected or appointed state officer, newly appointed executive head of a state agency, or newly established state agency.

(b) A state agency shall send to the Legislative Reference Library five copies of each publication that it distributes. The library shall make available to its users the publications of each state agency.

Filing the Publication Request List

Sec. 9. Before March 1 of each year, each state agency that distributes publications shall file a copy of its publication distribution list with the comptroller of public accounts. When filed, the lists are public information.

Application

Sec. 10. Sections 4 through 9 of this Act do not apply to the distribution of information that is required by law.

Effective Date

Sec. 11. (a) Except as provided by Subsection (b) of this section, Sections 4 through 9 of this Act take effect September 1, 1979.

(b) Sections 7 and 8 of this Act take effect January 1, 1980.

[Acts 1979, 66th Leg., p. 1776, ch. 720, §§ 4 to 6, 9, eff. Sept. 1, 1979. Amended by §§ 7, 8, eff. Jan. 1, 1980; §§ 10, 11, eff. Aug. 27, 1979.]

CHAPTER NINE. COMMISSIONS AND AGENCIES**Art.**

- 4413(34). Repealed.
- 4413(34a). Coordination of Regulatory Agency Functions.
- 4413(34b). Aircraft Pooling Act.
- 4413(34c). Investment of Local Funds.
- 4413(35). Commission on Fire Protection Personnel Standards and Education.
- 4413(36). Motor Vehicle Commission Code.
- 4413(37). Repealed.
- 4413(38). Coastal and Marine Council.
- 4413(39). Building Materials and Systems Testing Laboratory.
- 4413(40). Expired.
- 4413(41). Amusement Machine Commission.
- 4413(42). Repealed.
- 4413(42a). Joint Advisory Committee on Educational Services to the Deaf.
- 4413(42b) to 4413(43a). Repealed.
- 4413(44). Governor's Commission on Physical Fitness.
- 4413(45). Film Commission.
- 4413(46). Expired.
- 4413(47). Expired.
- 4413(47a), 4413(47b). Repealed.

Art.

- 4413(47c). Energy and National Resources Advisory Council.
- 4413(48). Repealed.
- 4413(49). Criminal Justice Policy Council; Criminal Justice Coordinating Council.
- 4413(50). Crime Stoppers Advisory Council.
- 4413(51). Interagency Council on Sex Offender Treatment.
- 4413(52). Texas Job-Training Partnership Act.

Art. 4413(34). Repealed by Acts 1975, 64th Leg., p. 2063, ch. 678, § 5, eff. June 20, 1975

See, now, arts. 6663b, 6663c.

Art. 4413(34a). Coordination of Regulatory Agency Functions

Sec. 1. In this Act, "regulatory agency" means a constitutionally or statutorily created department, commission, board, office, or other agency that:

(1) is in the executive branch of state government;

(2) has authority not limited to a geographical part of the state; and

(3) has authority to grant, deny, renew, suspend, or revoke a license, permit, certificate, registration, or other form of permission to engage in an occupation or to operate a business.

Sec. 2. (a) Before a regulatory agency inspects, surveys, investigates, or requires a report to be filed by a regulated individual or business, the executive head of the agency shall determine if that agency's or another regulatory agency's previous inspection, survey, investigation, or reporting requirement has gathered information about the individual or business that substantially satisfies the present information need of the agency. If so, the regulatory agency may not inspect, survey, investigate, or require a report to be filed by the individual or business.

(b) The executive head of a regulatory agency, on request, shall release to the executive head of another regulatory agency any information not made confidential by statute and within the requesting regulatory agency's statutory jurisdiction about a regulated individual or business that it gathers in an inspection, survey, or investigation of the individual or business or in a report filed by the individual or business.

(c) The executive head of a regulatory agency shall coordinate its inspections, surveys, investigations, and reporting requirements within the agency and with those of other regulatory agencies to avoid the duplication of those functions.

[Acts 1979, 66th Leg., p. 1800, ch. 732, eff. Aug. 27, 1979.]

Art. 4413(34b). Aircraft Pooling Act**Short Title**

Sec. 1. This Act may be cited as the State Aircraft Pooling Act.

Definitions

Sec. 2. In this Act:

(1) "Agency" means an office, department, board, commission, institution, or other agency to which legislative appropriations are made. The term does not include any institution, component, or agency which owns and operates an airport approved by the Federal Aeronautics Administration.

(2) "Board" means the State Aircraft Pooling Board.

Board

Sec. 3. The State Aircraft Pooling Board is created.

Composition

Sec. 4. (a) The board is composed of:

- (1) an appointee of the governor;
- (2) an appointee of the lieutenant governor;
- (3) an appointee of the speaker of the house of representatives;
- (4) a representative of the State Board of Control designated from time to time by the chairman of the State Board of Control; and
- (5) a representative of the State Auditor's Office designated from time to time by the state auditor.

(b) The three appointed members of the board hold office for staggered terms of six years, with the term of one member expiring on January 31 of each odd-numbered year. A vacancy shall be filled by the original appointing authority for the unexpired portion of the term.

(c) The representatives of the State Board of Control and the State Auditor's Office are ex officio, nonvoting members of the board and serve only in an advisory capacity.

Chairman, Meetings, etc.

Sec. 5. (a) The voting members of the board shall biennially elect one of them as chairman.

(b) The board shall adopt rules to govern the calling and holding of meetings and the conduct of business.

(c) Two voting members of the board constitute a quorum.

Staff

Sec. 6. The board may employ and compensate staff as provided by legislative appropriation or may utilize staff provided by the State Board of Control or the State Auditor's Office.

Aircraft Subject to Act

Sec. 7. All aircraft owned or leased by the state are subject to the provisions of this Act.

Aircraft Transferred to Board

Sec. 8. The custody, control, operation, and maintenance of all aircraft owned or leased by the state are transferred to the board.

Powers of Board

Sec. 9. (a) The board shall establish and operate a pool for the custody, control, operation, and maintenance of all aircraft owned or leased by the state. The board may purchase aircraft with funds appropriated for the purpose.

(b) The board by interagency contract may lease state-owned aircraft to an agency. The agency which was the prior owner or lessee of an aircraft shall have first option to lease that aircraft from the board. The lease may provide for operation or maintenance, or both, by the board or by the agency.

(c) Whenever funds appropriated to an agency may be expended for the lease of an aircraft, the lease must be executed by the board or approved by order of the board.

(d) To the extent that aircraft are available, the board shall provide transportation on request to state officers and employees who are traveling on official business; provided the agency leasing an aircraft shall be given first option on use of the aircraft except in cases of state emergency.

Facilities

Sec. 10. The board may acquire appropriate facilities for the accommodation of all aircraft owned or leased by the state. The facilities may be purchased or leased as determined by the board to be most economical for the state and as provided by legislative appropriations. The facilities may include adequate hangar space, an indoor passenger waiting area, a flight-planning area, communications facilities, and other related and necessary facilities. No state agency shall acquire such facilities without permission from the board.

[Acts 1979, 66th Leg., p. 1833, ch. 746, eff. Sept. 1, 1979.]

Art. 4413(34c). Investment of Local Funds**Definitions**

Sec. 1. In this Act:

(1) "Local funds" means public funds in the custody of a state agency or political subdivision that are not required by law to be deposited in the state treasury and that the agency or subdivision has legal authority to invest.

(2) "State agency" means an office, department, commission, board, or other agency, including an institution of higher education or a river authority, that is a part of any branch of state government.

(3) "Political subdivision" means a county, incorporated city or town, or special purpose district.

Rules Governing Investment of Local Funds

Sec. 2. Each state agency or political subdivision shall adopt rules governing the investment of local funds of the agency or subdivision. The rules shall clearly specify the scope of authority of officers and employees of the agency or subdivision that are designated to invest the local funds.

Designation of Investment Officers

Sec. 3. (a) If an officer is not assigned the function by law, a state agency or political subdivision by rule, order, ordinance, or resolution shall designate one or more officers or employees of the agency or subdivision to be responsible for the investment of local funds.

(b) No person may deposit, withdraw, invest, transfer, or otherwise manage local funds of a state agency or political subdivision that are eligible for investment without express written authority of the governing body or chief executive officer of the agency or subdivision.

Internal Management Reports

Sec. 4. At least once each year, the investment officer of a state agency or political subdivision shall prepare a written report concerning the agency's or subdivision's local funds investment transactions for the preceding year and describing in detail the investment position of the agency or subdivision as of the date of the report. If the agency or political subdivision has two or more investment officers, those officers shall prepare the report jointly. The report shall be signed by each investment officer and shall be delivered to the governing body and the chief executive officer of the agency or subdivision.

Private Auditors

Sec. 5. Notwithstanding any other provision of law, a state agency shall employ private auditors if authorized to do so by the Legislative Audit Committee on its own initiative or upon request of the governing body of the agency.

Investment Rate of Return

Sec. 6. A state agency or political subdivision shall invest local funds in investments that yield the highest possible rate of return while providing necessary protection of the principal consistent with the operating requirements as determined by the governing body.

Investments Authorized or Prohibited by Other Law

Sec. 7. This section does not prohibit an investment specifically authorized by other law nor autho-

rize an investment specifically prohibited by other law.

[Acts 1979, 66th Leg., p. 2071, ch. 810, §§ 1 to 7, eff. June 13, 1979.]

Art. 4413(35). Commission on Fire Protection Personnel Standards and Education

Creation

Sec. 1. There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission."

Application of Sunset Act

Sec. 1a. The Commission on Fire Protection Personnel Standards and Education is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1987.

¹ Article 5429k.

Powers

Sec. 2. The commission shall have the authority and power to:

(1) promulgate rules and regulations for the administration of this Act including the authority to require the submission of reports and information by any state, county, or municipal agency within this State which employs fire protection personnel;

(2) establish minimum educational, training, physical, mental, and moral standards for admission to employment as fire protection personnel in permanent positions or in temporary or probationary status;

(3) certify persons as being qualified under the provisions of this Act to be fire protection personnel;

(4) certify persons as having qualified as fire protection instructors under such conditions as the commission may prescribe;

(5) establish minimum curriculum requirements for preparatory, in-service and advanced courses and programs for schools or academies operated by or for the State or any political subdivisions thereof for the specific purpose of training fire protection personnel or recruits for the position of fire protection personnel;

(6) consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of fire protection personnel training schools and programs of courses of instruction;

(7) approve, or revoke the approval of, institutions and facilities for schools operated by or for the State or any political subdivision thereof for the specific purpose of training fire protection personnel or recruits for the position of fire protection

personnel, and issue certificates of approval to such institutions and revoke such certificates of approval;

(8) operate schools and facilities thereof and conduct courses therein, both preparatory, in-service, basic, and advanced courses, for fire protection personnel and recruits for the position of fire protection personnel as the commission may determine;

(9) contract with other agencies, public or private, or persons, as the commission deems necessary for the rendition and affording of such services, facilities, studies, and reports as it may require to cooperate with municipal, county, state, and federal agencies in training programs, and to otherwise perform its functions;

(10) make or encourage studies of any aspect of fire protection, including fire administration;

(11) conduct and stimulate research by public and private agencies which shall be designed to improve fire protection and fire administration;

(12) employ an executive director and such other personnel as may be necessary in the performance of its functions;

(13) visit and inspect all institutions and facilities conducting courses for the training of fire protection personnel and recruits for the position of fire protection personnel and make evaluations as may be necessary to determine if they are complying with the provisions of this Act and the commission's rules and regulations;

(14) adopt and amend rules and regulations, consistent with state law, for its internal management and control;

(15) accept any donations, contributions, grants, or gifts from private individuals or foundations or the federal government;

(16) report annually to the Governor and to the Legislature at each regular session on its activities, with its recommendations relating to any matter within its purview, and make such other reports as it deems desirable;

(17) meet at such times and places in the State of Texas as it deems proper, meetings to be called by the chairman upon his own motion, or upon the written request of five members; and

(18) consistent with the provisions of Section 8A of this Act, publish minimum standards for protective clothing and self-contained breathing apparatus for full-time, paid fire protection personnel.

**Members; Appointment; Qualifications;
Terms; Vacancies**

Sec. 3. The commission shall be composed of nine members, residents of the State of Texas, and appointed by the Governor with the advice and consent of the Senate. Such members shall be persons well qualified by experience or education in the field of fire protection. The Commissioner of Higher Education of the Coordinating Board, Texas College and University System, and the Commis-

sioner of the Texas Education Agency shall serve as ex officio members of the commission. In the event a public officer shall be appointed, service by such officer or officers shall be an additional duty of the office. Such appointive members shall be appointed for a term of six years, provided, however, that of the members first appointed, three shall be appointed for a term of two years, three for a term of four years, and three for a term of six years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of a term shall be appointed for the unexpired term of the member he is chosen to succeed. Such appointment for unexpired term shall be with the advice and consent of the Senate.

Officers; Quorum; Meetings

Sec. 4. The commission shall elect a chairman, vice-chairman, and secretary from among the appointed members at its first meeting, and thereafter at its first meeting succeeding new appointments to fill regular terms. Five members shall constitute a quorum. The Governor shall summon the commission to its first meeting.

Compensation; Expenses

Sec. 5. Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

Personnel Qualifications and Standards; Rules and Regulations; Certificate; Penalty

Sec. 6. (a) Fire protection personnel already serving under permanent appointment prior to September 1, 1972, shall not be required to meet any requirement of Subsections (b) and (c) of this section as a condition of tenure or continued employment, nor shall failure of fire protection personnel to fulfill such requirements make him ineligible for any promotional examination for which he is otherwise eligible. The Legislature finds, and it is hereby declared to be the policy of this Act, that such fire protection personnel have satisfied such requirements by their experience.

(b) No person after September 1, 1972, shall be appointed to a municipal fire department, except on a temporary or probationary basis, unless such person has satisfactorily completed a preparatory program of training in fire protection at a school approved or operated by the commission. Fire protection personnel who have received a temporary or probationary appointment as such on September 1, 1972, or thereafter, and who fail to satisfactorily complete a basic course in fire protection as prescribed by the commission, within a one-year period from the date of his original appointment, shall forfeit his position and shall be removed therefrom; and may not have his temporary or probationary employment extended beyond one year by renewal of appointment or otherwise; except that after the

lapse of one year from the date of his forfeiture and removal, a municipal fire department agency may petition the commission for reinstatement of temporary or probationary employment of such individual, such reinstatement resting within the sole discretion of the commission.

(c) In addition to the requirements of Subsection (b) of this section, the commission, by rules and regulations, may establish other qualifications for the employment of fire protection personnel, including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of fire protection personnel, and the commission shall prescribe the means of presenting evidence of fulfillment of these requirements. No person shall be appointed unless he fulfills such requirements.

(d) The commission shall issue a certificate evidencing satisfaction of the requirements of Subsections (b) and (c) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the commission for approved fire protection education and training programs in this State.

(e) Any person who accepts appointment to a municipal fire department, or any person who appoints or retains such individual, in violation of Subsections (b) or (c) of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$100 nor more than \$1,000.

(f) Nothing herein shall be construed to preclude an employing agency from establishing qualifications and standards for hiring fire protection personnel which exceed the minimum standards set by the commission.

(g) Fire protection personnel already serving under permanent appointment prior to September 1, 1972, shall be eligible to attend training courses subject to the rules and regulations established by the commission.

(h) The commission shall formulate and publish the requirements for certification as a marine fireman by September 1, 1978. After September 1, 1978, no person may be appointed as a marine fireman except on a probationary basis unless the person has completed training prescribed by the commission. A marine fireman who is appointed on a probationary basis after September 1, 1978, must complete the prescribed training within a two-year period from the date of appointment. Marine firemen serving under permanent appointment and with five or more years of service on September 1, 1978, have satisfied the training requirements by their experience. A marine fireman serving under permanent appointment and with less than five years of experience on September 1, 1978, must complete the prescribed training by September 1, 1980. For

the purposes of this Act, a marine fireman is one who works for a fire department and aboard fireboats and fights fires which occur on or adjacent to a waterway, waterfront, channel, or turning basin.

