

Texas Historical Statutes Project

1934 SUPPLEMENT
TO THE
1928 COMPLETE TEXAS STATUTES



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1934
SUPPLEMENT
TO THE
1928
COMPLETE TEXAS STATUTES

COVERING THE
LAWS OF A GENERAL NATURE ENACTED AT THE
42ND LEGISLATURE, 1932 THIRD CALLED SESSION
42ND LEGISLATURE, 1932 FOURTH CALLED SESSION
43RD LEGISLATURE, 1933 REGULAR SESSION
43RD LEGISLATURE, 1933 FIRST CALLED SESSION

WITH
TABLE OF SESSION LAWS
AND
INDEX

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1934

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EXPLANATION

This volume contains the General Laws of Texas, in force and effect, subsequent to the Laws contained in the Supplement, published in 1931, to Vernon's 1928 Complete Texas Statutes.

Included are Laws of the Third and Fourth Called Sessions of the 42nd Legislature 1932 and the Regular and First Called Sessions of the 43rd Legislature 1933.

The arrangement conforms to Vernon's 1928 Complete Texas Statutes and Supplement and Vernon's Annotated Texas Statutes which are based on the 1925 Revision of the Texas Statutes.

Late amendments of the State and United States Constitutions are included.

A comprehensive Index is provided.

A Table of Session Laws is also included.

Vernon Law Book Company

Dept of Board of Regents

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AMENDMENTS
TO THE
CONSTITUTION OF THE UNITED STATES
PROPOSED AMENDMENT

§ 1. The Congress shall have power to limit, regulate, and prohibit the labor of persons under eighteen years of age.

§ 2. The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress.

Proposed by the Sixty-Eighth Congress on June 2, 1924.

ADOPTED AMENDMENTS

AMENDMENT XVIII [REPEALED]

This amendment has been repealed by Amendment XXI set out post.

AMENDMENT XX

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Sec. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Sec. 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Sec. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Sec. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Sec. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

Adopted February 6, 1933.

This amendment was proposed to the legislatures of the several states by the

Seventy-Second Congress, on the 3d day of March, 1932, and was declared, in a proclamation by the Secretary of State,

dated on the 6th day of February, 1933, to have been ratified by the legislatures of the states of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North

Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming—said states constituting three-fourths of the whole number of states in the United States, and certified as valid to all intents and purposes as a part of the Constitution of the United States.

AMENDMENT XXI

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Sec. 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Sec. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Adopted December 5, 1933.

This amendment was proposed to the legislatures of the several states by the Seventy-Second Congress, on February 20, 1933, and was declared, in a proclamation by the Secretary of State, dated on the 5th day of December, 1933, to have been ratified by the legislatures of the states of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Mary-

land, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming—said states constituting three-fourths of the whole number of states in the United States, and certified as valid to all intents and purposes as a part of the Constitution of the United States.

AMENDMENTS
TO THE
CONSTITUTION OF STATE OF TEXAS

PROPOSED AMENDMENTS

For submission to the people in 1934

ARTICLE VII

EDUCATION

Section 1. That Section 16, Article VII of the Constitution of the State of Texas be amended so as to hereinafter read as follows:

Sec. 16

All land mentioned in Sections 11, 12, and 15 of Article VII, of the Constitution of the State of Texas, now belonging to the University of Texas shall be subject to the taxation for county and school district purposes to the same extent as lands privately owned; provided they shall be rendered for taxation upon values fixed by the State Tax Board and that the values fixed for school district purposes shall not exceed the values fixed for county purposes on the same land; and provided that the University of Texas from the University Available Fund, shall remit annually to each of the counties and school districts in which said lands are located an amount equal to the tax imposed upon said land for county and school district purposes. *(Rejected, 11/6/34)*

ARTICLE VIII

TAXATION AND REVENUE

Section 1. That Section 1 of Article 8 of the Constitution of the State of Texas be amended so as hereafter to read as follows:

Section 1

Taxation of real property shall be equal and uniform. All property in this State, whether owned by natural persons or corporations other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The Legislature may by general laws make reasonable classifications of all property other than real property for the purpose of taxation, and may impose different rates thereon; provided that the taxation of all property in any class shall be equal and uniform. The Legislature may impose a poll tax. It may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax; provided, that Two Hundred and Fifty (\$250.00) Dollars worth of household and kitchen furniture, belonging to each family in this State, shall be exempt from taxation, and provided further that the occupation tax levied by any county, city or town for any year on persons or corporations pursuing any profession or busi-

ness shall not exceed one-half of the tax levied by the State for the same period on such profession or business. *(Rejected, 11/6/34)*

Section 1. That Section 3 of Article VIII of the Constitution of the State of Texas be so amended as to hereafter read as follows:

Sec. 3

Taxes shall be levied and collected by general laws and for public purposes only; and the total amount of revenue which the State shall be authorized to collect during such biennium from taxes, licenses, permits and fees, (except fees paid by students by state educational institutions, and except rentals, bonuses and royalties obtained from public lands and other public property) shall not exceed a sum reasonably estimated to equal the product obtained by multiplying the number of the inhabitants of this State by the sum of Twenty-two and 50/100 (\$22.50) Dollars; provided, however, the total amount of such revenue which may be so collected, shall be reduced by the amount of any surplus funds or unexpended appropriations remaining at the close of the preceding biennium. The expenditures of the State government of funds derived from the sources above referred to shall never exceed during any biennium, a sum equal to the product obtained by multiplying the number of inhabitants of this State by the sum of Twenty-two and 50/100 (\$22.50) Dollars, provided, however, that the population of the State (in determining the amount of revenue which may be collected from taxes, licenses, permits and fees or expended from the revenue thus obtained) shall be determined by the then last preceding Federal census, to which population shall be added or deducted, as the case may be, for each year that has lapsed since the last preceding Federal census, the average yearly increase or decrease of the population as shown by said last Federal census when compared with the Federal census which immediately preceded said last Federal census. Provided, further, that in case of war, riots, or insurrection, or a statewide calamity caused by earthquake, fire, flood or an epidemic which seriously threatens the health of the citizens of this State, the Legislature shall have authority, by a two-thirds vote of both Houses, to suspend for a definite period this constitutional limitation as to the amount of money which may be collected and expended during the biennium. *(Rejected, 11/6/34)*

ARTICLE IX

COUNTIES

Section 1. That Section 1 of Article 9 of the Constitution of the State of Texas, be amended so as to hereafter read as follows:

Section 1

The Legislature shall have power to create counties for the convenience of the people subject to the following provisions:

First. In the territory of the State exterior to all counties now existing, no new counties shall be created with a less area than nine hundred square miles, in a square form, unless prevented by the preexisting boundary lines. Should the State lines render this impracticable in border counties, the area may be less. The territory referred to 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 or counties.

Second. Within the territory of any county or counties now existing, the Legislature may by a two-thirds vote of both Houses, create new counties, combine existing counties and parts of counties and abolish existing counties and change county boundaries at will, provided that no new county shall be created with an area of less than nine hundred

square miles nor shall any existing county be reduced in area so as to contain less than nine hundred square miles, unless such new county or such remaining county, and both shall have a population of not less than fifty thousand according to the last United States census prior to the date of the creation or change of such county. When any part of a county is stricken off and attached to, or created into another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing, of the county from which it was taken, in such manner as may be prescribed by law.