(i) A person who accepts appointment as a marine fireman or a person who appoints a marine fireman in violation of Subsection (h) of this section shall be guilty of a misdemeanor and on conviction shall be fined not less than \$100 nor more than \$1,000.

(j) Before September 1, 1984, the commission shall establish requirements for certification as an aircraft crash and rescue fire fighter. After September 1, 1984, no person may be appointed as an aircraft crash and rescue fire fighter, except on a probationary basis, unless the person has completed training prescribed by the commission. After September 1, 1984, an aircraft crash and rescue fire fighter who is appointed on a probationary basis must complete the prescribed training before two years after the date of appointment. An aircraft crash and rescue fire fighter who is serving under permanent appointment on September 1, 1984, and who has two or more years of service as an aircraft crash and rescue fire fighter has satisfied the training requirements. An aircraft crash and rescue fire fighter serving under permanent appointment on September 1, 1984, who has less than two years of service as an aircraft crash and rescue fire fighter must complete the prescribed training before September 1, 1986, to remain qualified for service. For purposes of this Act, an aircraft crash and rescue fire fighter is one who works for a municipality and who, as a permanent duty assignment, fights aircraft fires at airports, stands by for potential crash landings, and performs aircraft crash rescue.

(k) A person who knowingly accepts appointment as an aircraft crash and rescue fire fighter or a person who appoints an aircraft crash and rescue fire fighter in violation of Subsection (j) of this section commits a misdemeanor and if convicted shall be fined not less than \$100 nor more than \$1,000.

Establishment and Collection of Fees; Personnel Manuals and Certificates

Sec. 6A. (a) The commission may set and collect a fee for a manual distributed to fire fighters and trainees by the commission stating rules, regulations, and minimum standards for fire protection personnel.

(b) The commission may set and collect a fee for each intermediate, advanced, and master certificate issued by the commission.

(c) The commission shall set the fees authorized by this section in an amount not to exceed the costs of preparing, printing, and distributing the manual or certificate.

Training Programs; Reimbursement for Expenses

Sec. 7. (a) The commission shall establish and maintain fire protection training programs to be

conducted by its own staff or through such agencies and institutions as the commission may deem appropriate.

(b) The commission may authorize reimbursement for each political subdivision and each state agency for expenses in attending such training programs as authorized by the Legislature.

Power and Duties of Municipal or County Governments

Sec. 8. Except as expressly provided in this Act, nothing herein contained shall be deemed to limit the powers, rights, duties, and responsibilities of municipal or county governments, nor to affect provisions of Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), Firemen's and Policemen's Civil Service Act.

Protective Clothing Meeting Minimum Standards; Self-Contained Breathing Apparatus

Sec. 8A. (a) Effective January 1, 1984, every state, county, and municipal agency shall furnish all full-time, paid fire protection personnel who engage in fire fighting with protective clothing which complies with minimum standards promulgated by the National Fire Protection Association or its successor. "Protective clothing" means garments, including turnout coats, bunker coats, boots, gloves, trousers, and helmets, worn by fire fighters in the course of performing fire-fighting operations. An agency complies with the requirements of this section by:

(1) providing and maintaining the prescribed protective clothing; or

(2) providing an allowance to fire protection personnel to cover the purchase and maintenance of the prescribed protective clothing and by requiring each employee to maintain the clothing to meet the prescribed standards.

(b) Effective January 1, 1982, every self-contained breathing apparatus purchased by a state, county, or municipal agency must comply with the minimum approval and certification requirements of the National Institute For Occupational Safety and Health (or its successor) with respect to self-contained breathing apparatus for use by fire fighters.

(c) Effective January 1, 1982, every state, county, or municipal agency shall provide for complete tests of all self-contained breathing apparatus utilized in such agency in conformance with testing procedures recommended by the National Institute For Occupational Safety and Health or American National Standards Institute, Inc. The tests required under this section shall be performed on each self-contained breathing apparatus at least once each 30 days.

(d) If the National Fire Protection Association or its successor revises a standard for an item of protective clothing and an agency covered by this section has furnished protective clothing that com-

plies with the original standard, the revised standard applies only to protective clothing contracted for on or after the effective date of the revised standard.

(e) The commission shall enforce the requirements of this section.

(f) Protective clothing in use or contracted for before the effective date of the revised standard may continue to be used unless the commission determines that continued use constitutes an undue risk to the wearer. If the commission makes that determination, the commission shall order that use of the clothing be discontinued and shall set an appropriate date for full compliance with the revised standard.

(g) Notwithstanding Subsections (a) and (d) of this section, if the commission determines that protective clothing containing cotton provides substantially equal protection, the commission shall permit the state, county, and municipal agencies to use cotton protective clothing that the commission has determined to be acceptable instead of the protective clothing prescribed by the National Fire Protection Association.

Funds

Sec. 9. The Legislature of the State of Texas shall appropriate the necessary funds for the purpose of carrying out the provisions of this Act.

Appeal from Action of Commission; Procedure

Sec. 9A. Any person dissatisfied with the action of the commission may appeal the action of the commission by filing a petition within 30 days thereafter in the district court in the county where the person resides or in the district court of Travis County, and the court is vested with jurisdiction, and it shall be the duty of the court, to set the matter for hearing upon 10 days' written notice to the commission and the attorney representing the commission. The court in which the petition of appeal is filed shall determine whether any action of the commission shall be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the commission, and the commission shall provide the attorney representing the commission with a copy of the petition and order. The commission shall be represented in such appeals by the district or county attorney of the county, or the attorney general, or any of their assistants.

Application of Act

Sec. 10. This Act shall apply only to fully paid firemen.

[Acts 1969, 1st Leg., p. 1972, ch. 668, eff. June 12, 1969. Amended by Acts 1971, 62nd Leg., p. 1153, ch. 263, §§ 1 to 6, eff. Aug. 30, 1971; Acts 1977, 65th Leg., p. 755, ch. 233, § 1, eff. May 27, 1977; Acts 1977, 65th Leg., p. 1851, ch. 735, § 2.138, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 847, ch. 378, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 859, ch. 305, §§ 1, 2, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 365, ch. 81, § 8, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4069, ch. 638, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg. p. 4597, ch. 777, § 1, eff. Aug. 29, 1983.]

Acts 1983, 68th Leg., p. 4070, ch. 638, § 2, provides:

"Nothing in this act shall affect any cause of action alleging a violation of Section 8A, Chapter 668, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 4413(35), Vernon's Texas Civil Statutes), if such cause of action accrued on or before the effective date of this Act."

Art. 4413(36). Motor Vehicle Commission Code

SUBCHAPTER A. GENERAL PROVISIONS

Short Title

Sec. 1.01. This Act may be cited as the Texas Motor Vehicle Commission Code.

Policy and Purpose

Sec. 1.02. The distribution and sale of new motor vehicles in this State vitally affects the general economy of the State and the public interest and welfare of its citizens. It is the policy of this State and the purpose of this Act to exercise the State's police power to insure a sound system of distributing and selling new motor vehicles through licensing and regulating the manufacturers, distributors, and franchised dealers of those vehicles to provide for compliance with manufacturer's warranties, and to prevent frauds, unfair practices, discriminations, impositions, and other abuses of our citizens.

Definitions

Sec. 1.03. In this Act, unless the context requires a different definition:

(1) "Motor vehicle" means:

(A) every fully self-propelled vehicle which has as its primary purpose the transport of a person or persons, or property, on a public highway, and having two or more wheels;

(B) every two or more wheeled fully self-propelled, titled vehicle which has as its primary purpose the transport of a person or persons or property and is not manufactured for use on public streets, roads, or highways; or

(C) an engine, transmission, or rear axle manufactured for installation in a vehicle having as its primary purpose the transport of a person or persons or property on a public highway and having a gross vehicle weight rating of more than 16,000 pounds, whether or not attached to a vehicle chassis.

(2) "New motor vehicle" means a motor vehicle which has not been the subject of a "retail sale" as defined in Subdivision (2), Section 152.001, Tax Code.

(3) "Person" means every natural person, partnership, corporation, association, trust, estate, or any other legal entity.

(4) "Dealer" means any person engaged in the business of buying, selling or exchanging new motor vehicles at an established and permanent place of business pursuant to a franchise in effect with a manufacturer or distributor.

(5) "Manufacturer" means any person who manufactures or assembles new motor vehicles either within or without this State.

(6) "Distributor" means any person who distributes and/or sells new motor vehicles to dealers and who is not a manufacturer.

(7) "Representative" means any person who is or acts as an agent, employee or representative of a manufacturer or distributor who performs any duties in this State relating to promoting the distribution and/or sale of new motor vehicles or contacts dealers in this State on behalf of a manufacturer or distributor.

(8) "Franchise" means one or more contracts under which (A) the franchisee is granted the right to sell new motor vehicles manufactured or distributed by the franchisor; (B) the franchisee as an independent business is a component of franchisor's distribution system; (C) the franchisee is substantially associated with franchisor's trademark, tradename and commercial symbol; (D) the franchisee's business is substantially reliant on franchisor for a continued supply of motor vehicles, parts, and accessories for the conduct of its business; or (E) any right, duty, or obligation granted or imposed by this Act is affected.

(9) "Commission" means the Texas Motor Vehicle Commission created by this Act.

(10) "Broker" means a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle, and who is not:

(A) a dealer or a bona fide agent or employee of a dealer;

(B) a representative or a bona fide agent or employee of a representative;

(C) a distributor or bona fide agent or employee of a distributor; or

(D) at any point in the transaction the bona fide owner of the vehicle involved in the transaction.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Texas Motor Vehicle Commission

Sec. 2.01. The Texas Motor Vehicle Commission is hereby created as an agency of the State to carry out the functions and duties conferred upon it by this Act.

Application of Sunset Act

Sec. 2.01a. The Texas Motor Vehicle Commission is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1991.

¹ Article 5429k.

Members of Commission

Sec. 2.02. The Commission shall consist of nine persons appointed by the Governor with the advice and consent of the Senate.

Qualifications of Members

Sec. 2.03. (a) Each member of the Commission shall be a citizen of the United States and a resident of this State. Five members shall be dealers, no two of which are franchised to sell the motor vehicles manufactured or distributed by the same person or a subsidiary or affiliate of the same person. Four members shall be persons from the public who are not licensed hereunder and who do not have, except as consumers, interests in any business that manufactures, distributes, or sells new motor vehicles.

(b) The persons initially appointed to the Commission as dealer-members shall be persons whose principal occupation has been as franchised new motor vehicle dealers in this State for at least ten years. The dealer-members appointed to the Commission after the initial appointments are made shall be licensed dealers under this Act.

(c) The office of a member is automatically vacated and shall be filled as any other vacancy, if:

(1) the person is a dealer-member of the Commission and ceases to be a licensed dealer under this Act;

(2) the person is a public member of the Commission and acquires an interest in a business that manufactures, sells, or distributes new motor vehicles;

(3) the member becomes an officer, employee, or paid consultant of a trade association in the new motor vehicle industry; or

(4) a person related to the member within the second degree by consanguinity or affinity becomes an officer, employee, or paid consultant of a trade association in the new motor vehicle industry.

Terms of Members

Sec. 2.04. (a) Except as provided by Subsections (b) and (c) of this section, the members of the Commission shall hold office for terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year. The Governor shall make the appointments in such a way that there are always four members on the Commission from the public at large. No person shall serve two consecutive full six-year terms as a member of the Commission.

(b) The Governor shall appoint the three additional members to the Commission before the 91st day after September 1, 1979, and shall designate one to serve a term expiring January 31, 1981, one for a term expiring January 31, 1983, and one for a term expiring January 31, 1985.

(c) A person holding office as a member of the Commission on September 1, 1979, continues to hold the office for which the member was originally appointed. The term of office succeeding a Commission member's term that expires on September 1, 1979, expires on January 31, 1985. The term of office succeeding a Commission member's term that expires on September 1, 1981, expires on January 31, 1987. The term of office succeeding a Commission member's term that expires on September 1, 1983, expires on January 31, 1989.

(d) A term of office shortened under Subsection (c) of this section or the term expiring January 31, 1985, under Subsection (b) of this section is considered a full six-year term for the purpose of the prohibition against serving two consecutive full six-year terms as a member of the Commission.

Vacancies

Sec. 2.05. The Governor, with the advice and consent of the Senate, shall fill vacancies on the Commission for the duration of the unexpired term.

Oath

Sec. 2.06. Members of the Commission qualify by taking the constitutional oath of office which shall, with the certificate of appointment, be filed with the Secretary of State who shall issue a commission as evidence of the authority of the members to act.

Per Diem; Expenses

Sec. 2.07. Each member of the Commission shall be entitled to \$25.00 per day for each day actually engaged in the duties of the office, including time spent in necessary travel to and from meetings and otherwise, together with all travel and other necessary expenses incurred while performing official duties.

Commission Meetings

Sec. 2.08. (a) The Commission shall hold a regular annual meeting in September of each year and elect a chairman and vice-chairman to serve for the ensuing year. The Commission shall have regular meetings as the majority of the members specifies and special meetings at the request of any two members. Reasonable notice of all meetings shall be given as Commission rules prescribe. A majority of the Commission, including at least two of the public members, shall constitute a quorum to transact business.

(b) The Commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

Executive Director; Staff

Sec. 2.09. (a) The Commission shall employ an executive director who shall be the chief administrative officer of the Commission, who shall maintain

all minutes of Commission proceedings, and who shall be custodian of the files and records of the Commission. The executive director shall employ the staff authorized by the Commission. The Commission may by interagency contract utilize assistance of any State agency.

(b) An employee of the Commission is subject to dismissal who has an interest, except as a consumer, or is related within the second degree by consanguinity or affinity to a person who has an interest, except as a consumer, in a business that manufactures, distributes, or sells new motor vehicles.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to or serve as a member of the Commission.

Revenues

Sec. 2.10. (a) The Commission shall send all moneys received by it from license fees paid under this Act to the State Treasurer, who shall deposit them in the General Revenue Fund in the State Treasury.

(b) Before September 1 of each year, the Commission shall file a written report with the legislature and the Governor in which the Commission accounts for all funds received and disbursed by the Commission during the preceding year.

(c) The State Auditor shall audit the financial transactions of the Commission during each fiscal year.

Seal

Sec. 2.11. The Commission shall adopt a seal for the authentication of its records and orders.

SUBCHAPTER C. POWERS AND DUTIES

In General

Sec. 3.01. The Commission shall administer the provisions of this Act, establish the qualifications of manufacturers and dealers, and insure that the distribution and sale of motor vehicles is conducted as provided herein and under the Commission's rules. The Commission has the powers and duties specifically prescribed by this Act and all other powers necessary and convenient to carry out its responsibilities.

Rules

Sec. 3.02. The Commission, after hearing, shall make, amend, and enforce rules reasonably required to effectuate the provisions of this Act and govern procedure and practice before the Commission. The Commission shall comply with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative

Procedure and Texas Register Act, as added (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the Commission a statement opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the Commission receives the committees' statement.

Orders

Sec. 3.03. The Commission is authorized to issue orders and make determinations as may be necessary to carry out this Act. The orders shall set forth the findings on which the order is based and the reason for the particular action taken. All orders shall be signed by the chairman or vice-chairman and attested by the executive director and have the seal affixed.

Hearings

Sec. 3.04. (a) The Commission shall hear all contested cases, as defined in the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), arising under this Act. The Commission may hold hearings, administer oaths, receive evidence, issue subpoenas to compel the attendance of witnesses and the production of papers and documents related to the hearing, and make findings of fact and decisions in administering the Act and the rules, orders, and other actions of the Commission.

(b) Notice of a hearing shall describe in summary form the purposes of the hearing and its date, time, and place.

(c) Notice of a hearing on Commission rules and other matters having general application shall be mailed to all licensees not less than twenty days before the hearing date and may be given to such other persons as the Commission deems appropriate. Notice of a hearing concerning a specific geographic area and not having general application shall be sent to the licensees in that area as defined by the Commission.

(d) Notice of a hearing concerning individual persons shall be given by certified mail return receipt requested to the persons involved at their last known address not less than twenty days before the hearing date. Notice may be given to any officer, agent, employee, legal representative or attorney of the person. Notice may be waived by interested persons.

(e) A hearing shall be conducted at the time and place stated in the notice or an amended notice shall be sent. A hearing may be continued from time to time and place to place as announced openly before the hearing is recessed without further notice or otherwise by giving reasonable notice less than twenty days before.

(f) The Commission may delegate the authority to call and hold hearings to one or more of its members, the executive director, one or more employees of the Commission or to persons under contract to

the Commission. The person holding the hearing shall have all the powers of the Commission in connection with the hearing.

(g) All persons whose rights may be affected at any hearing shall have the right to appear personally and by counsel, to cross-examine adverse witnesses and to produce evidence and witnesses in their own behalf. If a hearing is not held before the whole Commission, such person shall have the right to appear before the Commission and present oral argument when the matter comes before them for decision.

(h) The owner of a motor vehicle or the owner's designated agent may make a complaint concerning defects in a motor vehicle which are covered by the manufacturer's or distributor's warranty agreement applicable to the vehicle. Such complaint must be made in writing to the applicable dealer, manufacturer, or distributor, and must specify the defects in the vehicle which are covered by the warranty. The owner may make further complaint by sending to the Commission a copy of the complaint. The Commission may hold a hearing on all unsatisfied complaints to determine whether there has been a violation of the Act.

(i) After the Commission schedules a hearing on a complaint made by a retail buyer under this section or by a licensed dealer under Section 4.06(c) of this Act, the Commission may cancel or adjourn the hearing if it determines, by an order entered on the records of the Commission, that the complaint was made for purposes of harassment of the dealer, the applicant, or the Commission.

(j) No dealer member of the Commission may participate in, deliberate on, hear, or consider, or decide any matter involving a protest or denial under Section 4.06(c), 5.02(3), 5.02(6), 5.02(11), or 5.02(13) of this Act involving a dealership franchised or proposed to be licensed to sell motor vehicles manufactured or distributed by the same person or a subsidiary or affiliate of the same person for which the dealer member is franchised.

Enforcement; Contracts; Instruments

Sec. 3.05. The Commission shall conduct investigations and, if appropriate, shall cause legal proceedings to be instituted to enforce this Act and its rules, orders, and decisions, whenever the Commission has reason to believe, through receipt of a complaint or otherwise, that a violation of this Act or a Commission rule, order, or decision has occurred or is likely to occur. Should it appear from any investigation of a possible violation of any other law or regulation that a violation of this Act may have occurred, the matter shall be referred to the Commission to determine whether proceedings under this Act are also appropriate. The Commission may make contracts and execute instruments necessary or convenient to the exercise of its power or performance of its duties.

Complaint Status

Sec. 3.06. The Commission shall keep an information file about each complaint filed with the Commission. If a written complaint is filed with the Commission relating to a licensee under this Act, the executive director of the Commission, at least as frequently as quarterly, shall notify the persons involved of the status of the complaint until it has been resolved.

SUBCHAPTER D. LICENSES

License Required

Sec. 4.01. No person shall engage in business as, serve in the capacity of, or act as a dealer, manufacturer, distributor, or representative in this State without obtaining a license therefor as provided in this Act. All licenses shall expire one year from date of issue.

Expiration Dates of Licenses; Proration of Fees

Sec. 4.01A. The commission by rule shall adopt a system under which licenses expire, beginning in 1981, on various dates during the year. For 1981 only, license fees payable on the date of issuance shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license fee is payable.

Notice of License Expiration

Sec. 4.01B. The Commission shall notify each person licensed under this Act of the date of license expiration and the amount of the fee required for license renewal. The notice shall be mailed at least thirty days before the date of license expiration.

Dealer Application

Sec. 4.02. (a) The application for a dealer license shall be on a form prescribed by the Commission which shall include information on the applicant's financial resources, business integrity, business ability and experience, franchise agreement, physical facilities for sales and service, parts and accessories, inventory, new vehicle inventory and other factors the Commission considers necessary to determine applicant's qualifications to adequately serve the motoring public.

(b) A license may be renewed annually by filing an application on the forms prescribed which shall keep current the information supplied in the original application and by paying the fees.

(c) A dealer may carry on the business of his dealership at more than one location; however, a separate license shall be required for each separate and distinct dealership as determined by the Commission.

(d) A dealer licensed hereunder shall promptly notify the Commission of a change in ownership,

location or franchise of a dealer, or any other matters the Commission may require by rule. Prior to a change in location of a dealership, a new license must be applied for as in any original application.

Manufacturer, Distributor and Representative Application

Sec. 4.03. (a) The application for a manufacturer's, distributor's, or representative's license shall be on a form prescribed by the Commission which form shall contain such information as the Commission deems necessary to fully determine the qualifications of the applicant for a license, including financial resources, business integrity and experience, facilities and personnel for serving dealers and such other information as the Commission considers to be pertinent to safeguard the public interest and welfare.

(b) The applicant for a manufacturer's license shall furnish a list of all distributors, representatives acting for applicant, and all dealers franchised to sell applicant's products in this State and their location and contract term. Thereafter all manufacturers shall advise the Commission within fifteen days of any change in the list of distributors, representatives, and dealers, and this information shall become part of the licensee's application.

(c) Each application for a manufacturer's license shall include an instrument setting forth the terms and conditions of all warranty agreements in force and effect on the products it sells in this State to ascertain the degree of protection afforded the retail purchasers of those products and the obligations of dealers in connection therewith as well as the basis for compensating dealers for labor, parts and other expenses incurred in connection with such manufacturer's warranty agreements including a statement of the manufacturer's compliance with Subdivision (9), Section 5.02 of this Act. In addition, all manufacturers shall specify on or with the application the delivery and preparation obligations of their dealers prior to delivery of a new motor vehicle to a retail purchaser and the schedule of compensation to be paid to dealers for the work and service performed by them in connection with such delivery.

(d) The application for a distributor license shall disclose the manufacturer for whom the distributor will act, whether the manufacturer is licensed in this State, the warranty covering the vehicles to be sold, the persons in this State who will be responsible for compliance with that warranty, and the nature and terms of the contract under which the distributor will act for a manufacturer. Also, the application must disclose the dealers with whom the distributor will do business. If the distributor is to have any responsibility for warranties, the distributor shall furnish the same information pertaining thereto as is required of a manufacturer. The Commission shall be advised of any change in this information within fifteen days from the date there-

of and such new information shall become part of the licensee's application.

(e) A license may be renewed annually by filing an application on the forms prescribed which shall keep current the information supplied in the original application and by paying the fees.

Doing Business

Sec. 4.04. The obtaining of a license hereunder shall constitute the doing of business in this State, and if no agent for service of process has been designated by a licensee, the licensee will be deemed to have designated the Secretary of State of Texas as his or its agent for receipt of service of process.

Fees

Sec. 4.05.

Text of (a) as amended by Acts 1983, 68th Leg., p. 388, ch. 81, § 15(a)

(a) The annual license fees for manufacturer's, distributor's, and representative's licenses are as follows:

- (1) For each manufacturer and distributor, \$500.
- (2) For each representative, \$50.

Text of (a) as amended by Acts 1983, 68th Leg., p. 4137, ch. 651, § 3

(a) The annual license fees for licenses issued hereunder shall be as follows:

(1) For each manufacturer and distributor, \$500.00.

(2) For each dealer who sold 200 or fewer new motor vehicles during the preceding calendar year, \$100.00.

(3) For each dealer who sold more than 200, but not more than 500, new motor vehicles during the preceding calendar year, \$150.00.

(4) For each dealer who sold more than 500, but not more than 1,000, new motor vehicles during the preceding calendar year, \$200.00.

(5) For each dealer who sold more than 1,000 new motor vehicles during the preceding calendar year, \$250.00.

(6) For each representative, \$50.00.

(a-1) The annual license fee for a dealer's license is determined by the number of new motor vehicles sold by the dealer during the preceding calendar year, according to the following schedule:

(1) If not more than 200 vehicles were sold, the fee is \$100.

(2) If more than 200 but not more than 500 vehicles were sold, the fee is \$150.

(3) If more than 500 but not more than 1,000 vehicles were sold, the fee is \$200.

(4) If more than 1,000 vehicles were sold, the fee is \$250.

(b) If any person fails to apply for a license required hereunder or fails to pay a fee within the time specified, such person shall pay as a penalty 50% of the amount of the fee for each thirty days of default.

(c) The commission may prorate the fee for a representative's license so that the representative's license and the license of the manufacturer or distributor by whom the representative is employed expire on the same day.

(d) The Commission may refund, from funds appropriated to the Commission for that purpose, any fees collected under this Act that are not due or that exceed the amount due.

Denial, Revocation or Suspension of License

Sec. 4.06. (a) The Commission may deny an application for a license or revoke or suspend an outstanding license, for any of the following reasons:

(1) Proof of unfitness of applicant or licensee under standards set out in this Act or in Commission rules.

(2) Material misrepresentation in any application or other information filed under this Act or Commission rules.

(3) Willful failure to comply with this Act or any rule promulgated by the Commission hereunder.

(4) Failure to maintain the qualifications for a license.

(5) Willfully defrauding any retail buyer to the buyer's damage.

(6) Willful violation of any law relating to the sale, distribution, financing, or insuring of new motor vehicles.

(7) Any act or omission by an officer, director, partner, trustee, or other person acting in a representative capacity for a licensee which act or omission would be cause for denying, revoking, or suspending a license to an individual licensee.

(8) Repeated failure to fulfill written agreements between the licensee and retail buyers of new motor vehicles.

(b) The revocation of a license previously held under this Act may be grounds for denying a subsequent application for a license.

(c) The Commission may deny a dealer application to establish a dealership if the same line-make of new motor vehicle is then represented in the county in which the proposed dealership site is located, or in an area within 25 miles of the proposed dealership site, by a dealer who is in compliance with his franchise agreement with the manufacturer or distributor, is adequately representing the manufacturer or distributor in the sale and service of its new motor vehicles, and good cause is shown why an additional dealer license is not in the public interest, provided that the Commission shall consider the

desirability of a competitive marketplace in all determinations made pursuant to this subsection.

(d) The revocation or suspension of a manufacturer or distributor license may be limited to one or more municipalities or counties or any other defined area, or may be revoked or suspended in a defined area only as to certain aspects of its business, or as to a specified dealer or dealers.

(e) No license shall be denied, revoked, or suspended except on order of the Commission after a hearing and the evidence adduced is considered by the Commission at the hearing or by a hearing report. The Commission may inspect the books and records of a licensee in connection with a hearing called or proposed.

Required Notice to Buyers

Sec. 4.07. (a) A dealer licensed under this Act shall provide notice of the complaint procedures provided by Section 3.04(h) of this Act to each person to whom the dealer sells a new motor vehicle.

(b) The Commission may require its approval of the contents of notices required by Subsection (a) of this section or may prescribe the contents of required notices. The Commission shall prepare, publish, and distribute information concerning an owner's rights under Section 6.07 of this Act, and the retail seller of any new motor vehicle shall conspicuously post a copy of the information in the area where its customers usually make payment for repairs.

(c) Failure to give the notice required by Subsections (a) and (b) of this section is a ground for suspension or revocation of a dealer's license.

SUBCHAPTER E. PROHIBITIONS

Dealers

Sec. 5.01. It shall be unlawful for any dealer to:

(1) Require a retail purchaser of a new motor vehicle as a condition of sale and delivery thereof to purchase special features, equipment, parts, or accessories not ordered or desired by the purchaser, provided such features, equipment, parts, or accessories are not already installed on the new motor vehicle when received by the dealer.

(2) Use false, deceptive, or misleading advertising, in connection with any of the business of a dealer, as defined in Section 17.12 of the Business and Commerce Code, as amended.

(3) Fail to perform the obligations placed on the selling dealer in connection with the delivery and preparation of a new motor vehicle for retail sale as provided in the manufacturer's preparation and delivery agreements on file with the Commission and applicable to such vehicle.

(4) Fail to perform the obligations placed on the dealer in connection with the manufacturer's warranty agreements on file with the Commission.

(5) Operate as a dealer without a currently valid license from the Commission or otherwise violate this Act or rules promulgated by the Commission hereunder.

Manufacturers; Distributors; Representatives

Sec. 5.02. It shall be unlawful for any manufacturer, distributor or representative to:

(1) Require or attempt to require any dealer to order, accept delivery of or pay anything of value, directly or indirectly, for any motor vehicle, appliance, part, accessory or any other commodity unless voluntarily ordered or contracted for by such dealer.

(2) Refuse or fail to deliver in reasonable quantities and within a reasonable time after receipt of an order to a dealer having a franchise agreement for the retail sale of any motor vehicles sold or distributed by such manufacturer, distributor, or representative, any new motor vehicle or parts or accessories to new motor vehicles as are covered by such franchise if such vehicle, parts or accessories are publicly advertised as being available for delivery or are actually being delivered; provided, however, this provision is not violated if such failure is caused by acts of God, work stoppage or delays due to strikes or labor disputes, freight embargoes or other causes beyond the control of the manufacturer, distributor, or representative.

(3) Notwithstanding the terms of any franchise agreement, terminate or refuse to continue any franchise with a dealer unless (A) the dealer and the Commission have received written notice sixty days before the effective date thereof setting forth the specific grounds for termination or noncontinuance and (B) if the dealer files a protest with the Commission, it is established by a preponderance of evidence at a hearing called by the Commission that there is good cause for the termination or noncontinuance. The Commission shall consider all the existing circumstances in determining good cause, including without limitation the dealer's sales in relation to the market, the dealer's investment and obligations, injury to public welfare, adequacy of service facilities, equipment, parts and personnel of the dealer and other dealers of new motor vehicles of the same line-make, whether warranties are being honored, and compliance with the franchise agreement. Good cause shall not be shown solely by a desire for further market penetration. If a franchise is terminated or not continued, another franchise in the same line-make will be established within a reasonable time unless it is shown to the Commission that the community or trade area cannot reasonably support such a dealership. If this showing is made, no dealer license shall be thereafter issued in the same area unless a change in circumstances is shown.

(4) Use any false, deceptive or misleading advertising, as defined in Section 17.12 of the Business and Commerce Code, as amended.

(5) Notwithstanding the terms of any franchise agreement, prevent any dealer from changing the capital structure of his dealership or the means by or through which he finances the operation thereof, provided that the dealer meets any reasonable capital requirements agreed to by contract of the parties.

(6) Notwithstanding the terms of any franchise agreement, fail to give effect to or attempt to prevent any sale or transfer of a dealer, dealership or franchise or interest therein or management thereof unless it is shown to the Commission after hearing that the result of such sale or transfer will be detrimental to the public or the representation of the manufacturer or distributor.

(7) Require or attempt to require that a dealer assign to or act as an agent for any manufacturer, distributor or representative in the securing of promissory notes and security agreements given in connection with the sale or purchase of new motor vehicles or the securing of policies of insurance on or having to do with the operation of vehicles sold.

(8) Fail, after complaint and hearing, to perform the obligations placed on the manufacturer in connection with the delivery, preparation and warranty of a new motor vehicle as provided in the manufacturer's warranty, preparation, and delivery agreements on file with the Commission.