Third: No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change shall have been submitted in such manner as may be provided by law, to a vote of the electors of both counties and shall have received a majority of those voting on the question in each. (*Rejected, 11/6/34*)

Section 1: That there be added to Article IX of the Constitution of the State of Texas a new section to be numbered Section 2-A and to have five (5) lettered subdivisions and which section shall read as follows:

Sec. 2-A

(a) General management and control of the affairs of the County shall hereafter be vested in the Commissioners Court, provided that in the exercise of powers not specifically granted to the Commissioners Court by the Constitution and Amendments thereto, the Court shall be subject to the authority of the Legislature of the State, and the Court shall also be subject to all general laws of the State now in force not in conflict with the provisions of this Amendment until such laws are modified or repealed.

(b) All duties heretofore performed by the Clerk of the District Court and the County Clerk shall hereafter be performed by an officer to be known as Record Clerk; all duties heretofore performed by the County Tax Assessor and the County Tax Collector shall hereafter be performed by one officer to be known as Tax Clerk; and in counties where the sheriff performs the duties of Tax Collector he may hereafter perform the duties of Tax Clerk. The Record Clerk and the Tax Clerk shall be elected to hold office for a term of two (2) years and until their successors shall be elected and qualified. The Commissioners Court shall have authority to combine the office of County Treasurer and the office of County Surveyor or to combine either, or both, of said offices with any other county office.

Within the maximum and minimum limits prescribed by the Legislature [the] Commissioners Court shall have authority to fix the compensation of all county and precinct officers except County Auditor, County Judge and County Commissioners. The Legislature shall fix the compensation of District Judges, District Attorneys, County Judges and the County Commissioners and may provide for a County Auditor and prescribe his duties and fix his compensation and the number and compensation of his assistants. The Commissioners Court shall fix the compensation of and determine the number of deputies, assistants and clerical personnel of all precinct officers and county officers except the County Auditor.

(c) City and county officers and employees may, in addition to their duties as such city or county officers or employees, be required to perform such other similar duties for cities, towns and districts within the county, or for the county, as may be mutually agreed upon and contracted for between the Commissioners Court of said county and the governing board, or boards, of such cities, towns and districts; and the costs of such services shall be provided for in said contracts and paid by such county, cities, towns or districts into the Treasury of the county or city, town or district, as provided for in said contract. All such contracts shall be

approved by the Attorney General of this State and such contracts shall not cover a period longer than two (2) years.

(d) The Legislature shall have authority, by general law, to provide for complete forms of county government and organization different from that provided for in this Constitution to become effective in any county when submitted in such manner as may be prescribed by the Legislature to the qualified voters of such county in an election held for such purpose and approved by a majority of the qualified voters voting in said election; provided, however, that no such law shall impair the right of the Commissioners Court to determine the compensation of county and precinct officers, other than the County Auditor, to fix the number of assistants, deputies and clerical personnel which officers may employ, nor shall such general law change present Constitutional limitations as to particular and total tax levies for any or all county purposes, nor shall such general law change present Constitutional limitations on counties to incur public debt.

(e) In any and all cases where provisions of the Constitution of this State are in conflict with the provisions of this Amendment, the provisions of this Amendment (Section 2-A, Article IX) shall control; provided, however, should any county adopt a Home Rule Charter under authority of any provisions of the State Constitution or Amendment thereto, this Amendment shall not be applicable to such county. *Rejected*

11/6/34

ARTICLE XI

MUNICIPAL CORPORATIONS

Section 1. That Section 5, of Article XI, of the Constitution of the State of Texas, be amended so as to hereafter read as follows:

Sec. 5

Cities having more than five thousand (5000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters, subject to such limitations as may be prescribed by the Legislature, and providing that no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the General Laws enacted by the Legislature of this State; said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half per cent ($2\frac{1}{2}\%$) of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent (2%) thereon; provided further, that no city charter shall be altered, amended or repealed oftener than every twelve (12) months.

(Rejected, 11/6/34)

ARTICLE XVI

GENERAL PROVISIONS

Section 1. That Section 30, Article XVI of the Constitution of Texas be amended so as to hereafter read as follows:

Sec. 30

The duration of all offices not fixed by this Constitution shall never exceed two (2) years, except that the elected officials of a city that has adopted and amended its Charter as provided in Section 5, Article XI of the Constitution of Texas may, by amendment to such city's charter, hold office not to exceed four (4) years; provided, that when a Railroad Commission is created by law it shall be composed of three (3) Commis-

sioners who shall be elected by the people at a General Election for State Officers, and their terms of office shall be six (6) years; provided, Railroad Commissioners first elected after this Amendment goes into effect shall hold office as follows: One shall serve two (2) years, and one four (4) years, and one six (6) years; their terms to be decided by lot immediately after they shall have qualified. And one Railroad Commissioner shall be elected every two (2) years thereafter. In case of vacancy in said office the Governor of the State shall fill said vacancy by appointment until the next General Election. *(Rejected, 11/6/34)*

Section 1. That the Constitution of the State of Texas, Article XVI, be amended by adding thereto another section, Section 61, which shall read as follows:

Sec. 61

All district officers in the State and all county officers in counties having a population of twenty thousand (20,000), or more, according to the then last preceding Federal census, shall hereafter be compensated on a salary basis. In all counties of this State the Commissioners Court shall be authorized to determine whether precinct officers shall be compensated on a fee basis or on a salary basis; and in counties having a population of less than twenty thousand (20,000), according to the then last preceding Federal census, the Commissioners Court shall also have the authority to determine whether county officers shall be compensated on a fee basis or on a salary basis. All fees earned by district, county and precinct officers shall be paid into the County Treasury where earned, for the account of the proper fund, provided that fees incurred by the State, county and any municipality, or in case where pauper's oath is filed, shall be paid into the County Treasury, when collected, and provided that where any officer is compensated wholly on a fee basis, such fees may be retained by such officer, or paid into the Treasury of the county as the Commissioners Court may direct. All Notaries Public, County Surveyors and Public Weighers shall continue to be compensated on a fee basis. *(Rejected, 11/6/34)*

ADOPTED AMENDMENTS

The following is the complete text of the amendments to the Constitution adopted November 8, 1932 and August 26, 1933.

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec. 51a

The Legislature shall have power to authorize by law the issuance and sale of the bonds of the State of Texas, not to exceed the sum of Twenty Million (\$20,000,000.00) Dollars, bearing interest at a rate not to exceed four and one-half (4½%) per centum per annum; and payable serially or otherwise not more than Ten (10) years from their date, and said bonds shall be sold for not less than par and accrued interest and no form of commission shall be allowed in any transaction involving said bonds. The proceeds of the sale of such bonds to be used in furnishing relief and work relief to needy and distressed people and in relieving the hardships resulting from unemployment, but to be fairly distributed over the State and upon such terms and conditions as may be provided by law and the Legislature shall make such appropriations as are necessary to pay the interest and principal of such bonds as the same become due. The power hereby granted to the Legislature to issue bonds hereunder is expressly limited to the amount stated and to two years from and after the

adoption of this grant of power by the people. Provided that the Legislature shall provide for the payment of the interest and redemption of any bonds issued under the terms hereof from some source other than a tax on real property and the indebtedness as evidenced by such bonds shall never become a charge against or lien upon any property, real or personal, within this State. (Sec. 51a, Art. 3, adopted election Aug. 26, 1933.)