(9) Fail to compensate its dealers for the work and services they are required to perform in connection with the dealer's delivery and preparation obligations according to the agreements on file with the Commission which must be found by the Commission to be reasonable, or fail to adequately and fairly compensate its dealers for labor, parts and other expenses incurred by such dealer to perform under and comply with manufacturer's warranty agreements. In no event shall any manufacturer or distributor pay its dealers an amount of money for warranty work that is less than that charged by the dealer to the retail customers of the dealer for nonwarranty work of like kind. All claims made by dealers for compensation for delivery, preparation, and warranty work shall be paid within thirty days after approval and shall be approved or disapproved within thirty days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. No claim which has been approved and paid may be charged back to the dealer unless it can be shown that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective condition, or the dealer failed to reasonably substantiate the claim in accordance with the requirements of the manufacturer or distributor on file with the Commission. Notwithstanding the terms of a franchise agreement or provision of law in conflict with this section, the dealer's delivery, preparation, and warranty obligations as filed with the Commission shall constitute the dealer's sole responsibility for product liability as between the

dealer and manufacturer, and, except for a loss caused by the dealer's failure to adhere to these obligations, a loss caused by the dealer's negligence or intentional misconduct, or a loss caused by the dealer's modification of a product without manufacturer authorization, the manufacturer shall reimburse the dealer for all loss incurred by the dealer, including legal fees, court costs, and damages, as a result of the dealer having been named a party in a product liability action.

(10) Operate as a manufacturer, distributor, or representative without a currently valid license from the Commission or otherwise violate this Act or rules promulgated by the Commission hereunder.

(11) Notwithstanding the terms of any franchise agreement, to prevent or refuse to honor the succession to a dealership by any legal heir or devisee under the will of a dealer or under the laws of descent and distribution of this State unless it is shown to the Commission, after notice and hearing, that the result of such succession will be detrimental to the public interest or to the representation of the manufacturer or distributor; provided, however, nothing herein shall prevent a dealer, during his lifetime, from designating any person as his successor dealer, by written instrument filed with the manufacturer or distributor.

(12) Require that a dealer pay or assume, directly or indirectly, any part of any refund, rebate, discount, or other financial adjustment made by the manufacturer, distributor, or representative to, or in favor of, any customer of a dealer, unless voluntarily agreed to by such dealer.

(13) Notwithstanding the terms of any franchise agreement, deny or withhold approval of a written application to relocate a franchise unless (A) the applicant has received written notice of the denial or withholding of approval within 90 days after receipt of the application containing information reasonably necessary to enable the manufacturer or distributor to adequately evaluate the application, and if (B) the applicant files a protest with the Commission and establishes by a preponderance of the evidence at a hearing called by the Commission that the grounds for, and distance of, the relocation are reasonable.

Brokers

Sec. 5.03. A person may not act as, offer to act as, or hold himself or herself out to be, a broker.

Sale of New Motor Vehicles

Sec. 5.04. No person may engage in the business of buying, selling, or exchanging new motor vehicles unless he holds a valid license issued by the Commission for the make or makes of new motor vehicles being bought, sold, or exchanged; or unless such person is acting as a bona fide employee or agent of the licensee; or unless such person is a second stage or allied equipment manufacturer modifying or converting new motor vehicles and offering them for sale with the original manufactur-

er's warranty unimpaired. In this section, the term "engage in the business of buying, selling, or exchanging new motor vehicles" means:

(1) displaying for sale new motor vehicles on a lot or showroom; or

(2) advertising for sale new motor vehicles; or

(3) regularly or actively soliciting buyers for new motor vehicles.

SUBCHAPTER F. ENFORCEMENT

Penalty

Sec. 6.01. Any person who violates any provision of this Act or any rule, regulation, or order of the Commission issued pursuant to this Act is subject to a civil penalty of not less than \$50.00 nor more than \$1,000.00 for each day of violation and for each act of violation, as the court may deem proper. All civil penalties recovered under this Act shall be paid to the General Revenue Fund of the State of Texas.

Injunction

Sec. 6.02. Whenever it appears that a person has violated or is violating or is threatening to violate any provision of this Act or of any rule, regulation, or order of the Commission issued pursuant to this Act then the Commission, or the executive director when authorized by the Commission, may cause a civil suit to be instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation or for the assessment and recovery of the civil penalty provided in Section 6.01 above or for both injunctive relief and civil penalty.

Suit

Sec. 6.03. At the request of the Commission, or the executive director when authorized by the Commission, the Attorney General shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty.

Venue

Sec. 6.04. A suit for injunctive relief or for recovery of a civil penalty or for both may be brought either in the county where the defendant resides or in the county where the violation or threat of violation occurs.

Bond

Sec. 6.05. In any suit to enjoin a violation or threat of violation of this Act or of any rule, regulation, license or order of the Commission, the court may grant the Commission, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders after notice and hearing, temporary injunctions and permanent injunctions.

Application of Other Law

Sec. 6.06. (a) In addition to the other remedies provided by this subchapter, a person who has sustained actual damages as a result of a violation of Section 5.01 or Subdivision (1), (2), (4), (7), (8), or (10), Section 5.02 of Subchapter E of this Code may maintain an action pursuant to the terms of Subchapter E, Chapter 17, Business and Commerce Code.¹

(b) In any action brought against a licensee under Subsection (a) of this section, or for any other type of conduct which is actionable pursuant to the provisions of Subchapter E, Chapter 17, Business and Commerce Code, the \$1,000 limitation set forth in Section 17.50(b)(1) of Subchapter E, Chapter 17, Business and Commerce Code shall be adjusted to reflect any change in the consumer price index after the effective date of this section. The \$1,000 limitation shall be increased or decreased, as applicable, by a sum equal to the amount of the \$1,000 limitation multiplied by the percentage of increase or decrease in the consumer price index between the effective date of this section and the time at which the damages are awarded by final judgment or settlement. The term "consumer price index" means the National Consumer Price Index For All Urban Consumers, or a substantially similar successor, and the court may take judicial notice of said index.

¹ Business and Commerce Code, § 17.41 et seq.

Warranty Performance Obligations

Sec. 6.07. (a) In addition to the other powers and duties provided for in this Act, the Commission shall cause manufacturers and distributors to perform the obligations imposed by this section. For purposes of this section, the term "owner" means the person so designated on the certificate of title to a motor vehicle issued by the State Department of Highways and Public Transportation, or an equivalent document issued by the duly authorized agency of any other state, or any person to whom such motor vehicle is legally transferred during the duration of a manufacturer's or distributor's express warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations thereof.

(b) If a new motor vehicle does not conform to all applicable manufacturer's or distributor's express warranties and the owner or the owner's designated agent reports the nonconformity to the manufacturer or distributor, its agent, or its authorized dealer during the term of such express warranties or during the period of one year following the date of original delivery of the motor vehicle to an owner, whichever is the earlier date, the manufacturer or distributor shall make the repairs as are necessary to conform the vehicle to applicable express warranties, notwithstanding such repairs are made after the expiration of such term or such one-year period. This section does not in any way limit the remedies available to an owner under a new motor vehicle

warranty that extends beyond the one-year period covered by this section.

(c) If the manufacturer or distributor is unable to conform the motor vehicle to an applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and market value of the motor vehicle after a reasonable number of attempts, the manufacturer or distributor shall replace the motor vehicle with a comparable motor vehicle or accept return of the vehicle from the owner and refund to the owner the full purchase price less a reasonable allowance for the owner's use of the vehicle. Refunds shall be made to the owner and lienholder, if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use of the motor vehicle prior to the first report of the nonconformity to the manufacturer or distributor, its agent, or its dealer and during any subsequent period when the vehicle is not out of service for repair. In any hearing before the Commission under this section, a manufacturer or distributor may plead and prove as an affirmative defense to the remedies provided hereunder that (1) the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle; or (2) the nonconformity does not substantially impair the use or value of the motor vehicle.

(d) It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if (1) the same nonconformity has been subject to repair four or more times by the manufacturer or distributor, its agent, or its authorized dealer, within the express warranty term or during the period of one year following the date of original delivery to an owner, whichever is the earlier date, but such nonconformity continues to exist; or (2) the vehicle is out of service for repair for a cumulative total of 30 or more days during such term or during such period, whichever is the earlier date. The term of an express warranty, such one-year period, and such 30-day period shall be extended by any period of time during which repair services are not available to the owner because of a war, invasion, strike or fire, flood, or other natural disaster. In no event shall the presumption herein provided apply against a manufacturer or distributor unless the manufacturer or distributor has received prior direct notification in writing from or on behalf of the owner and an opportunity to cure the alleged defect.

(e) The provisions of Subchapter C of this Act are applicable to this section, and the Commission shall adopt rules and conduct hearings for the enforcement and implementation of this section. The provisions of this section are not available to an owner in an action seeking a refund or replacement based upon the alleged nonconformity of a motor vehicle to an express warranty applicable to the motor vehicle unless the owner has first exhausted the administrative remedies provided herein. The provi-

sions of this section are not available to a party in an action against a seller under Chapter 2 or Chapter 17, Business & Commerce Code, as amended. The provisions of this section are available in an action against a manufacturer or distributor brought under Chapter 17, Business & Commerce Code, after the owner has exhausted the administrative provisions provided by this section. Any action brought under the provisions of this section shall be by trial de novo.

(f) This section does not limit the rights or remedies otherwise available to an owner under any other law.

(g) In a hearing under this section, the Commission shall make its order with respect to responsibility for payment of the cost of any refund or replacement and no manufacturer or distributor may cause any dealer to pay directly or indirectly any sum not specifically so ordered by the Commission.

(h) A proceeding brought under this section shall be commenced within six months following the earlier of (1) expiration of the express warranty term or (2) one year following the date of original delivery of the motor vehicle to an owner.

(i) Any contracted exclusion or modification of the remedies provided in this section is prohibited and shall be deemed null and void as against public policy.

SUBCHAPTER G. JUDICIAL REVIEW

Appeal

Sec. 7.01. (a) A person affected by any ruling, order, decision or other act of the Commission may appeal by filing a petition in a district court of Travis County, Texas.

(b) The petition must be filed within thirty days after the effective date of the Commission's action.

(c) Service of citation on the Commission must be accomplished within thirty days after the date the petition is filed. Citation may be served on the executive director.

(d) In an appeal of a Commission action, the issue is whether the action is invalid, arbitrary, or unreasonable.

[Acts 1971, 62nd Leg., p. 89, ch. 51, § 1, eff. April 7, 1971. Amended by Acts 1973, 63rd Leg., p. 627, ch. 266, § 18, eff. June 11, 1973; Acts 1975, 64th Leg., p. 297, ch. 128, §§ 1, 2, May 6, 1975; Acts 1977, 65th Leg., p. 947, ch. 357, §§ 1 to 5, eff. June 10, 1977; Acts 1977, 65th Leg., p. 1833, ch. 735, § 2.010, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1725, ch. 709, §§ 1 to 25, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 555, ch. 235, §§ 1, 2, eff. May 28, 1981; Acts 1983, 68th Leg., p. 388, ch. 81, § 15(a) to (c), eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4135, ch. 651, §§ 1 to 7, eff. June 19, 1983.]

Sections 2 and 3 of the act of 1971 provided:

"Sec. 2. Nothing herein shall be construed to repeal or amend any provisions of Article 6686, Revised Civil Statutes of Texas, 1925, as amended.

"Sec. 3. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any

situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein."

Section 15(d) of Acts 1983, 68th Leg., p. 388, ch. 81, provides:

"Changes in fees made by this section apply only to fees that become payable on or after the effective date of this section. The amount of a fee that became payable before the effective date of this section is determined by the law in effect at the time the fee became due, and the former law is continued in effect for that purpose."

Section 8 of Acts 1983, 68th Leg., p. 4146, ch. 651, provides:

"Section 7 of this Act applies only to a new motor vehicle, the original purchase of which occurred on or after October 1, 1983. All other sections of this Act take effect immediately upon passage."

Art. 4413(37)

Art. 4413(37). Repealed by Acts 1973, 63rd Leg., p. 1165, ch. 429, § 6.02, eff. Aug. 27, 1973

See, now, art. 4476-15.

Art. 4413(38). Coastal and Marine Council

Purpose

Sec. 1. There is hereby created the Texas Coastal and Marine Council, the purpose of which shall be to cooperate and assist in the comprehensive assessment and planning for coastal resources management and other marine-related affairs affecting this state.

Application of Sunset Act

Sec. 1a. The Texas Coastal and Marine Council is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the council is abolished, and this Act expires effective September 1, 1985.

¹ Article 5429k.

Membership

Sec. 2. (a) The council is composed of 16 members, each of whom must be a Texas resident.

(b) The governor, lieutenant governor, and speaker of the House of Representatives shall each appoint members to the council. The governor shall appoint four members to include one person each to represent government, the educational profession, commerce and industry, and the general public. The lieutenant governor and speaker shall each appoint six members, to include three government members and one each from the educational profession, commerce and industry, and the general public. The representatives of government shall be a personal representative appointed by the governor, three state senators appointed by the lieutenant governor, and three representatives appointed by the speaker.

(c) All members of the council must be persons who are knowledgeable of, and interested in, marine-related affairs.

(d) All initial appointments to the council by the governor shall be for a term to expire on June 30, 1977. All initial appointments by the lieutenant governor shall be for a term to expire on June 30, 1975. All initial appointments by the speaker shall be for a term to expire June 30, 1973. The successor of each member shall be appointed by the original appointing authority for a term of six years.

(e) If a senator or representative ceases to serve in the house in which he was serving when he was appointed to the council, he ceases to be a member of the council. The person appointed by the governor to represent government ceases to be a member of the council if the governor who appointed him ceases to be governor. If any member of the council fails to attend at least 50 percent of the meetings of the council in any 12-month period or ceases to be a Texas resident, he ceases to be a member of the council.

(f) In the case of a vacancy on the council, the original appointing authority shall appoint a person to fill that vacancy for the unexpired portion of the term. The person appointed to fill the vacant position must meet all qualifications prescribed by this Act for that position.

Powers and Duties

Sec. 3. (a) The council shall serve as an advisory body to cooperate with and assist the legislature, state and federal agencies, and political subdivisions, with respect to coastal resources management and other marine-related affairs.

(b) The council may hold public hearings relevant to its purpose. The council may participate in hearings of other public meetings, and may appear before federal agencies, commissions, and boards, congressional committees, legislative committees, state agencies, boards, and commissions, and to provide evidence and testimony with regard to matters and activities affecting coastal resources and marine affairs.

(c) In order to aid the state in making use of federal funds, facilities, and programs relating to marine affairs, the council shall establish a liaison relationship with all appropriate branches and agencies of the federal government.

(d) The council may accept gifts or grants from any source to be used in connection with any of its lawful purposes.

(e) The council may appoint a director to serve at the will of the council. The director is the chief executive officer of the council and subject to the policy direction of the council. He may appoint employees to serve at his will. The council shall determine the compensation of the director and all other employees.

(f) The council shall meet at least once every calendar quarter, and at other times on the call of the chairman or by the written call of two-thirds of the members of the council.

(g) The council shall elect a chairman and may elect other officers.

(h) The council is authorized to carry out such activities as may be deemed necessary or desirable in furtherance of the purposes of this Act.

Per Diem; Expenses

Sec. 4. Except for members of the Legislature, members of the council are entitled to compensation of \$50 for each day spent on the official business of the council. All members of the council are entitled to reimbursement for actual and necessary expenses incurred in carrying out council business. Service on the board by a member of the Legislature is a part of his duties as a member of the Legislature and does not constitute a separate office.

Funding

Sec. 5. Until the Legislature provides an appropriation for the operation of the council, the contingent expense funds of the House of Representatives and of the Senate may be expended for such purposes authorized herein. Prior to any expenditure of funds of the contingent expense committees of either the House or the Senate, a budget for the annual expenses of the committee shall be submitted to such committees and no funds shall be expended from such funds until approved by that committee.

[Acts 1971, 62nd Leg., p. 1176, ch. 279, eff. May 29, 1971. Amended by Acts 1973, 63rd Leg., pp. 565, 566, ch. 239, §§ 1 to 4 eff. Aug. 27, 1973; Acts 1977, 65th Leg., p. 1844, ch. 735, § 2.085, eff. Aug. 29, 1977.]

Art. 4413(39). Building Materials and Systems Testing Laboratory

Purpose

Sec. 1. The Legislature hereby finds and declares that there is a need for more and better housing in this State and that one of the most detrimental constraints to meeting this need is the difficulty of introducing technological innovation into residential construction.