Sec. 55

The Legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual, to this State or to any county or defined subdivision thereof, or other municipal corporation therein, except delinquent taxes which have been due for a period of at least ten years. (Sec. 55, Art. 3, adopted election Nov. 8, 1932.)

ARTICLE VI

SUFFRAGE

Section 1

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

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

Second: Idiots and lunatics.

Third: All paupers supported by any county.

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

Fifth: All soldiers, marines and seamen, employed in the service of the Army or Navy of the United States. Provided that this restriction shall not apply to officers of the National Guard of Texas, the National Guard Reserve, the Officers Reserve Corps of the United States, nor to enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, nor to retired officers of the United States Army, Navy, and Marine Corps, and retired warrant officers and retired enlisted men of the United States Army, Navy, and Marine Corps. (Sec. 1, Art. 6, adopted election Nov. 8, 1932.)

Sec. 3a

When an election is held by any county, or any number of counties, or any political sub-division of the State, or any political sub-division of a county, or any defined district now or hereafter to be described and defined within the State and which may or may not include towns, villages or municipal corporations, or any city, town or village, for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, only qualified electors who own taxable property in the State, county, political sub-division, district, city, town or village where such election is held, and who have duly rendered the same for taxation, shall be qualified to vote and all electors shall vote in the election precinct of their residence. (Sec. 3a, Art. 6, adopted election Nov. 8, 1932.)

ARTICLE VII

EDUCATION

Sec. 11

In order to enable the Legislature to perform the duties set forth in the foregoing Section, it is hereby declared all lands and other property heretofore set apart and appropriated for the establishment and maintenance

of the University of Texas, together with all the proceeds of sales of the same, heretofore made or hereafter to be made, and all grants, donations and appropriations that may hereafter be made by the State of Texas, or from any other source, except donations limited to specific purposes, shall constitute and become a Permanent University Fund. And the same as realized and received into the Treasury of the State (together with such sums belonging to the Fund, as may now be in the Treasury), shall be invested in bonds of the United States, the State of Texas, or counties of said State, or in School Bonds of municipalities, or in bonds of any city of this State, or in bonds issued under and by virtue of the Federal Farm Loan Act approved by the President of the United States, July 17, 1916, and amendments thereto; and the interest accruing thereon shall be subject to appropriation by the Legislature to accomplish the purpose declared in the foregoing Section; provided, that the one-tenth of the alternate Sections of the lands granted to railroads, reserved by the State, which were set apart and appropriated to the establishment of the University of Texas, by an Act of the Legislature of February 11, 1858, entitled, 'An Act to establish the University of Texas,' shall not be included in, or constitute a part of, the Permanent University Fund. (Sec. 11, Art. 7, adopted Nov. 8, 1932.)

ARTICLE VIII

TAXATION AND REVENUE

Sec. 1-a. Three Thousand Dollars (\$3,000.00) of the assessed taxable value of all residence homesteads as now defined by law shall be exempt from all taxation for State purposes; nothing herein shall apply within those counties or other political subdivisions now receiving any remission of State taxes, but upon the expiration of such period of remission this Section shall become applicable within such counties and political subdivisions. (Sec. 1-a, Art. 8, adopted election Nov. 8, 1932.)

Sec. 1-a

Three Thousand Dollars (\$3,000.00) of the assessed taxable value of all residence homesteads as now defined by law shall be exempt from all taxation for all State purposes; provided that this exemption shall not be applicable to that portion of the State ad valorem taxes levied for State purposes remitted within those counties or other political subdivisions now receiving any remission of State taxes, until the expiration of such period of remission, unless before the expiration of such period the board or governing body of any one or more of such counties or political subdivisions shall have certified to the State Comptroller that the need for such remission of taxes has ceased to exist in such county or political subdivision; then this Section shall become applicable to each county or political subdivision as and when it shall become within the provisions hereof. (Sec. 1-a, Art. 8, adopted election Aug. 26, 1933.)

Sec. 13

Provision shall be made by the first Legislature for the speedy sale, without the necessity of a suit in Court, of a sufficient portion of all lands and other property for the taxes due thereon, and every year thereafter for the sale in like manner of all lands and other property upon which the taxes have not been paid; and the deed of conveyance to the purchaser for all lands and other property thus sold shall be held to vest a good and perfect title in the purchaser thereof, subject to be impeached only for actual fraud; provided, that the former owner shall within two years from date of the filing for record of the Purchaser's Deed have the right to redeem the land on the following basis:

- (1) Within the first year of the redemption period upon the payment

of the amount of money paid for the land, including One (\$1.00) Dollar Tax Deed Recording Fee and all taxes, penalties, interest and costs paid plus not exceeding twenty-five (25%) percent of the aggregate total;

(2) Within the last year of the redemption period upon the payment of the amount of money paid for the land, including One (\$1.00) Dollar Tax Deed Recording Fee and all taxes, penalties, interest and costs paid plus not exceeding fifty (50%) percent of the aggregate total. (Sec. 13, Art. 8, adopted election Nov. 8, 1932.)

Sec. 14

There shall be elected by the qualified [qualified] electors of each county at the same time and under the same law regulating the election of State and County officers, an Assessor and Collector of Taxes, who shall hold his office, for two (2) years and until his successor is elected and qualified; and such Assessor and Collector of Taxes shall perform all the duties with respect to assessing property for the purpose of taxation and of collecting taxes as may be prescribed by the Legislature. (Sec. 14, Art. 8, adopted election Nov. 8, 1932.)

Sec. 16

The sheriff of each county in addition to his other duties shall be the Assessor and Collector of Taxes therefor; but, in counties having ten thousand (10,000) or more inhabitants, to be determined by the last preceding census of of the United States, an Assessor and Collector of Taxes shall be elected to hold office for two (2) years and until his successor shall be elected and qualified. (Sec. 16, Art. 8, adopted election Nov. 8, 1932.)