The Legislature hereby finds and declares further that local governments have been reluctant to permit the use of many innovative methods and materials in housing construction because of the lack of a competent, objective facility for testing and measuring performance ability of such innovations.

The Legislature hereby finds and declares that the State of Texas Building Materials and Systems Testing Laboratory as created herein would greatly assist local governments, the residential construction industry and the consumers of this State by facilitating the use of innovative methods and materials capable of meeting minimum performance criteria for health and safety.

Definitions

Sec. 2. The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Laboratory" means the State of Texas Building Materials and Systems Testing Laboratory.

(2) "Council" means the Technical Testing and Evaluation Council.

(3) "Director" means the Director of the Division of State-Local Relations, office of the Governor, or any successor agency to that division.

(4) "Department" means the Division of State-Local Relations, office of the Governor, or any successor agency to that division.

(5) "Schools" means the colleges or universities selected to participate in laboratory testing and evaluation activities.

Creation

Sec. 3. There is hereby created the State of Texas Building Materials and Systems Testing Laboratory, including a Technical Testing and Evaluation Council.

Schools to Participate in the Laboratory

Sec. 4. Schools with facilities to perform, test, or make evaluations as described in this Act may be invited by the department to participate in laboratory testing and evaluation and to appoint a representative to serve as a member of the council. Public colleges and universities so selected are hereby authorized to participate in the functions of the laboratory.

Membership and Duties of the Council

Sec. 5. (a) Members of the council shall be the laboratory operations directors at each of the participating schools.

(b) Members of the council shall receive no compensation for their services on the council but shall be entitled to receive, from funds of the laboratory, for attendance at meetings of the council and for other services for the laboratory, reimbursement for such actual expenses as may be incurred for travel and subsistence in the performance of official duties.

(c) The council shall be responsible for the conduct of all tests and evaluations provided for in this Act and shall be responsible for the distribution of test and evaluation responsibilities to member schools according to their respective abilities to perform the activities as required.

(d) The council shall administer, manage and direct the business of the laboratory subject to the policies, controls and direction of the department.

(e) Members of the council shall elect a chairman for a two-year term by majority vote at a meeting called for the purpose of electing a chairman.

Functions of the Laboratory

Sec. 6. (a) The laboratory shall engage in the testing and evaluation of building materials, products and systems in order to establish performance capability based on the established and generally acceptable test standards adopted or promulgated by the council and approved by the department. Upon determination of the performance ability of a material, product or system as the result of laboratory testing, the council will report test results and evaluations to the department which will be responsible for release and publication of testing data and evaluations. Upon receipt of the test or evaluation results from the council, the department shall issue a performance certification statement based on test or evaluation results which shall constitute the official certification statement and shall be made a matter of public record.

(b) The laboratory, through its council, shall be authorized to evaluate tests of building materials, products, and systems conducted by public or private testing institutions accredited or approved by the Department of Housing and Urban Development or the National Bureau of Standards or included upon any list of testing laboratories formulated by the board. Upon completion of such evaluation by the laboratory, and review by the department, the department, based upon evaluation results, shall issue a performance certification statement which shall either approve or disapprove said tests as meeting or failing to meet test standards established by the department and council.

Fees

Sec. 7. (a) The department with the advice of the council shall establish a schedule of fees to pay the costs incurred in the administration and implementation of this Act.

(b) All fees shall be paid to the laboratory and deposited for the use of the laboratory in the administration and enforcement of this Act.

Severability Clause

Sec. 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 1648, ch. 463, eff. May 27, 1971.]

Art. 4413(40). Expired.

The Civil Patrol Commission was abolished and this article expired effective September 1, 1981, pursuant to § 2.053 of the Sunset Act, Acts 1977, 65th Leg., p. 1839, ch. 735.

Art. 4413(41). Amusement Machine Commission**Creation; Members; Employees; Meetings; Procedure**

Sec. 1. (a) There is hereby created an agency of the State of Texas which shall be designated as the

Texas Amusement Machine Commission; said Commission shall consist of three (3) members to be appointed by the Governor with the advice and consent of the Senate and three (3) ex officio members, who shall have the right to vote, to be the Director of the Department of Public Safety, or his nominee; the Commissioner of Consumer Credit, or his nominee; and the Attorney General, or his nominee. The appointments shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. None of the three appointed members, shall be or have ever been an "owner" or "operator" of any "coin-operated" machine as those terms are defined in Chapter 13, Title 122A, Taxation—General, Revised Civil Statutes of Texas, as amended.¹ Members of the Commission shall serve for six (6) years. Appointees shall hold office until their successors are appointed and qualified.

(b) A member or employee of the Commission may not be an officer, employee, or paid consultant of a trade association in the coin-operated machine industry. A member or employee of the Commission may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Commission or act as the general counsel to the Commission.

(d) It is a ground for removal from the Commission if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of this section for appointment to the Commission;

(2) does not maintain during the service on the Commission the qualifications required by Subsection (a) of this section for appointment to the Commission;

(3) violates a prohibition established by Subsection (b) or (c) of this section; or

(4) fails to attend at least half of the regularly scheduled Commission meetings held in a calendar year, excluding meetings held while the person was not a member of the Commission.

(e) The validity of an action of the Commission is not affected by the fact that it was taken when a ground for removal of a member of the Commission existed.

(f) The Commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

¹ Transferred; see, now, art. 8801 et seq.

Change of Name

Sec. 1A. The name of the Texas Vending Commission is changed to the Texas Amusement Machine Commission.

Application of Sunset Act

Sec. 1B. The Texas Amusement Machine Commission is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1993.

Sec. 2. Repealed by Acts 1981, 67th Leg., p. 2884, ch. 770, § 8, eff. Sept. 1, 1981.

Executive Director; Personnel; Compensation

Sec. 3. (a) The Texas Amusement Machine Commission shall be empowered to hire and employ an Executive Director and such other personnel as may be required and necessary to carry out the duties, functions, responsibilities and authority of said Commission including professional consultants. The Executive Director of the Commission and other personnel shall receive such compensation as may be set by the Commission, exclusive of any necessary expenses incurred in the performance of official duties, as shall be appropriated by the Legislature.

(b) The Executive Director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay authorized by the Executive Director must be based on the system established under this subsection.

Compensation of Members

Sec. 4. All members of the Commission shall be entitled to a per diem as set by legislative appropriation for each day they are actually engaged in performing their duties whether or not in attendance at a meeting; provided, however, they shall not draw compensation for more than sixty (60) days in any one fiscal year. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the General Appropriations Act.

Sec. 5. [Amends Taxation—General, art. 13.17, § 16].

Sec. 6. [Amends Taxation—General, art. 13.17, § 19(4)].

Deposit of Funds; Appropriations; Audits; Annual Reports

Sec. 7. (a) All funds received by the Commission for license fees pursuant to Article 13.17, Title 122A, Taxation—General, Revised Civil Statutes of Texas, as amended, shall be deposited to the General Revenue Fund of the State Treasury. All money

to be expended by the Commission shall be appropriated out of the General Revenue Fund.

(b) The state auditor shall audit the financial transactions of the Commission during each fiscal year.

(c) On or before January 1 of each year, the Commission shall make in writing to the Governor and the presiding officer of each house of the Legislature a complete and detailed annual report accounting for all funds received and disbursed by the Commission during the preceding year.

Advisory Committee

Sec. 8. (a) The Commission may create an advisory committee to assist it in the execution of its duties under this Act.

(b) If the Commission creates an advisory committee, it may appoint no more than six persons to the committee. A person is qualified to be appointed to the advisory committee if he engages in any aspect of the coin-operated machine industry.

(c) A member of the advisory committee receives no salary. Each member is entitled to be reimbursed for his actual and necessary traveling and per diem expenses incurred in serving on the committee.

[Acts 1971, 62nd Leg., p. 1942, ch. 587, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 362, ch. 159, § 1, eff. May 23, 1973; Acts 1975, 64th Leg., p. 1045, ch. 407, §§ 1 and 2, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1837, ch. 735, § 2.036, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 2877, ch. 770, §§ 1, 8, eff. Sept. 1, 1981.]

Section 3 of the 1975 amendatory act amended Taxation—General, Arts. 13.01 to 13.17; §§ 4 to 6 thereof provided:

"Sec. 4. (a) On the effective date of this Act the terms of all members of the Texas Amusement Machine Commission whose membership is prohibited by Section 1 of this Act shall expire and their positions on the board become vacant. The terms of the remaining members will continue until January 31, 1979; on that date, the governor shall appoint three members for the following terms:

"(1) one member for a term that expires January 31, 1985;

"(2) one member for a term that expires January 31, 1983;

"(3) one member for a term that expires January 31, 1981.

"(b) The governor by appointment shall fill any vacancy for the unexpired term only.

"Sec. 5. This Act takes effect September 1, 1975.

"Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Section 9(b) of Acts 1981, 67th Leg., p. 2884, ch. 770, provides:

"The requirement under Subsection (b), Section 3, Chapter 587, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4413(41), Vernon's Texas Civil Statutes), as added by this Act, that the executive director of the commission develop a system of annual performance evaluations, shall be implemented before September 1, 1982. The requirement of Subsection (b) of Section 3 that merit pay is to be based on that system shall be implemented before September 1, 1983."

Art. 4413(42). Repealed by Acts 1979, 66th Leg., p. 1652, ch. 690, § 12, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Section 12 of Acts 1979, 66th Leg., ch. 690, repealing this article, provided in part:

"The State Commission for the Deaf created by that Act is abolished and its records and property are transferred to the commission created by this Act."

Acts 1979, 66th Leg., p. 1652, § 12, repealed this article without reference to amendment of this article by Acts 1979, 66th Leg., p. 399, ch. 186, § 7, which added subsecs. (e) and (f) to § 8.

Acts 1981, 67th Leg., p. 351, ch. 140, § 2, incorporated the amendment by Acts 1979, 66th Leg., p. 399, ch. 186, § 7, into the Human Resources Code as § 81.0061 thereof.

Art. 4413(42a). Joint Advisory Committee on Educational Services to the Deaf

Purpose

Sec. 1. The purpose of this Act is to promote the economical delivery of the educational services to the deaf provided by state governmental educational institutions by means of a comprehensive review of governmental structure and administration.

Definitions

Sec. 2. In this Act:

(1) "Committee" means the Joint Advisory Committee on Educational Services to the Deaf.

(2) "Departments and agencies" means all departments, bureaus, agencies, boards, commissions, and other instrumentalities of the executive branch of state government which provide any type of educational services to the deaf or that train professionals to work with the deaf.

(3) "Professionals" means persons trained as teachers, interpreters, and directors of teacher training programs, and ancillary personnel employed by educational institutions for the deaf.

Creation of Committee

Sec. 3. There is created the Joint Advisory Committee on Educational Services to the Deaf.

Membership

Sec. 4. (a) The committee consists of the lieutenant governor, the speaker of the house of representatives, the secretary of state, and other members appointed as provided by this section.

(b) The governor shall appoint six persons, none of whom may be members of the house or of the senate, two of these members being deaf consumers, two members being parents of deaf consumers, and two members being professionals serving the deaf as defined by this Act.

(c) The lieutenant governor shall appoint one member of the senate.

(d) The speaker of the house of representatives shall appoint one member of the house of representatives.

Terms and Vacancies

Sec. 5. (a) The initial members of the committee shall take office within 30 days after the effective date of this Act and shall serve until the expiration of the committee.

(b) Vacancies among the appointed members shall be filled for the unexpired terms in the same manner as the original appointments were made.

Compensation

Sec. 6. (a) Legislative members of the committee shall serve without additional compensation. Each member shall be reimbursed from the appropriate fund of the member's respective house for travel, subsistence, and other necessary expenses incurred in performing the duties of the committee.

(b) Persons appointed pursuant to Section 4(b) of this Act shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses from appropriations made by the legislature to the committee.

(c) The duties to be performed by each public official or employee appointed to the committee shall be considered duties in addition to those otherwise required by that person's office.

Officers

Sec. 7. The lieutenant governor shall serve as chairman of the committee. The speaker of the house of representatives shall serve as vice-chairman of the committee.

Quorum

Sec. 8. Six members of the committee shall constitute a quorum for the conduct of business.

Duties

Sec. 9. The committee shall:

(1) examine and evaluate the organization and methods of operation of the departments and agencies of state government related to educational programs for the deaf;

(2) develop proposals for improving the structure and administration of state educational services to the deaf in order to assure the delivery of quality governmental services at the lowest possible cost;

(3) recommend suspension of government programs and services that duplicate and exceed in cost those same services offered by private business; and

(4) make findings and issue reports in the execution of the duties imposed by this section.

Powers

Sec. 10. The committee or any subcommittees of its membership designated by the chairman may:

(1) appoint and fix the compensation of necessary staff;

(2) hold open hearings, take testimony, and administer oaths or affirmations to witnesses;

(3) secure directly from any department or agency of state government any information deemed necessary for the implementation of this Act; and

(4) make findings and issue reports in the execution of the duties imposed by Section 9 of this Act.

Cooperation of Other Departments and Agencies

Sec. 11. (a) The Texas Legislative Council, the Legislative Budget Board, the Legislative Audit Committee, the Texas Advisory Commission on Intergovernmental Relations, and the Division of Planning Coordination shall, through their respective administrative officers, furnish staff assistance to the committee upon request.

(b) Each department and agency of state government is directed to furnish assistance and information to the committee upon request.

Reports; Recommendations; Dissolution

Sec. 12. The committee may make an interim report on its progress, together with any specific recommendations it may deem desirable, to any session of the 65th Legislature, and shall make its final report to the 66th Legislature not later than 30 days after that legislature is organized. Unless extended by the 66th Legislature, the committee is dissolved on May 31, 1979.

[Acts 1977, 65th Leg., p. 1694, ch. 672, §§ 1 to 12, eff. Aug. 29, 1977.]

Art. 4413(42b). Repealed by Acts 1979, 66th Leg., p. 2443, ch. 842, art. 2, § 24, eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing this article, enacts the Human Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Human Resources Code.

Art. 4413(43). Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 2, § 2(1), eff. Sept. 1, 1979.

Acts 1979, 66th Leg., ch. 842, repealing this article, enacts the Human Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Human Resources Code.

Art. 4413(43a). Repealed by Acts 1983, 68th Leg., p. 1021, ch. 235, art. 4, § 4(b), eff. Sept. 1, 1983

See, now, Human Resources Code, § 73.001 et seq.

Art. 4413(44). Governor's Commission on Physical Fitness**Purpose**

Sec. 1. It shall be the purpose of this Act to increase the general level of physical fitness of the citizens of the State of Texas.

Commission

Sec. 2. In this Act, "commission" means the Governor's Commission on Physical Fitness.

Creation; Appointment of Members; Term of Office; Vacancies; Application of Sunset Act

Sec. 3. (a) The Governor's Commission on Physical Fitness is hereby created and established. The commission shall consist of fifteen (15) members representing all fields of physical fitness, including levels of fitness programs for both youth and adults, to be appointed by the Governor with the advice and consent of the Senate. The appointees should be widely known for their professional competence and experience in connection with physical fitness.

(b) The term of office for each member shall be for six (6) years, provided, however, that of the members first appointed, five (5) shall be appointed for terms of two years from the effective date of this Act, five (5) for terms of four (4) years from such effective date and five (5) for terms of six (6) years from such effective date. As the term of each member expires, his successor shall be appointed for a term of six (6) years except that each member shall serve until his successor is appointed and has qualified. Members shall be eligible for reappointment. Upon the death, disability, resignation, removal or refusal to serve of any member, the Governor shall appoint a qualified person to fill the unexpired term.

(c) The Governor's Commission on Physical Fitness is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1989.

¹ Article 5429k.

Expenses

Sec. 4. The members of the commission shall receive no compensation for their services, but shall be paid their actual traveling and other necessary expenses in the performance of their duties.