ARTICLE IX

COUNTIES

Sec. 3

(1) Holding the belief that the highest degree of local self government which is consistent with the efficient conduct of those affairs by necessity lodged in the Nation and the State will prove most responsive to the will of the people, and result to reward their diligence and intelligence by greater economy and efficiency in their local governmental affairs, it hereby is ordained:

(2) Any county having a population of sixty-two thousand (62,000) or more according to the then last Federal Census may adopt a County Home Rule Charter, to embrace those powers appropriate hereto, within the specific limitations hereinafter provided. It further is provided that the Legislature, by a favoring vote of two-thirds of the total membership of both the Senate and the House of Representatives, may authorize any county, having a population less than that above specified, to proceed hereunder for the adoption of a Charter; however, as a condition for such authorization, it is required that notice of the intent to seek Legislative authority hereunder must be published in one or more newspapers, to give general circulation in the county affected, not less than once per week for four (4) consecutive weeks, and the first of such publications shall appear not less than thirty (30) days next prior to the time an Act making proposal hereunder may be introduced in the Legislature. 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 (unless otherwise provided by a two-thirds vote of the total membership of each House of the Legislature) the votes cast by the qualified electors residing within the limits of all the incorporated cities and towns of the county shall be

separately kept but 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. It is expressly forbidden that any such Charter may inconsonantly affect the operation of the General Laws of the State relating to the judicial, tax, fiscal, educational, police, highway and health systems, or any other department of the State's superior government. Nothing herein contained shall be deemed to authorize the adoption of a Charter provision inimical to or inconsistent with the sovereignty and established public policies of this State, and no provision having such vice shall have validity as against the State. No Charter provision may operate to impair the exemption of homesteads as established by this Constitution and the Statutes relating thereto.

(3) a. A Charter hereunder may provide: the continuance of a County Commissioners' Court, as now constituted, to serve as the governing body of a county to operate hereunder; or, may provide for a governing body otherwise constituted, which shall be elective, and service therein shall be upon such qualifications, for such terms, under such plan of representation, and upon such conditions of tenure and compensation as may be fixed by any such Charter. The terms for service in such governing body may exceed two (2) years, but shall not exceed six (6) years. In any event, in addition to the powers and duties provided by any such Charter, such governing body shall exercise all powers, and discharge all duties which, in the absence of the provisions hereof, would devolve by law on County Commissioners and County Commissioners' Courts. Further, any such Charter may provide for the organization, reorganization, establishment and administration of the government of the county, including the control and regulation of the performance of and the compensation for all duties required in the conduct of the county affairs, subject to the limitations herein provided.

b. A Charter hereunder may provide that Judges of County Courts (including that County Court designated in this Constitution), and Justices of the Peace be compensated upon a salary basis in lieu of fees. The jurisdiction of the County Court designated in this Constitution, and the duties of the Judges thereof, may be confined to that general jurisdiction of a probate Court which elsewhere is defined in this Constitution. The office of Justice of the Peace may be made either elective or appointive. Other than as herein provided, no such Charter shall provide for altering the jurisdiction or procedure of any Court. The duties of District Attorney and/or County Attorney may be confined to representing the State in civil cases to which the State is a party and to enforcement of the State's Penal Code, and the compensation of said attorneys may be fixed on a salary basis in lieu of fees.

c. Save as hereinabove and hereinafter otherwise provided, such Charters, within the limits expressed therein, may invest the governing body to be established for any county electing to operate hereunder with the power to create, consolidate or abolish any office or department, whether created by other provisions of the Constitutions or by statute, define the duties thereof, fix the compensation for service therein, make the same elective or appointive and prescribe the time, qualifications and conditions for tenure in any such office; save, that no such Charter other than as hereinbefore authorized, shall provide to regulate the status, service, duties or compensation of members of the Legislature, Judges of the Courts, District Attorneys, County Attorneys, or any office whatever by the law of the State required to be filled by an election embracing more than one county. Excepting herefrom nominations, elections or appointments to offices, the terms whereof may not have expired prior to the adoption of this Amendment to the Constitution, at such time as a Charter pro-

vision adopted hereunder may be in effect (save as to those offices which must continue to be elective, as herein elsewhere specified), all terms of county officers and all contracts for the giving of service by deputies under such officers, may be subject to termination by the administrative body of the county, under an adopted Charter so providing, and there shall be no liability by reason thereof.

d. Any county electing to operate hereunder shall have the power, by Charter provision, to levy, assess and collect taxes, and to fix the maximum rate for ad valorem taxes to be levied for specific purposes, in accordance with the Constitution and laws of this State, provided, however, that the limit of the aggregate taxes which may be levied, assessed and collected hereunder shall not exceed the limit or total fixed, or hereafter to be fixed, by this Constitution to control counties, and the annual assessment upon property, both real, personal and mixed, shall be a first superior and prior lien thereon.

e. In addition to the powers herein provided, and in addition to powers included in County Home Rule Charters, any county may, by a majority vote of the qualified electors of said county, amend its Charter to include other powers, functions, duties and rights which now or hereafter may be provided by this Constitution and the statutes of the State for counties.

(4) Any county operating hereunder shall have the power to borrow money for all purposes lawful under its Charter, to include the refunding of a lawful debt, in a manner conforming to the General Laws of the State, and may issue therefor its obligations. Such obligations, other than those to refund a lawful debt, shall not be valid unless authorized by a majority of all votes cast by those resident qualified voters of the area affected by the taxes required to retire such obligations, who may vote thereon. In case of county obligations, maturing after a period of five (5) years, the same shall be issued to mature serially, fixing the first maturity of principal at a time not to exceed two (2) years next after the date of the issuance of such obligations. Such obligations may pledge the full faith and credit of the county; but in no event shall the aggregate obligations so issued, in principal amount outstanding at any one time, exceed the then existing Constitutional limits for such obligations and such indebtedness and its supporting tax shall constitute a first and superior lien upon the property taxable in such county. No obligation issued hereunder shall be valid unless prior to the time of the issuance thereof there be levied a tax sufficient to retire the same as it matures, which tax shall not exceed the then existing Constitutional limits.

(5) Such Charter may authorize the governing body of a county operating hereunder to prescribe the schedule of fees to be charged by the officers of the county for specified service, to be in lieu of the schedule for such fees prescribed by the General Laws of the State; and, to appropriate such fees to such funds as the Charter may prescribe; provided, however, no fee for a specified service shall exceed in amount the fee fixed by General Law for that same service. Such Charters as to all judicial officers, other than District Judges, may prescribe the qualifications for services, provided the standards therefor be not lower than those fixed by the General Laws of the State.

(6) a. Subject to the express limitations upon the exercise of the powers by this subdivision to be authorized, such Charters may provide (or omit to provide) that the governmental and/or proprietary functions of any city, town, district or other defined political subdivision (which is a governmental agency and embraced within the boundaries of the county) be transferred, either as to some or all of the functions thereof, and yielded to the control of the administrative body of the county. No such transfer or yielding of functions may be effected, unless the proposal is submitted to a vote of the people, and, unless otherwise provided by a two-thirds vote of the total membership of each House of the Legislature, such

a proposal shall be submitted as a separate issue, and the vote within and without any such city, town, district, or other defined governmental entity, shall be separately cast and counted, and unless two-thirds of the qualified votes cast within the yielding defined governmental entity, and a majority of the qualified votes cast in the remainder of the county, favor the proposed merger, it shall not be effected. In case of the mergers hereby authorized, without express Charter provision therefor, in so far as may be required to make effective the object of the proposed merger, the county shall succeed to all the appropriate lawful powers, duties, rights, procedures, restrictions and limitations which prior to the merger were reposed in, or imposed upon, the yielding governmental agency. Particularly, it is provided that the power to create funded indebtedness and to levy taxes in support thereof may be exercised only by such procedures, and within such limits, as now are, or hereafter may be, provided by law to control such appropriate other governmental agencies were they to be independently administered. Such mergers may be effected under proposed contracts between the county and any such yielding governmental agency, to be approved at an election as hereinbefore provided for. In order to increase governmental efficiency and effect economy the county may contract with the principal city of the county to perform one or more of its functions, provided such contracts shall not be valid for more than two (2) years.