Powers

Sec. 5. The commission shall have power: (a) to elect from its members a chairman and such other officers as may be desirable, provided that the first chairman of the commission shall be named by the Governor and shall call the first meeting of the commission and serve as such until his successor shall be elected by the commission; (b) to hold such meetings at such places within the State of Texas

and at such times as the commission may designate; (c) to conduct such research, investigations and inquiries as may be necessary to secure information on the development of physical fitness in Texas; (d) to appoint committees from its membership and prescribe their duties; (e) to appoint consultants to the commission; (f) to make rules and regulations for its operation and that of its committees and to prescribe the duties of its officers, consultants and employees; (g) to employ a director and such other clerical employees as it may deem necessary within the limits of funds made available for such purposes.

Duties and Responsibilities

Sec. 6. The duties and responsibilities of the commission shall include:

(a) to educate the general public concerning the needs for, and benefits of physical fitness;

(b) to help coordinate the efforts in the field of physical fitness of the Central Education Agency, local school boards, private and parochial schools, industry, and physical fitness commissions of any political subdivision of this State now or hereafter created, and comparable agencies in other states or under the Federal Government;

(c) to disseminate information in the interest of physical fitness programs in this State by publication, conferences, workshops, programs, lectures, and other means;

(d) to collect and assemble pertinent information and data available from other state departments and agencies;

(e) to encourage, promote, and assist in the development of physical fitness programs for all ages;

(f) to evaluate existing programs within and outside Texas, to recommend the best programs and to provide for exchange of ideas and research data; and

(g) to inventory existing facilities and make recommendations for their optimum utilization.

Report to Governor and Legislature

Sec. 7. On or before the first day of December of each year the commission shall make in writing a complete and detailed report to the Governor and to the presiding officer of each House of the Legislature of its activities.

Appropriations

Sec. 8. The Legislature of the State of Texas may appropriate the necessary funds for the purposes of carrying out the provisions of this Act.

Acceptance of Donations; Audit

Sec. 9. The commission may accept on behalf of the State of Texas such donations of money, property, and equipment as in its discretion will best further the orderly development of physical fitness

in this State, including the development of good or improved habits relating to recreation, exercises, sports and use of leisure time and instructions for these purposes and for improving the physique and health of the residents of this State. All funds shall be subject to audit by the State Auditor.

[Acts 1971, 62nd Leg., p. 2728, ch. 889, eff. June 14, 1971. Amended by Acts 1977, 65th Leg., p. 1854, ch. 735, § 2.159, eff. Aug. 29, 1977.]

Art. 4413(45). Film Commission

Purpose

Sec. 1. The purpose of this Act is to encourage the orderly development of the film, television, and multimedia production industry in Texas in order to utilize the State's vast array of natural, human, and economic resources which are uniquely suitable for that industry.

Texas Film Commission

Sec. 2. The Texas Film Commission is established as a division of the office of the Governor. It shall be composed of personnel employed by the Governor to assist in carrying out the provisions of this Act.

Application of Sunset Act

Sec. 2a. The Texas Film Commission is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1989.

¹ Article 5429k.

Advisors

Sec. 3. The Governor may appoint a group of citizens of this State to serve at his pleasure and advise him and the commission concerning the administration of this Act. They shall receive no compensation for their advisory service, but may be reimbursed for their actual and necessary expenses incurred in carrying out their duties.

Powers and Duties of Commission

Sec. 4. (a) The commission shall promote the development of the film, television, and multimedia industry in Texas by informing members of that industry and the general public of the resources available in this State for film, television, and multimedia production.

(b) The commission may cooperate with other agencies of the State under the provisions of the Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes). The commission shall cooperate with the Industrial Commission and all other branches of State and local government involved in attracting industry to Texas.

(c) The commission may contract and pay for the furnishing of goods and services necessary to accomplish the purposes of this Act.

(d) Members of the commission staff may travel inside or outside the State to perform their functions under this Act.

(e) The commission may apply for and receive gifts and grants from governmental or private sources to be used in carrying out its functions under this Act.

Expenses

Sec. 5. Expenses incurred under this Act for the current fiscal year shall be paid from the appropriation account for Item 4 of the appropriation to the office of the Governor in Senate Bill No. 1, Acts of the 62nd Legislature, 3rd Called Session, 1972, for the year ending August 31, 1973.

[Acts 1972, 62nd Leg., 4th C.S., p. 29, ch. 13, eff. Oct. 26, 1972. Amended by Acts 1977, 65th Leg., p. 1855, ch. 735, § 2.166, eff. Aug. 29, 1977.]

Art. 4413(46). Expired

This article, relating to the study and coordination of activities regarding natural resources and the environment through the division of planning coordination, and derived from Acts 1973, 63rd Leg., p. 1339, ch. 505, expired by the force of its own terms on June 1, 1975.

Art. 4413(47). Expired

This article constituted the Energy Policy Planning Act of 1975, enacted by Acts 1975, 64th Leg., p. 971, ch. 370, which by § 8 thereof expired on September 1, 1977.

Art. 4413(47a). Repealed by Acts 1979, 66th Leg., p. 1550, ch. 666, § 15(1), eff. Sept. 1, 1979

Art. 4413(47b). Repealed by Acts 1983, 68th Leg., p. 1033, ch. 235, art. 5, § 4(b), eff. Sept. 1, 1983

Art. 4413(47c). Energy and Natural Resources Advisory Council

Secs. 1 to 6. Repealed by Acts 1983, 68th Leg., p. 1033, ch. 235, art. 5, § 4(b), eff. Sept. 1, 1983.

School District Resource Center

Sec. 6A. The Energy Efficiency Division of the council, or the successor agency that administers the provisions of the Energy Policy and Conservation Act,¹ the National Energy Conservation Policy Act,² and the National Energy Extension Service Act,³ may serve as a resource center to assist school districts in developing energy-efficient facilities. As such, the division may:

(1) present to school districts programs relating to managing energy, training school-plant operators, and designing energy-efficient buildings;

(2) provide school districts with technical assistance in managing energy;

(3) collect and distribute information relating to energy management in school facilities; and

(4) offer to educators energy resource workshops and may make available to educators a film library

on energy-related matters and energy education lesson packages.

¹ 42 U.S.C.A. § 6201 et seq.

² 42 U.S.C.A. § 8201 et seq.

³ 42 U.S.C.A. § 7001 et seq.

Secs. 7 to 14. Repealed by Acts 1983, 68th Leg., p. 1033, ch. 235, art. 5, § 4(b), eff. Sept. 1, 1983. [Acts 1983, 68th Leg., p. 2964, ch. 509, § 1, eff. Sept. 2, 1983.]

Repeal

This article was repealed by Acts 1983, 68th Leg., p. 1033, ch. 235, art. 5, § 4(b), eff. Sept. 1, 1983 without reference to the addition of § 6(A) by Acts 1983, 68th Leg., p. 2964, ch. 509, § 1, eff. Sept. 1, 1983.

Section 2 of the 1983 amendatory act provides:

"Insofar as funds from oil overcharge settlements are available, activities authorized by Section 6A shall be funded from that source."

Art. 4413(48). Repealed by Acts 1979, 66th Leg., p. 1550, ch. 666, § 15(2), eff. Sept. 1, 1979

Art. 4413(49). Criminal Justice Policy Council; Criminal Justice Coordinating Council

Creation and Composition of the Councils

Sec. 1. (a) The Criminal Justice Policy Council is established.

(b) The membership of the Criminal Justice Policy Council shall consist of:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) two members of the senate appointed by the lieutenant governor;
- (5) two members of the house of representatives appointed by the speaker; and
- (6) four members appointed by the governor.

(c) The Criminal Justice Coordinating Council is established.

(d) The membership of the Criminal Justice Coordinating Council shall be composed of the following persons:

- (1) the director of the department of corrections;
- (2) the executive director of the adult probation commission;
- (3) the executive director of the Board of Pardons and Paroles;
- (4) the executive director of the prosecutors coordinating council;
- (5) the executive director of the judicial council;
- (6) the executive director of the Commission on Jail Standards;

(7) the director of the Department of Public Safety;

(8) the executive director of the criminal justice division of the governor's office;

(9) the executive director of the Texas Youth Commission;

(10) the executive director of the Juvenile Probation Commission;

(11) the executive director of the Texas Commission on Law Enforcement Officer Standards and Education; and

(12) three citizens, one each designated by the governor, the lieutenant governor, and the speaker of the house.

(e) The coordinating council shall act in an advisory capacity to the policy council.

(f) The policy council may establish other advisory councils, task forces, or commissions it deems necessary to accomplish the purposes of this Act.

Duties of the Councils

Sec. 2. The councils are charged with the responsibility of developing means to promote a more effective and cohesive state criminal justice system.

(a) To this end, the policy council shall:

- (1) conduct an in-depth analysis of the criminal justice system;
- (2) determine the long-range needs of the criminal justice system and recommend policy priorities for the criminal justice system;
- (3) identify critical problems in the criminal justice system and recommend strategies to solve those problems;
- (4) assess the cost-effectiveness of the use of state and local funds in the criminal justice system;
- (5) recommend the goals, priorities, and standards for the allocation of criminal justice planning funds administered by the Criminal Justice Division;
- (6) recommend means to improve the deterrent and rehabilitative capabilities of the criminal justice system;
- (7) advise and assist the legislature in developing plans, programs, and proposed legislation for improving the effectiveness of the criminal justice system;
- (8) guide the Criminal Justice Coordinating Council; and
- (9) engage in other activities consistent with the responsibilities of the policy council.

(b) To this end, the coordinating council shall:

- (1) recommend to the Criminal Justice Policy Council means to improve the organization and management of the criminal justice system;
- (2) examine and evaluate information collection systems used by state criminal justice agencies and

recommend means to improve the usefulness, comprehensiveness, and accuracy of information collection;

(3) develop a statistical model of the criminal justice system that reflects workload demands on and the performance of state and local agency components of the system; this model should have the capacity to predict the impact of changes in the system on the separate components;

(4) assist the policy council in the performance of its duties;

(5) implement those policy recommendations of the policy council which are administrative in nature;

(6) coordinate those solutions to criminal justice system problems which require interagency cooperation;

(7) engage in other activities consistent with the responsibilities of the coordinating council.

Staff; Funds; Meetings

Sec. 3. (a) The policy council may employ an executive director to perform duties necessary to the proper functioning of both councils. The executive director shall be appointed by the governor and confirmed by the senate. The executive director may employ personnel necessary to administer the responsibilities of the councils.

(b) The policy council may receive and spend grants and donations from public and private entities in addition to legislative appropriations. The policy council may contract with public or private entities in the performance of its responsibilities.

(c) The policy council may contract with the Criminal Justice Center at Sam Houston State University or with other research groups to provide information important to the work of either council.

(d) A majority of the representatives on either council constitutes a quorum. The governor shall serve as chair of the policy council. The lieutenant governor shall serve as vice-chair of the policy council and shall preside at meetings in the governor's absence. The speaker shall preside at policy council meetings in the absence of the governor and the lieutenant governor. The executive director of the councils shall serve as chair of the coordinating council. The councils shall meet at least quarterly or at the call of the chairs.

(e) The coordinating council may form subcommittees to accomplish specific tasks.

Service of Representatives

Sec. 4. The appointed members of the councils serve at the pleasure of the officer that appointed the member. The duties of a member are in addition to those of any other employment or office of that member. Members of the councils may not receive compensation for the performance of duties as a member of the councils but are entitled to

reimbursement for actual and necessary expenses incurred in performing those duties.

Plan

Sec. 5. The policy council annually shall submit a plan to the legislature detailing the actions necessary to promote an effective and cohesive criminal justice system. The plan shall include a report on the policy council's activities and the recommendations it makes under Section 2 of this Act.

Application of Sunset Act

Sec. 6. The council is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes), and expires 12 years from its creation.

[Acts 1981, 67th Leg., p. 906, ch. 324, §§ 1 to 6, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1047, ch. 236, § 1, eff. Sept. 1, 1983.]

Section 2 of the 1983 amendatory act provides:

"A person who is a member of the Criminal Justice Coordinating Council immediately preceding September 1, 1983, is not entitled to continue to be a member of the council on or after that date unless the person is eligible for membership under Subsection (b), Section 1, Chapter 324, Acts of the 67th Legislature, Regular Session, 1981 (Article 4413(49), Vernon's Texas Civil Statutes), as amended by this Act."

Art. 4413(50). Crime Stoppers Advisory Council

Definition

Sec. 1. In this Act, "local crime stoppers program" means a private, nonprofit organization that is operated on less than a statewide level, that accepts and expends donations for rewards to persons who report to the organization information concerning criminal activity, and that forwards the information to the appropriate law enforcement agency.

Creation of Council

Sec. 2. The Crime Stoppers Advisory Council is created within the criminal justice division of the office of the governor to assist in the creation of local crime stoppers programs, to promote local crime stoppers programs in the media, and to help law enforcement agencies detect and combat crime by increasing the flow of information to and between law enforcement agencies.

Membership of Council

Sec. 3. The council consists of five members appointed by the governor with the advice and consent of the senate for two-year terms. At least three members of the council must be persons who have participated in a local crime stoppers program.

Director

Sec. 4. (a) The council shall have a director and may employ a person or designate a current employee of the state as director who is approved by the governor.

(b) The council shall define his authority and responsibilities.

Duties of the Council

Sec. 5. The council shall:

(1) advise and assist in the creation of local crime stoppers programs;

(2) foster the detection of crime and encourage persons through the program and otherwise to come forward with information about criminal activity;

(3) encourage the news media to promote local crime stoppers programs and to inform the public of the functions of the council; and

(4) assist local crime stoppers programs in channeling information reported to those programs concerning criminal activity to the appropriate law enforcement agencies.

Confidentiality of Council Records

Sec. 6. The council's records relating to reports of criminal activity are confidential.

Rules

Sec. 7. The council may promulgate rules to carry out its functions pursuant to this Act.

Organization

Sec. 8. At the council's first meeting after the beginning of each fiscal year, the council shall elect from among its members a chairman and any other officers it deems necessary.

Per Diem and Expenses

Sec. 9. Members of the council are entitled to a per diem as determined by legislative appropriation and are entitled to reimbursement for actual and necessary expenses incurred in performing their duties as members of the council.

Penalty for Misuse of Report Information

Sec. 10. (a) A member or employee of the council or a person who accepts reports of criminal activity on behalf of a local crime stoppers program commits an offense if he intentionally or knowingly divulges to a person not employed by a law enforcement agency the content of a report of criminal activity, or the identity of the person who made the report, without the consent of the person who made the report.

(b) An offense under this section is a Class A misdemeanor.

(c) A person convicted of an offense under this section is not eligible for state employment for a period of five years following the date the conviction becomes final.

Privileged Information

Sec. 11. (a) Evidence of a communication between a person submitting a report of criminal activity to the council or a local crime stoppers program and the person who accepted the report on behalf of the council or the local crime stoppers program is not admissible in a court or an administrative proceeding.

(b) Records of the council or a local crime stoppers program concerning reports of criminal activity may not be compelled to be produced before a court or other tribunal except on the order of the supreme court.

Application of Sunset Act

Sec. 12. The council is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the council is abolished and this Act expires September 1, 1993.

[Acts 1981, 67th Leg., p. 1007, ch. 384, §§ 1 to 12, eff. Sept. 1, 1981.]

Art. 4413(51). Interagency Council on Sex Offender Treatment

Definition

Sec. 1. In this Act, "sex offender" means a person who engages in conduct that is any of the following sexual offenses covered by Chapter 21 or Section 25.02, Penal Code, or that is an attempt to commit any of the following sexual offenses under Section 15.01, Penal Code: rape, aggravated rape, sexual abuse, aggravated sexual abuse, indecent exposure, rape of a child, sexual abuse of a child, indecency with a child, or incest.

Council

Sec. 2. The Interagency Council on Sex Offender Treatment is established.

Membership

Sec. 3. (a) The council is composed of 12 members. The executive head of each of the following agencies or the designated representative of the executive head shall serve as an ex officio member of the council: Texas Department of Corrections, Board of Pardons and Paroles, Texas Adult Probation Commission, Texas Juvenile Probation Commission, Texas Department of Mental Health and Mental Retardation, Texas Youth Council, Sam Houston State University, and Texas Department of Human Resources. The director of the division in the governor's office that administers programs relating to criminal justice planning or the designated representative of the director shall serve as an ex officio member of the council. The governor shall appoint three members to the council with the advice and consent of the senate.

(b) If an executive head of a state agency designates a representative as a member, the representa-

tive must be at the time of the designation and during the time of service on the council an officer or employee of the agency. If the director of the division in the governor's office designates a representative as a member, the representative must be at the time of the designation and during the time of service on the council an employee of the division. The three members appointed by the governor must be at the time of appointment and during the time of service on the council representatives of the general public with expertise in the treatment of sex offenders.

Terms

Sec. 4. Public members of the council hold office for staggered terms of six years, with one member's term expiring February 1 of each odd-numbered year.

Officer; Meetings; Quorum

Sec. 5. (a) The council annually shall elect a chairman from its members.

(b) The council shall meet at least four times each year. The council may meet at other times at the call of the chairman or as provided by council rule.

(c) Six members constitute a quorum.

Expenses

Sec. 6. A member of the council may not receive compensation for performing the duties of the council. A member is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties, at the same rate provided for state employees in the general appropriations act.

Executive Director; Staff

Sec. 7. (a) The council shall employ an executive director who is the executive head of the council and performs its administrative duties.

(b) The executive director shall employ staff members necessary to administer the council's duties.

Duties

Sec. 8. The council shall:

(1) determine if a state-administered sex offender treatment program is necessary and, if so, report to the governor, lieutenant governor, and speaker of the house of representatives about the nature of the program and the funding necessary for the program;

(2) evaluate sex offender treatment programs conducted in or outside the state and make recommendations to the authorities responsible for the programs about ways to improve the programs;

(3) collect and disseminate information to judicial officers, probation or parole workers, and the general public about available sex offender treatment programs; and

(4) distribute money appropriated by the legislature for that purpose to political subdivisions, private organizations, or other persons to be used for the development, operation, or evaluation of sex offender treatment programs.

Annual Report

Sec. 9. The council annually shall file a report with the governor, lieutenant governor, and speaker of the house of representatives about the activities of the council during the preceding year. The council shall include in the report any recommendations that it makes under Subdivision (2) of Section 8 of this Act and any other recommendations that it considers appropriate.

Confidentiality

Sec. 10. The council and the staff and consultants it employs shall keep confidential any record relating to the identity, examination, diagnosis, prognosis, or treatment of a sex offender.

Agency Cooperation

Sec. 11. Each state agency or division of an agency represented on the council shall cooperate with the council if requested to do so by the council.

Grants and Donations

Sec. 12. The council may accept on behalf of the state a grant or donation from any source to be used by the council to perform its duties.

Terms of Initial Public Members

Sec. 13. In making the initial appointments of public members to the council, the governor shall designate one public member for a term expiring February 1, 1985, one for a term expiring February 1, 1987, and one for a term expiring February 1, 1989.

Abolition and Expiration

Sec. 14. The council is abolished and this Act expires September 1, 1989. On that date, the records and other property in the custody of the council are transferred to the State Purchasing and General Services Commission.

[Acts 1983, 68th Leg., p. 2667, ch. 462, §§ 1 to 14, eff. Sept. 1, 1983.]

Art. 4413(52). Texas Job-Training Partnership Act

Short Title

Sec. 1. This Act may be cited as the Texas Job-Training Partnership Act.

Purpose

Sec. 2. The purpose of this Act is to facilitate the development and implementation of effective state and local systems for managing job-training, employment, and related programs in the State of

Texas, as authorized by the Federal Job Training Partnership Act (Pub.L. No. 97-300, 96 Stat. 1322, Section 122).¹

(2) Policy. It is state policy to coordinate all available resources from federal, state, and local governments, business, labor, and community-based organizations to develop and promote a balanced, equitable, and cost-beneficial employment and training system. It is state policy that there be consultation between the governor and the state legislature in implementing the federal Job Training Partnership Act and this Act.

¹ 29 U.S.C.A. § 1501 et seq.

Establishment of State Goals

Sec. 3. (a) It is a goal of this state to assist its citizens in obtaining gainful employment and in reducing dependency on public assistance and unemployment compensation by:

(1) preparing young people and unskilled adults who are economically disadvantaged for entry into the work force;

(2) assisting citizens faced with serious barriers to employment to overcome those barriers, including age, handicapped status, lack of education, and locality;

(3) taking an affirmative role in ensuring the maximum utilization of available resources in planning, implementing, and facilitating this Act through a partnership of individuals from the various diverse communities of the state, including but not limited to representatives of business communities, local and state government, ethnic communities, education communities, and the various cultural and socio-economic communities, to participate in decision-making and policy-making activities associated with programs created under this Act; and

(4) retraining individuals whose current skills are no longer in demand in the labor market and who must upgrade their work skills to return to the work force.

(b) It is a goal of this state to develop a well-trained, productive work force to meet the needs of a changing economy by:

(1) coordinating existing labor market information to maximize its utility for planning and operating programs;

(2) providing enhanced employment and training capabilities specially designed to meet the needs of business and industry, including industries that utilize advanced technology;

(3) linking employment and training services with economic development efforts; and

(4) coordinating the planning and delivery of job-training, employment and related programs provided by a number of separate state agencies so as to improve the efficiency and effectiveness of these programs.

Definitions

Sec. 4. In this Act the definitions set forth in Section 4 of the federal Act shall apply; definitions set forth below shall have the meanings indicated:

(a) "Federal Act" means the Federal Job Training Partnership Act of 1982 (Pub.L. No. 97-300).

(b) "Grant recipient" means the entity which contracts for and receives funds from the governor.

(c) "Service delivery area" means a geographic area designated by the governor, which is composed of one or more units of local government within which programs can be efficiently and effectively provided.

(d) "Labor market area" means an economically integrated geographical area within which individuals may reside and find employment within a reasonable distance.

Administration

Sec. 5. (a) A job-training and employment staff is established within the governor's office. The staff shall:

(1) have responsibility for policy development, program planning, monitoring, and evaluation of these programs in coordination with existing state agencies as provided under the Job Training Partnership Act;

(2) provide staff support as directed by the governor for the State Job Training Coordinating Council; and

(3) perform such other functions and duties relating to the job-training, employment, and related programs as may be required by law or assigned by the governor.

(b) The Texas Department of Community Affairs shall:

(1) have primary responsibility for implementation and management of the job-training program; and

(2) perform such other functions and duties relating to the job-training program as may be required by law or assigned by the governor.

Monitoring Committee

Sec. 6. The progress of the implementation of the Job Training Partnership Act in this state shall be monitored by a joint committee appointed by the speaker of the house of representatives and the lieutenant governor. The committee shall make recommendations for any necessary legislative action or remedies for the next regular session of the legislature as well as recommending congressional remedies.

Program Delivery System

Sec. 7. (a) The governor shall designate service delivery areas according to the procedures established in the federal Act so that:

(1) each SDA meets the requirements in the federal Act for their establishment;

(2) the number of SDAs, to the extent feasible, is kept to a minimum for the purpose of administrative efficiency; and

(3) each SDA is of such size so as to receive an allocation of funds sufficient to plan and operate an effective local program as determined by the governor.

(b) The governor shall certify a Private Industry Council (PIC) in each service delivery area when the governor determines that the appointments procedures and composition of the members of the PIC are consistent with the requirements of the federal Act.

(c) The governor shall prescribe criteria for the selection of the local entity to administer programs authorized under the federal Act to ensure that the entity has the capacity to:

(1) develop plans and provide for efficient and effective programs;

(2) provide in a timely fashion required and accurate management information; and

(3) properly disburse, account for, and control all expenditure of funds.

(d) The appropriate chief elected officials in each service delivery area, as specified in the federal Act, shall select the members and the initial size of the PIC in accordance with the procedures specified in the federal Act.

(e) The appropriate chief elected official or officials in the SDA shall enter into an agreement with the PIC to determine procedures for:

(1) the selection of the grant recipient, the planning entity, and the administrative entity for the SDA; and

(2) the development of the local job-training plan.

State Responsibilities

Sec. 8. (a) The legislature reserves the right to review and comment on the job-training plan submitted from each service delivery area and on the governor's coordination and special services plan. The governor's plans shall be submitted to the lieutenant governor and the speaker of the house not later than February 1 of each odd-numbered year, who shall refer the plans to the appropriate senate and house committees for review and comment.

(b) The state hereby establishes a State Job Training Coordinating Council as required by the federal Act, hereinafter referred to as the "state council". The state council shall:

(1) be appointed by the governor in accordance with the requirements of the federal Act;

(2) have not more than 40 members including the chairperson;

(3) meet not less than quarterly;

(4) develop and recommend statewide goals and program objectives;

(5) identify needs for training and employment services;

(6) review operations of local programs and state agencies providing job-training, employment, and related programs identified in the federal Act;

(7) establish criteria for coordinating program planning and operations;

(8) evaluate the results of state and local training and employment services;

(9) develop and recommend the state's coordination and special services plan to the governor;

(10) perform the functions formerly conducted by the State Coordinating Committee for the work incentive program under Title IV of the Social Security Act,¹ the advisory council established under the Wagner-Peyser Act (29 U.S.C. 49) and under the Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes); and

(11) perform such functions and duties relating to job-training, employment, and related programs as required by the federal Act or as assigned by the governor.

(c) The governor or his delegated agency shall:

(1) prepare a statement of goals and objectives for job-training and placement programs within the state;

(2) be responsible for the planning, monitoring, implementing, and evaluating of job-training, employment, and related programs as provided for by the federal Act;

(3) shall monitor or cause to be monitored not less than annually each grant recipient and contractor to assure compliance;

(4) prescribe, within parameters established by the secretary, variations in the performance standards for programs under the federal Act. Such variations shall recognize the economic, geographic, and demographic differences in various regions of the state;

(5) provide specifications for the design, development, and operation of a statewide uniform labor market information system to facilitate the timely availability of employment and training information throughout the state;

(6) develop and provide to service delivery areas information on a state and local area basis regarding economic, industrial, and labor market conditions;

(7) plan, provide for the operation of, and evaluate special model or demonstration programs (including programs receiving financial assistance from private sources);

(8) make available to service delivery areas, with or without reimbursement and upon request, appropriate information and technical assistance to assist in developing and implementing plans and programs;

(9) establish and maintain a computerized state-wide management information system to collect and maintain the financial, participant, and program data necessary to ensure program accountability on a monthly basis;

(10) develop and formally issue procedures to ensure consistency of definitions, formats, recordkeeping, data gathering, and reporting. These procedures shall concern, but not be limited to:

- (A) planning and contracting;
- (B) labor market information;
- (C) financial management;
- (D) participant tracking;
- (E) monitoring;
- (F) evaluation;
- (G) audit;
- (H) complaints and grievance procedures;

(I) personnel standards, including equal opportunity compliance;

(J) property management;

(11) at least once every two years, the governor shall provide for an independent audit of each recipient of funds authorized under the federal Act;

(12) the governor shall approve or disapprove the final local job-training plans and modifications according to the criteria established in the federal Act;

(13) submit a coordination and special services plan to the secretary of labor in accordance with the requirements of the federal Act; and

(14) provide preservice and in-service training to improve professional capability of managers and technical staff of state agencies, local administrative entities, private industry councils, and contractors involved in planning and operating programs.

(d) All state agencies providing employment, job-training, and related programs shall provide to the state council information for planning, reviewing program operations, and evaluating program results as required by the governor. In addition, these agencies shall also submit their plans to the state council.

142 U.S.C.A. § 630 et seq.

Local Responsibilities

Sec. 9. (a) For each SDA, it shall be the responsibility of the Private Industry Council (PIC) and the appropriate chief elected official(s) in accordance with an agreement or agreements to:

(1) prepare a plan which provides a comprehensive program of job-training, employment, and relat-

ed services in response to the needs of the eligible population within the SDA;

(2) submit such job-training plan:

(A) not less than 120 days before the beginning date of the plan, to each house of the state legislature and other entities as prescribed by the federal Act;

(3) prepare and submit an annual report to the governor in accordance with the federal Act;

(4) establish procedures for providing oversight of all programs conducted under the local job-training plan;

(5) develop jointly with the employment service those components of the Wagner-Peyser plan which are applicable to that SDA;

(6) maintain records and a management information system designed to facilitate uniform compilation and analysis of programmatic and financial data for the SDA, consistent with federal and state requirements;

(7) establish fiscal, audit, and debt-collection procedures to ensure the proper disbursement, use, and accounting of all funds provided under the federal Act.

(b) The PIC and appropriate chief elected official(s) are responsible for:

(1) the allocation of available resources to its program;

(2) developing procedures and criteria for the selecting of eligible participants and their eligibility determination; and

(3) the selection of service providers with a demonstrated capability to provide effective services and achieve performance goals.

(c) If there is more than one SDA in a single labor market area, the PIC and the appropriate chief elected official(s) for each such SDA shall coordinate those activities as required by the federal Act.

Rules and Regulations

Sec. 10. The governor may in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), prescribe such rules and regulations as the governor deems necessary to carry out the provisions of this Act and the federal Act.

Severability Clause

Sec. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1983, 68th Leg., p. 5449, ch. 1024, §§ 1 to 11, eff. Sept. 1, 1983.]

**CHAPTER TEN. DEPARTMENT OF
COMMUNITY AFFAIRS**

Art. 4413(201). Department of Community Affairs

Purpose

Sec. 1. The purpose of this Act is to create a Texas Department of Community Affairs to assist local governments in providing essential public services for their citizens and overcoming financial, social, and environmental problems; to assist the Governor and the Legislature in coordinating federal and State programs affecting local government; and to continually inform State officials and the public about the needs of local government.

Definitions

Sec. 2. As used in this Act:

- (1) "Department" means the Texas Department of Community Affairs.
- (2) "Director" means the executive director of the Texas Department of Community Affairs.
- (3) "Local government" means a county; an incorporated municipality; a special district; any other legally constituted political subdivision of the State; or a combination of political subdivisions.

Creation

Sec. 3. There is hereby established a Texas Department of Community Affairs.

Application of Sunset Act

Sec. 3a. The Texas Department of Community Affairs is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the department is abolished, and this Act expires effective September 1, 1995.

Functions

Sec. 4. The department shall, in addition to other powers and duties invested in it by this Act or by any other law:

- (1) maintain communications with local governments and serve as their advocate at the State and federal levels;
- (2) assist local governments with advisory and technical services;
- (3) provide financial aid to local governments and combinations of local governments for programs which are authorized such assistance;
- (4) act as an information center and referral agency for information on State and federal services and programs affecting local government;
- (5) administer, conduct, or jointly sponsor educational and training programs for local government officials;

(6) maintain suitable headquarters for the department and such other quarters as the director shall deem necessary to the proper functioning of the department;

(7) conduct research on problems of general concern to local governments;

(8) collect, publish, and disseminate information useful to local government including, but not limited to, data on local governmental finances and employment, housing, population characteristics, and land use patterns;

(9) encourage cooperative action by local governments where appropriate;

(10) advise and inform the Governor and the Legislature concerning the affairs of local government and make recommendations for necessary action;

(11) assist the Governor in the coordination of federal and State activities affecting local governments;

(12) administer, as appropriate, State responsibilities for programs created under the Federal Economic Opportunity Act of 1964,¹ any programs which may be assigned to the agency in accordance with the Omnibus Budget Reconciliation Act of 1981,² and other federal acts creating economic opportunity programs;

(13) promulgate and adopt such rules and regulations as may be necessary and proper to carry out programs and responsibilities assigned by the Legislature or the Governor; and

(14) perform any other duties concerning local government which may be assigned by the Legislature or the Governor.

¹ 42 U.S.C.A. § 2701 et seq.

² Pub.L. No. 97-35, 95 Stat. 357.