b. In cases of the partial or complete merger of the government of a city operating under a Home Rule Charter, with the government of a county operating hereunder, those city Charter provisions affected thereby shall cease to control, and the county Charter provisions shall control.

c. When any embraced incorporated city or town elects to merge its governmental functions with those of the county under the provisions hereof, such Charter may provide for defining or redefining the boundaries of such cities and towns, provided, however, that in defining or redefining the boundaries of such cities and towns, such boundaries may be extended only to include those areas contiguous to such cities as are urban in character; and as to such cities or towns and for the benefit thereof the county, in addition to the primary city and county tax herein authorized and any other lawful district tax, may levy and collect taxes upon the property taxable within such city or town as defined or redefined, within the limits authorized by Sections 4 and 5 of Article XI of this Constitution, (or any Amendment thereof), for incorporated cities according to the population, provided that no tax greater than that existing at the time of such merger or for any added purpose shall be imposed upon any such city or town unless authorized by a majority of all votes cast by the resident qualified voters of such city or town.

d. Areas urban in character though not incorporated, under appropriate Charter provision may be defined as such by the governing body of the county, provided, however, that no portion of the county shall be defined as an urban area unless it has sufficient population to entitle it to incorporate under the then existing laws of the State; and no such urban area, when created, shall be vested with any taxing or bonding power which it would not possess if it were operating as a separate incorporated unit under the then existing Constitutional and Statutory provisions of this State; and provided further that the governing body of the county for the government of such areas shall have and exercise all powers and authority granted by law to the governing bodies of similar areas when separately incorporated as a city or town, and such areas shall be subject to additional taxation within the same Constitutional limits as control taxation for a city or a town of like population. Likewise such Charter may provide for the governing board of the county subject to existing Constitutional and statutory provisions to define, create and administer

districts, and have and exercise the powers and authority granted by the Constitution and laws relative to the same.

(7) No provision of this Constitution inconsonant with the provisions of this Section 3, of Article IX, shall be held to control the provisions of a Charter adopted hereunder, and conforming herewith. Charters adopted hereunder shall make appropriate provision for the abandonment, revocation, and amendment thereof, subject only to the requirements that there must be a favoring majority of the vote cast upon such a proposal, by the qualified resident electors of the county; and, no Charter may forbid amendments thereof for a time greater than two (2) years. The provisions hereof shall be self-executing, subject only to the duty of the Legislature to pass all laws (consistent herewith) which may be necessary to carry out the intent and purpose hereof. Further, the Legislature shall prescribe a procedure for submitting to decision, by a majority vote of the electors voting thereon, proposed alternate and elective Charter provisions. (Sec. 3, Art. 9, adopted Aug. 26, 1933.)

ARTICLE XI

MUNICIPAL CORPORATIONS

Sec. 7

All counties and cities bordering on the coast of the Gulf of Mexico are hereby authorized upon a vote of a two-thirds majority of the resident property taxpayers voting thereon at an election called for such purpose to levy and collect such tax for construction of sea walls, breakwaters, or sanitary purposes, as may now or may hereafter be authorized by law, and may create a debt for such works and issue bonds in evidence thereof. But no debt for any purpose shall ever be incurred in any manner by any city or county unless provision is made, at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least two per cent (2%) as a sinking fund; and the condemnation of the right of way for the erection of such works shall be fully provided for. (Sec. 7, Art. 11, adopted election Nov. 8, 1932.)

ARTICLE XVI

GENERAL PROVISIONS

Sec. 20

(a). The manufacture, sale, barter or exchange in the State of Texas of spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, or any other intoxicant whatever except vinous or malt liquors of not more than three and two-tenths per cent (3.2%) alcoholic content by weight, (except for medicinal, mechanical, scientific or sacramental purposes) are each and all hereby prohibited. The Legislature shall enact laws to enforce this Section, and may from time to time prescribe regulations and limitations relative to the manufacture, sale, barter, exchange or possession for sale of vinous or malt liquors of not more than three and two-tenths per cent (3.2%) alcoholic content by weight; provided the Legislature shall enact a law or laws whereby the qualified voters of any county, justice's precinct, town or city may, by a majority vote of those voting, determine from time to time whether the sale for beverage purposes of vinous or malt liquors containing not more than three and two-tenths per cent (3.2%) alcohol by weight shall be prohibited within the prescribed limits; and provided further that in

all counties in the State of Texas and in all political subdivisions thereof, wherein the sale of intoxicating liquors had been prohibited by local option elections held under the laws of the State of Texas and in force at the time of the taking effect of Section 20, Article 16, of the Constitution of Texas, it shall continue to be unlawful to manufacture, sell, barter, or exchange in any such county or in any such political subdivision thereof, any spirituous, vinous or malt liquors or medicated bitters, capable of producing intoxication or any other intoxicant whatsoever, unless and until a majority of the qualified voters in said county or political subdivision thereof voting in an election held for such purpose shall determine it to be lawful to manufacture, sell, barter and exchange in said county or political subdivision thereof vinous or malt liquors containing not more than three and two-tenths per cent (3.2%) alcoholic content by weight, and the provision of this subsection shall be self-enacting. (Sec. 20, Art. 16, adopted election Aug. 26, 1933.)

Sec. 33

The Accounting Officers of this State shall neither draw nor pay a warrant upon the Treasury in favor of any person, for salary or compensation as agent, officer or appointee, who holds at the same time any other office or position of honor, trust or profit, under this State or the United States, except as prescribed in this Constitution. Provided, that this restriction as to the drawing and paying of warrants upon the Treasury shall not apply to officers of the National Guard of Texas, the National Guard Reserve, the Officers Reserve Corps of the United States, nor to enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, nor to retired officers of the United States Army, Navy, and Marine Corps, and retired warrant officers and retired enlisted men of the United States Army, Navy, and Marine Corps. (Sec. 33, Art. 16, adopted election Nov. 8, 1932.)

Sec. 40

No person shall hold or exercise, at the same time, more than one Civil Office of emolument, except that of Justice of Peace, County Commissioner, Notary Public and Postmaster, Officer of the National Guard, the National Guard Reserve, and the Officers Reserve Corps of the United States and enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, and retired officers of the United States Army, Navy, and Marine Corps, and retired warrant officers, and retired enlisted men of the United States Army, Navy, and Marine Corps, unless otherwise specially provided herein. Provided, that nothing in this Constitution shall be construed to prohibit an officer or enlisted man of the National Guard, and the National Guard Reserve, or an officer in the Officers Reserve Corps of the United States, or an enlisted man in the Organized Reserves of the United States; or retired officers of the United States Army, Navy, and Marine Corps, and retired warrant officers, and retired enlisted men of the United States Army, Navy, and Marine Corps, from holding in conjunction with such office any other office or position of honor, trust or profit, under this State or the United States, or from voting at any Election; General, Special or Primary, in this State when otherwise qualified. (Sec. 40, Art. 16, adopted election Nov. 8, 1932.)

Sec. 60

That the Constitution of the State of Texas be so amended as to authorize a Texas Centennial, commemorating the heroic period of early Texas history, and celebrating a century of our independence and progress, to be held at such times, places and in such manner as may be designated by the Legislature of Texas.

That the Legislature of Texas be authorized to make appropriation for the support and maintenance thereof; provided, that this authorization shall not be construed to make appropriations for any other future exposition or celebration of any kind or character. (Sec. 60, Art. 16, adopted election Nov. 8, 1932.)

CERTIFICATE OF SECRETARY OF STATE

THE STATE OF TEXAS, DEPARTMENT OF STATE

I, W. W. Heath, Secretary of State, of the State of Texas, do hereby certify that the foregoing is a true and correct copy of

AMENDMENTS TO THE CONSTITUTION OF THE STATE OF TEXAS, which were submitted to the voters on November 8, 1932 and August 26, 1933, and adopted by them with the endorsement thereon, as now appears of record in this Department.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in the City of Austin, this 14th day of December, A. D. 1933.

W. W. HEATH,
Secretary of State.

[Official Seal,
State of Texas.]

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SUPPLEMENT
TO THE
REVISED CIVIL STATUTES
OF THE
STATE OF TEXAS

TITLE 1—GENERAL PROVISIONS

[Art. 28a. Newspaper defined as used in law or ordinance requiring publication of notice]

That whenever any law, city charter or ordinance, or any Act of the Legislature creating any independent school district or other municipal corporation, requires notice to be given of any act or proceeding, whether public or private or relating to Judicial, Executive or Legislative matters, by publication in a daily newspaper or by publication in a newspaper for a certain number of consecutive or successive days, the term "Daily Newspaper" or "Newspaper" shall be construed to include any newspaper published regularly on six days a week and other-wise complying with such law, charter, ordinance or legislative Act; and the term "Consecutive Days" or "Successive Days" or words of similar meaning shall be construed to mean consecutive or successive days on which such newspaper is published. [Acts 1933, 43rd Leg., 1st C. S., p. 223, ch. 84, § 1.]

TITLE 4—AGRICULTURE AND HORTICULTURE

[Art. 55b. Repealed by Acts 1933, 43rd Leg., p. 10, ch. 8, § 9]

This article prior to its repeal was Acts
1931, 42nd Leg., p. 498, ch. 278, §§ 1-5, 9.

[Art. 118a] Statement of Purpose

Sec. 1. In order to provide the means whereby producers of certain citrus fruit, and all interested parties, may secure prompt and efficient inspection and classification of grades of fruit at reasonable cost, and because it is hereby recognized that the standardization of the citrus fruit industry by the proper grading and classifications of citrus fruit by prompt and efficient inspection under competent authority is beneficial alike to grower, shipper, carrier, receiver, and consumer, in that it furnishes the grower and the shipper prima facie evidence of quality and condition of products, it guarantees the carrier and the receiver of quality of products carried and received by them and assures the ultimate consumer of the quality of the products purchased, this Act is passed.

[Inspection]

Sec. 2. The inspection in the State of Texas of all grapefruit and oranges, and the grades and classifications thereof, shall be under the direction of the Commissioner of Agriculture, of the State of Texas, hereinafter known as the Commissioner,

Establish Regulations and Grades

Sec. 3. The Commissioner of Agriculture, of the State of Texas, is hereby empowered and directed to enter into cooperative agreements with the United States Department of Agriculture providing for the inspection of certain citrus fruits and under the terms of said agreements the Commissioner of Agriculture shall adopt the official U. S. Standards for grapefruit and oranges as applied to the State of Texas. The inspection shall be conducted under the policies outlined by the United States Department of Agriculture under said cooperative agreements. The Commissioner is empowered to establish and enforce such grades, grading rules, and regulations in addition to those established by this Act as he may deem necessary on citrus fruit, which shall not conflict with any provisions of this Act, after a thorough investigation has been made of the needs of the particular citrus fruit for which grades, grading rules and regulations are contemplated. The Commissioner shall cause to be published in one publication of general circulation in each county affected by this Act, the rules and regulations promulgated by him under this Act. Such publications shall be once each week for the three weeks prior to September 1st. Grades established in accordance with provisions of this Act shall not be modified during the current shipping season, of the citrus fruit for which they are established, except as hereinafter provided.

Appeal to Change Regulations

Sec. 4. The Commissioner is hereby given power and authority, and it is hereby made his duty, to promulgate rules and regulations relating to the grading, packing and marking of certain citrus fruits as set out in this Act, and it is hereby made his duty to enforce same. The Commissioner shall cause this to be published in some newspaper of general circulation in the territory affected by the rules and regulations which he has promulgated. Only in case of protest, hearings shall be conducted at places and at times to be determined by the Commissioner or his agent, after publications of rules and regulations have been promulgated, at which all interested parties will have a right to be heard. After such publication and public hearing, the rules and regulations shall be final, unless written protest by an interested person or parties shall be made to the Commissioner of Agriculture within thirty (30) days after such rules and regulations have been published. If the Commissioner after the hearing of protests refuses to modify such rules and regulations the interested person or parties shall have the right to appeal to the District Court of Travis County.

Power of Regulations

Sec. 5. The Commissioner is hereby authorized to promulgate such rules and regulations relative to proper marking of containers, the issuance of certificates of inspection, the tagging of the vehicle of transportation, and such other rules and regulations as he deems necessary for the improvement of the method of marketing of all citrus fruits as provided for in this Act.

Engaging in Trade Prohibited

Sec. 6. The Commissioner and his agents, inspectors and employees, are each prohibited, during their respective terms of employment of office, from engaging in this State, either directly or indirectly, or elsewhere, in the business of buying or selling citrus fruits or in dealing in the same on commission.

Grading Made Mandatory

Sec. 7. Whenever any grades or classifications and standards for citrus fruit become effective under this Act, no person thereafter shall pack

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

for sale, offer for sale, consign for sale, or sell, except as provided in this Act, any such described citrus fruit grown within the State of Texas, to which such grades or classifications and standards are applicable unless such citrus fruits conform with such grades or classifications and standards.

Notice of Time of Shipment

Sec. 8. It shall be the duty of every person, firm, corporation, association, or other organization affected by this Act to give due and timely notice to the Commissioner, his agents, inspectors and employees as to the time and place of the loading of citrus fruits subject to the provisions of this Act, or to report to the inspection station nearest to the point of loading. The terms "to ship," "shipper," and "shipment" as noted in this Act shall apply to the transportation of citrus fruit by an automobile, truck, trailer, or any other vehicle, as well as the transportation by rail and/or water.

[Unlawful Shipments]

Sec. 9. Whenever grades or classifications become effective under this Act, it shall be unlawful for any person, firm, corporation, association or other organization to ship any citrus fruits to which such grades or classifications are applicable (except as provided in Section 15 hereof) unless such citrus fruits have first been inspected by a duly authorized inspector who shall issue a certificate of inspection showing the grade, or other classification thereof, and unless such fruit be packed in containers approved by the Commissioner of Agriculture and fruit in each container must be uniformly sized.