Community Development Block Grant Nonentitlement Program; Review Committee

Sec. 4A. (a) In this section, "program" means the community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974, as amended (P.L. 93-383 and P.L. 97-35).¹

(b) The department shall, pursuant to the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) and 24 CFR, Part 570, Subpart I, administer the state's allocation of federal funds provided under the program. Program funds shall be allocated to eligible counties and municipalities in accordance with rules and regulations adopted by the department.

(c) The community development review committee is established. The committee shall consist of 12 members, appointed by the governor, each of whom must be a member of the governing body of a county or municipality eligible for funding under the program, or a supervisory-level county or municipal employee whose regular duties include involvement in community development activities at

the local level. The number of county officials on the committee, when expressed as a ratio of all committee members, shall not exceed the number of counties eligible for funding under the program, when expressed as a ratio of all eligible applicants.

(d) The chairman of the committee shall be designated by the governor and serve at his pleasure.

(e) Members of the committee shall serve for two-year terms. In the event of a vacancy on the committee, the governor shall appoint a new member to fill the remaining portion of the unexpired term.

(f) Committee members shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Service on the committee by officers and employees of counties and municipalities shall be considered as an additional duty of their office or employment and shall not be construed as dual officeholding.

(g) The committee shall meet at least twice annually at the call of the director. Nine members of the committee shall constitute a quorum.

(h) The committee shall have the following duties:

(1) consult with and advise the director with respect to the administration and enforcement of the program;

(2) review applications submitted by counties and municipalities eligible for funding under the program and advise and assist the director with respect to the allocation of program funds to those applicants; and

(3) may recommend annually to the director a formula based on need for allocation of funds to each geographic state planning region established by the governor pursuant to Chapter 570, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1011m, Vernon's Texas Civil Statutes).

142 U.S.C.A. § 5301 et seq.

Personnel

Sec. 5. (a) The administrator and head of the department shall be known as the executive director and shall be a person qualified by training and experience to perform the duties of his office. The director shall be appointed by the Governor with the advice and consent of the Senate and shall serve at the pleasure of the Governor during the Governor's terms of office. He shall receive a salary as provided by the Governor within authorized appropriations. The director, as head of the department, shall:

(1) administer the work of the department;

(2) appoint and remove officers and other personnel employed within the department;

(3) submit through and with the approval of the Governor requests for appropriations and other moneys to operate the department;

(4) administer all moneys entrusted to the department;

(5) organize the work of the department consistent with this Act and with sound organizational management designed to promote efficient and effective operation;

(6) make an annual report to the Governor and the Legislature of the department's operations and provide such other reports as the Governor or the Legislature shall require;

(7) perform such other functions as may be prescribed by law or assigned by the Governor.

(b) The director or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least ten (10) days before any public posting. The director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for department employees must be based on the system established under this subsection.

(c) The director or his designee shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity where by all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The plans shall include:

(1) a comprehensive analysis of all the agency's work force by race, sex, ethnic origin, class of position, and salary or wage;

(2) plans for recruitment, evaluation, selection, appointment, training, promotion, and other personnel policies;

(3) steps reasonably designed to overcome any identified underutilization of minorities and women in the agency's work force; and

(4) objectives and goals, timetables for the achievement of the objectives and goals, and assignments of responsibility for their achievement.

The plans shall be filed with the governor's office within 60 days of the effective date of this Act, cover an annual period, and be updated at least annually. Progress reports shall be submitted to the governor's office within 30 days of November 1 and April 1 of each year and shall include the steps the agency has taken within the reporting period to comply with these requirements.

Lobbyist Restriction

Sec. 5a. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the

department may not serve as the director or act as the general counsel to the department.

Open Meetings and Administrative Procedure

Sec. 5b. The department is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Advisory Council on Community Affairs

Sec. 6. (a) There is hereby established in the Department of Community Affairs an Advisory Council on Community Affairs, which shall consist of twelve (12) members appointed by the Governor with the advice and consent of the Senate, as follows:

(1) three (3) members must be elected or appointed municipal officials who serve in different municipalities;

(2) three (3) members must be elected county officials who serve in different counties;

(3) three (3) members must be elected or appointed officials of other kinds of political subdivisions who serve in different political subdivisions; and

(4) three (3) members must be citizen members who are not elected or appointed officials of any political subdivision.

(b) Appointments to the advisory council shall be made without regard to the race, creed, sex, religion, or national origin of the appointees and shall be made in a manner that produces representation on the advisory council of the different geographical regions of the state.

(c) Any elected or appointed official of any political subdivision who shall be appointed as a member of the advisory council or as a member of any special advisory council as provided for in Section 7 of this Act shall perform his duties as a member of such advisory council or councils as an additional or ex officio duty required of him in his other official capacity, and such service on such advisory council or councils shall not be construed as dual office holding.

(d) Members are appointed to the advisory council for staggered terms of two (2) years with six (6) members' terms expiring January 31 of each year. Vacancies on the advisory council, other than by expiration of terms of office, shall be filled for the unexpired term.

(e) The advisory council annually shall elect a chairman and a vice-chairman from among its members.

(f) All members of the advisory council shall serve without compensation but shall be reimbursed for their actual expenses in attending the meetings

of the advisory council and in the performance of their other duties.

(g) It is a ground for removal from the advisory council that a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of this section for appointment to the advisory council; or

(2) does not maintain during the service on the advisory council the qualifications required by Subsection (a) of this section for appointment to the advisory council.

(h) It shall be the duty of the advisory council to consult with and advise the director with respect to the affairs and problems of local government and work of the department. The advisory council shall meet at least three times annually at the call of the director and at such other times as the advisory council shall determine, the time and place of such other meetings to be fixed by resolution of the advisory council. It shall be the responsibility of the department to furnish such information, equipment and staff as is necessary to implement the work of the advisory council within the limits of appropriations for the purpose.

Special Advisory Councils

Sec. 7. The Governor may, with the advice of the director, from time to time appoint other special advisory councils to assist in basic policy formulation for the department or to advise on technical aspects of certain programs the department may administer. Special advisory councils may be dissolved by the Governor upon completion of their purpose.

Acting Director

Sec. 8. The Governor shall establish a procedure for designation of an acting director in the event of an absence or disability of the director and shall immediately designate an acting director or a new permanent director in the event of a vacancy in the position.

Offices and Divisions

Sec. 9. The director shall establish such offices and divisions as necessary to carry out the functions of the department, and these functions shall include: intergovernmental cooperation, regional and community services, rural community services, housing, research, economic opportunity, and education and training. The director is authorized to assign functions and duties to the various offices and divisions, to provide for additional offices and divisions, and to reorganize the department when necessary to improve efficiency or effectiveness. The director is further authorized to enter into reciprocal agreements to loan or detail department employees to State agencies and instrumentalities and to local governments.

Transfers from Governor

Sec. 10. The Governor is hereby authorized to transfer personnel, equipment, records, obligations, appropriations, functions, and duties of the Division of State-Local Relations and of other appropriate divisions of his office to the department.

Loaned Employees

Sec. 11. Agencies and instrumentalities of the State government and local governmental units are authorized to detail or loan employees to the department on either a reimbursable or nonreimbursable basis as may be mutually agreed by the State agency or local governmental unit and the department. The department is authorized to accept such employees. During the period of loan or detail, the person shall continue to be an employee of the lending agency or unit for purposes of salary, leave, retirement, and other personnel benefits, but shall work under the supervision of personnel of the department and shall be an employee of the department for all other purposes. The department is authorized to enter into contracts with State agencies or other governmental units for reimbursing all costs incidental to the loaning of detailing of employees.

Agency Cooperation

Sec. 12. Agencies and institutions of the State are directed to cooperate with the department through provision of personnel, information, and technical advice as the department assists the Governor in the coordination of federal and State activities affecting local government.

Funds

Sec. 13. The department is authorized to apply for contract for, receive, and expend for its purposes any appropriations or grants from the State of Texas, the federal government, or any other source, public or private.

Multipurpose Human Resource Centers

Sec. 13a. (a) In order to provide for the most effective and efficient delivery of human resource services to the poor population, as well as the total population, the Texas Department of Community Affairs may establish multipurpose human resource centers in various communities in the State.

(b) The department may locate and lease with State funds suitable office space at the community level that is easily accessible to the client populations of human resource service delivery agencies and may make it available to these agencies.

(c) Any State or local governmental agency or private, nonprofit human resource agency that has filed a State or regional plan for delivery of human resource services with the State is eligible to locate staff in a community multipurpose human resource service center.

(d) The department shall report to the Governor and the Legislature annually the agencies which are and the agencies which are not locating their human resource delivery staff in available community multipurpose human resource service centers.

(e) There is hereby established in the State Treasury the Community Multipurpose Human Resource Service Center Fund. The fund shall be used to provide the State's share of the rental costs for the community multipurpose human resource service centers and to provide for the administrative costs of their operation.

General Information and Complaints

Sec. 13b. (a) The department shall prepare information of general interest describing the functions of the department and describing the department's procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the general public and appropriate state agencies.

(b) The department shall keep an information file about each complaint filed with the department relating to an activity of the department.

(c) If a written complaint is filed with the department relating to an activity of the department, the department, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint.

Audits

Sec. 13c. The State Auditor shall audit the financial transactions of the department during each fiscal year.

Energy Services Program for Low-Income People

Sec. 13d. (a) There is hereby created within the department an office, to operate in conjunction with the community service block grant, to be known as the Energy Services Program for Low-Income People having jurisdiction and responsibility for administration of the following elements of the State Low-Income Energy Assistance Program:

(1) the Energy Crisis Intervention Program, from whatever sources funded;

(2) the weatherization program, from whatever sources funded.

(b) Appropriations made in S.B. 179, 68th Legislature, Regular Session,¹ to the Department of Human Resources for these programs are hereby appropriated to the Texas Department of Community Affairs.

¹ Acts 1983, 68th Leg., p. 2936, ch. 1095.

Severability

Sec. 14. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given

effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 2697, ch. 879, eff. June 10, 1971. Amended by Acts 1973, 63rd Leg., p. 1636, ch. 595, § 1, eff. Aug. 27, 1973; Acts 1977, 65th Leg., p. 1842, ch. 735, § 2.073, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 2936, ch. 502, § 1, eff. Sept. 1, 1983.]

Sections 2, 3, and 5 of the 1983 amendatory act provide:

"Sec. 2. The requirements under Subsection (b), Section 5, Chapter 879, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4413(201), Vernon's Texas Civil Statutes), as added by this Act, that the director of the department develop an intraagency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of Subsection (b) of Section 5 that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985.

"Sec. 3. (a) A member of the Advisory Council on Community Affairs who holds office on August 31, 1983, is entitled to continue to hold the office for the term for which the member is appointed.

"(b) As incumbent members of the advisory council vacate their offices or as their terms expire, the governor shall appoint members to the advisory council to achieve as soon as possible the membership scheme established by Section 6, Chapter 879, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4413(201), Vernon's Texas Civil Statutes), as amended by this Act."

"Sec. 5. A state park that is operated by an independent board shall, upon request by such board, be eligible for funding under programs administered by the department."

CHAPTER ELEVEN. GOVERNOR'S COORDINATING OFFICE FOR THE VISUALLY HANDICAPPED

Art. 4413(202). Repealed by Acts 1979, 66th Leg., p. 679, ch. 301, § 8(a), eff. May 31, 1979; Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing this article, enacts the Human Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Human Resources Code.

Acts 1979, 66th Leg., p. 679, ch. 301, repealing this article, provided in § 8(b) thereof:

"The Governor's Coordinating Office for the Visually Handicapped is abolished. The records and other property of the abolished office shall be transferred to the appropriate agency under this Act."

CHAPTER TWELVE. CONSERVATORSHIP BOARD

Art. 4413(203). Conservatorship Board

Definitions

Sec. 1. In this Act:

(1) "State agency" means a department, commission, board, office, or other agency, including a university system or an institution of higher education except a public junior college, that:

(A) is in the executive branch of state government;

(B) is or was created by statute; and

(C) does not have statutory geographical boundaries limited to a part of the state.

(2) "Gross fiscal mismanagement" includes:

(A) failure to keep adequate fiscal records;

(B) failure to maintain proper control over assets;

(C) failure to discharge fiscal obligations in a timely manner; and

(D) misuse of state funds.

(3) "State fiscal management policies" means laws or rules relating to:

(A) fiscal recordkeeping and reporting;

(B) use or control of state property;

(C) timely discharge of fiscal obligations; or

(D) use of state funds.

Agencies Exempted

Sec. 2. This Act does not apply to an agency that is under the direction of an elected officer, board, or commission.

Board; Members; Terms

Sec. 3. (a) The State Conservatorship Board is established.

(b) The board consists of three members appointed by the governor with the advice and consent of the senate.

(c) The governor shall appoint to the board only persons who are residents of this state and who are qualified by experience or education in administration or fiscal management. A public officer is ineligible to serve on the board.

(d) Members hold office for terms of six years, with the term of one member expiring on January 31 of each odd-numbered year. In making the initial appointments, the governor shall designate one member for a term expiring on January 31, 1981, one member for a term expiring on January 31, 1983, and one member for a term expiring on January 31, 1985.

Chairman; Meetings

Sec. 4. (a) A majority of the board constitutes a quorum.

(b) The governor shall designate one of the members of the board to serve as chairman for a term, in that capacity, of two years expiring on January 31 of each odd-numbered year.

(c) The board shall meet at the call of the chairman or as provided by board rule. The board shall hold the organizational meeting at the call of the governor.

Compensation; Expenses

Sec. 5. A member of the board may not receive compensation for his service on the board but is entitled to reimbursement for actual and necessary

expenses incurred in the performance of official duties.

Administration

Sec. 6. The governor shall provide the board with administrative services. If necessary, the governor may use appropriations made pursuant to Article 4351, Revised Civil Statutes of Texas, 1925, to provide the services.

Finding of Mismanagement; Order of Conservatorship

Sec. 7. If the Legislative Audit Committee finds that a condition of gross fiscal mismanagement exists in a state agency, it shall notify the governor of its finding. On receipt of the notice, the governor by proclamation may order the board to act as conservator of the agency.

Assumption of Agency Functions

Sec. 8. If the governor directs the board to act as conservator of an agency, the board shall assume all the powers and duties of the officer or officers responsible for policy direction of the agency, and that officer or officers may not act unless authorized to do so by the board.

Board Responsibility; Powers

Sec. 9. (a) As conservator of an agency, the board is responsible for bringing the agency into compliance with state fiscal management policies.

(b) While acting as conservator of an agency, the board may:

(1) terminate any employee if it determines that his or her conduct contributed to the condition that brought about the conservatorship;

(2) employ personnel for the agency;

(3) make organizational or structural changes in the agency that are necessary to alleviate the conditions that brought about the conservatorship; and

(4) contract with entities or persons, whether public or private, for management or administrative services necessary to effect the conservatorship.

(c) The board may delegate all or any part of its powers or duties as conservator, except the adoption of rules, to an entity or person with whom it contracts pursuant to Subdivision (4) of Subsection (b) of this section.

Periodic Reports

Sec. 10. Within 60 days after the date the governor directs the board to act as conservator of an agency and at the end of every subsequent 60-day period until the conservatorship is dissolved, the board shall report on the conservatorship to the governor and the Legislative Audit Committee. The report shall include a description of the measures taken to bring the agency into compliance with state fiscal management policies and an estimate of the progress the board has made in attaining that goal.

Rules

Sec. 11. The board may adopt and enforce rules necessary to administer this Act.

Duration of Conservatorship

Sec. 12. The board's conservatorship of an agency continues until:

(1) the governor issues a proclamation declaring that the condition of gross fiscal mismanagement in the agency no longer exists and that the conservatorship is dissolved; or

(2) the Legislative Audit Committee finds and certifies to the governor that the condition of gross fiscal mismanagement in the agency no longer exists, in which case the conservatorship is dissolved.

[Acts 1979, 66th Leg., p. 796, ch. 357, §§ 1 to 12, eff. June 6, 1979.]