Issuance of Certificate of Inspection

Sec. 10. A certificate designating the classifications of the grade or grades of citrus fruits so subject to compulsory inspection under this Act or other form evidencing that the official inspection has been made shall be issued by the inspector and delivered to the shipper. A certificate so issued under this Act shall be accepted in any Court of this State as prima facie evidence of the true grade or classifications of such citrus fruit at the time of inspection.

Re-use of Containers

Sec. 11. No containers or sub-containers of citrus fruits within the meaning of this Act shall bear grade or other designations that are in any way false or misleading. This provision shall be construed to prohibit the future use of any container or sub-container for citrus fruits bearing any markings required by this Act, or any designations of brands, trade-marks, quality or grade, unless all such markings which do not properly and accurately apply to the products repacked or replaced shall first be completely removed, erased or obliterated. All certificates of previous inspections shall be removed, erased, or obliterated.

Inspection Fees

Sec. 12. The Commissioner is hereby authorized and empowered to fix and assess, and collect and cause to be collected fees for the inspection and classification of grades of citrus fruits subject to the provisions of this Act and the issuance of certificate of such classifications of grades. The amount of such fees on each different commodity inspected and for each different service rendered on each such commodity under the provisions of this Act, shall be fixed as nearly as possible with references to the cost of the establishment and maintenance of such service for such particular commodity, and may be different in the case of each different commodity and in the case of each different service rendered on each such

commodity, but shall in no case exceed the sum of one-half cent ($\frac{1}{2}\text{¢}$) for each container of one-half ($\frac{1}{2}$) bushel capacity or less, and one cent (1¢) for each container of more than one-half ($\frac{1}{2}$) bushel capacity for inspection service performed in a regular packing house operating under a duly issued permit. Any regular grading service performed outside of a packing shed shall be for an amount sufficient to cover the actual cost of inspection in accordance with the discretion exercised by the Commissioner of Agriculture. The amount of such fees on the different commodities and for the different services rendered under the provisions of this Act shall be determined as nearly as may be to the end that the inspection service provided by this Act shall pay for itself out of the annual aggregate amount of such fees collected under the provisions of this Act, together with any appropriations made for the operations of this service, and any other sum properly credited to said service. Such fees shall be paid by the person, firm, corporation, association, or other organization making the shipment at the time such service is rendered. No person employed by the Commissioner shall charge or collect any fees other than the fees in such amounts as shall be authorized and established by the Commissioner of Agriculture.

Disposition of Funds

Sec. 13. There is hereby created a special fund to be known as the "Citrus Grading Fund" which shall be a continuing fund. All fees and other moneys collected under the authority of the provisions of this Act shall be turned over to the Commissioner of Agriculture of the State of Texas and by him deposited with the State Treasurer and credited to said fund. The Commissioner is hereby authorized and empowered to use the moneys in said fund in defraying the expenses arising out of the establishment and maintenance of the inspection service provided by this Act and for no other purpose whatsoever. Warrants in payment for inspection service provided for in this Act shall be drawn upon the State Treasury and charged against this fund.

At the beginning of each new shipping season, the Commissioner of Agriculture shall take into account the surplus remaining in said citrus grading fund at the end of the preceding season, in making reductions of inspection fees where possible.

Deceptive Pack

Sec. 14. It shall be unlawful to prepare, deliver, for shipment, load, ship, transport, offer for sale or sell for shipment a deceptive pack, load, arrangement of display of citrus fruits within the meaning of this Act, or to mis-label any container or display of such citrus fruits. A deceptive pack or load is hereby defined as one which is so arranged to conceal the true grade of the citrus fruit within the package or to misrepresent the contents.

Sale Without Grading by Grower Permitted

Sec. 15. No provision of this Act shall be construed to prevent a grower of citrus fruits within the area affected by this Act from selling or delivering the same unpacked and unmarked, or selling his crop in bulk, or any part thereof, or to a packer for grading, packing or storage within said area. Nor shall any provision of this Act prevent a grower or packer from manufacturing the same into any by-product or from selling the same unpacked or unmarked to any person actually engaged in the operation of a commercial by-products factory for the sole and express purpose of being used in the said area for the manufacture of a by-product for resale. The terms of this Act shall not be applied to any number of containers less than six (6), such a number is regarded as non-commercial and not subject to provisions of this Act.

Registration and Use of Brands and/or Trade-marks

Sec. 16. All fruits packed and offered for shipment under the provisions of this Act shall be marked showing the proper official grade of the fruit in each container or same may be labeled or stamped with a registered brand or trade-mark. Brands or trade-marks to be eligible for registration must be defined by the minimum requirements of one (1) and/or a combination of the official grades designated herein. Such brands or trade-marks and their definitions under the U. S. Grades shall be registered with the Commissioner of Agriculture, of the State of Texas. No brands or trade-marks shall be eligible for registration under the terms of this Act which do not meet the minimum requirements of at least U. S. No. 2, or classifications of this grade.

Responsibility of Carriers

Sec. 17. It shall be unlawful for any shipper, forwarding company, private, contract, or common carrier to ship, transport or accept for shipment any citrus fruit within the meaning of this Act, unless accompanied by a duly issued certificate of inspection as set out in the provisions of this Act, and any such shipper, forwarding company, private, contract, or common carrier may reserve the right in any receipt, bill of lading or other writing given to the consignor thereof, to reject for shipment and to return to such consignor or hold at the expense and risk of the latter, all citrus fruits which upon inspection, are found to be delivered for shipment in violation of any of the provisions of this Act.

Commodities Designated under this Act

Sec. 18. From and after the effective date of this Act no person, firm, corporation, association or other organization within the area where this Act applies, namely the citrus zone as described in House Bill 553, Chapter 350, of the Acts of the Regular Session 42nd Legislature of the State of Texas, shall pack for sale, consign for sale, or sell in straight or mixed commercial quantities, that is more than five (5) containers, unless such citrus fruits conform with the provisions of this Act as to minimum grades or classifications as specified in this Act, and with such additional grades, grading rules or regulations applicable thereto as may have theretofore been promulgated by the Commissioner previous to this Act and unless such fruits have been duly inspected as provided in this Act.

Citrus fruit shipped into the State of Texas from any other state or territory shall comply with the grading, packing and marking regulation which this Act provides for citrus fruit originating in this State.

[Public Weighers]

Sec. 19. Under the terms of this Act all citrus fruit sold by weight prior to packing, to any buyer or shipper, shall be weighed by a duly elected or appointed public weigher, who shall be governed in his rights and duties and by the Statutes of the State of Texas covering public weighers as set out in the 1925 Revised Civil Statutes of the State of Texas, Title 93, Chapter 6, Article 5680, and any amendments thereto. [Acts 1933, 43rd Leg., p. 550, ch. 180.]

Section 20 of said Acts 1933, 43rd Leg., p. 550, ch. 180 being a penal provision is published as Penal Code, art. 719b.

TITLE 8—APPORTIONMENT

	Senatorial District.	Representative District.	Congressional District.	Judicial District.	Sup. Judicial District.		Senatorial District.	Representative District.	Congressional District.	Judicial District.	Sup. Judicial District.
Anderson	6	55	7	3	1	Dawson	30	119	19	106	11
Andrews	30	88	19	70, 109	8	Deaf Smith	31	123	18	69	7
Angelina	3	12	2	2	9	Delta	8	126	1	8, 62	6
Aransas	18	70	14	36	4	Denton	22	49, 102	13	16	2
Archer	23	110	13	30	2	DeWitt	18	68	14	24	1
Armstrong	31	123	18	47	7	Dickens	30	118	19	110	7
Atascosa	18	76	14	81	4	Dimmit	27	77	15	49	4
Austin	15	25	9	22	1	Donley	31	122	18	100	7
Bailey	30	120	19	64	7	Duval	27	71	14	79	4
Bandera	26	86	21	38	4	Eastland	24	106, 107	17	88, 91	11
Bastrop	14	127	10	21	3	Ector	29	88	16	70	8
Baylor	23	113	13	50	11	Edwards	29	86	21	63	4
Bee	18	70	14	36	4	Ellis	12	100	6	40	10
Bell	21	95, 96	11	27	3	El Paso	29	89, 90	16	34, 41, 65	8
Bexar	26	78	20	37, 45, 57, 73, 94	4	Erath	21	105	17	29	11
						Falls	13	62, 96	11	82	10
Blanco	19	85	10	33	3	Fannin	9	38, 41	4	6	6
Borden	30	118	19	32	11	Fayette	15	66	9	22	3
Bosque	21	98	11	18	10	Fisher	24	117	17	104	11
Bowie	1	1, 3	1	5, 102	6	Floyd	30	120	19	110	7
Brazoria	17	21	9	23	1	Foard	23	114	13	46	7
Brazos	14	26	6	85	10	Fort Bend	17	20	9	23	1
Brewster	29	87	16	83	8	Franklin	8	126	1	76	6
Briscoe	31	120	18	110	7	Freestone	6	57	6	77, 87	10
Brooks	27	74	14	79	4	Frio	27	76	15	81	4
Brown	25	125	21	35	3	Gaines	30	119	19	106	8
Burleson	14	65	10	21	1	Galveston	17	17, 18	9	10, 56	1
Burnet	20	84	10	33	3	Garza	30	118	19	106	7
Caldwell	19	81	10	22	3	Gillespie	25	85	21	33	4
Calhoun	18	69	9	24	4	Glasscock	29	91	16	70	8
Callahan	24	107	17	42	11	Goliad	18	69	9	24	4
Cameron	27	72	15	103	4	Gonzales	19	67	14	25	4
Camp	7	4	3	76	6	Gray	31	122	18	31	7
Carson	31	123	18	84	7	Grayson	9	44, 45	4	15, 59	5
Cass	1	2, 3	1	5	6	Gregg	2	6, 33	3	71, 124, 124a	6
Castro	31	120	18	64	7	Grimes	5	26, 27	7	12	1
Chambers	17	17	9	75	1	Guadalupe	19	80	14	25	4
Cherokee	3	31	7	2	6	Hale	30	120	19	64	7
Childress	31	121	18	100	7	Hall	31	121	18	100	7
Clay	23	110	13	97	2	Hamilton	21	94	17	52	10
Cochran	30	119	19	72	7	Hansford	31	124	18	84	7
Coke	25	92	21	51	3	Hardeman	23	114	13	46	7
Coleman	25	125	21	35, 119	3	Hardin	4	14	2	75	9
Collin	10	43, 45	4	59	5	Harris	16	19	8	11, 55, 61,	
Collingsworth	31	122	18	100	7					80, 113	1
Colorado	15	25	9	25	1	Harrison	2	5, 6	1	71	6
Comal	19	80	14	22	3	Hartley	31	124	18	69	7
Comanche	25	104	17	52	11	Haskell	24	113	19	39	11
Concho	25	92	21	119	3	Hays	19	81	10	22	3
Cooke	9	46	13	16	2	Hemphill	31	124	18	84	7
Coryell	21	94	11	52	10	Henderson	6	54	7	3	5
Cottle	30	121	18	50	7	Hidalgo	27	73	15	92, 93	4
Crane	29	88	16	109	8	Hill	12	59, 60	6	66	10
Crockett	29	86	16	112	8	Hockley	30	119	19	72	7
Crosby	30	119	19	72	7	Hood	12	105	12	29	2
Culberson	29	90	16	34	8	Hopkins	8	39, 126	1	8	6
Dallam	31	124	18	69	7	Houston	5	30	7	3	1
Dallas	11	50, 51	5	14, 44, 68, 95, 101, 116	5	Howard	30	91	19	32, 70	11
						Hudspeth	29	90	16	34	8

APPORTIONMENT

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

	Senatorial District.	Representative District.	Congressional District.	Judicial District.	Sup. Judicial District.		Senatorial District.	Representative District.	Congressional District.	Judicial District.	Sup. Judicial District.
Hunt	10	40, 42	4	8, 62	6	Pecos	29	88	16, 83, 112	8	
Hutchinson	31	124	18	84	7	Polk	5	23	7	9	
Irion	25	91	21	51	3	Potter	31	123	18, 47, 108	7	
Jack	22	109	13	43	2	Presidio	29	88	16	83	
Jackson	18	22	9	24	1	Rains	10	42	4	8	
Jasper	3	13	2	1	9	Randall	31	123	18	47	
Jefferson	4	15, 16	2	58, 60	9	Reagan	29	91	16	83	
Jeff Davis	29	88	16	83	8	Real	29	86	21	38	
Jim Hogg	27	74	15	49	4	Red River	8	36	1	102	
Jim Wells	27	71	14	79	4	Reeves	29	88	16	109	
Johnson	12	98, 99	12	18	10	Refugio	18	70	14	24	
Jones	24	115	17	104	11	Roberts	31	124	18	31	
Karnes	18	79	14	81	4	Robertson	14	63	6	85	
Kaufman	6	51, 52	4	86	5	Rockwall	10	51	4	86	
Kendall	26	85	21	38	4	Runnels	25	92	21	119	
Kenedy	27	74	14	28	4	Rusk	2	8	3	4, 124a	
Kent	30	118	19	39	7	Sabine	3	11	2	1	
Kerr	26	86	21	38	4	San Augustine	3	11	2	1	
Kimble	25	86	21	112	4	San Jacinto	5	29	7	9	
King	30	114	19	50	7	San Patricio	18	70	14	36	
Kinney	29	87	21	63	4	San Saba	20	93	21	33	
Kleberg	27	74	14	28	4	Schleicher	25	86	21	51	
Knox	23	114	13	50	11	Scurry	24	118	19	32	
Lamar	8	37, 38	1	6, 62	6	Shackelford	24	115	17	42	
Lamb	30	120	19	64	7	Shelby	2	10	2	123	
Lampasas	20	93	21	27	3	Sherman	31	124	18	69	
LaSalle	27	76	15	81	4	Smith	7	32, 33	3	7a	
Lavaca	15	23	9	25	1	Somervell	12	98	12	18	
Lee	14	65	10	21	3	Starr	27	74	15	79	
Leon	5	56	6	12	10	Stephens	24	108	17	90	
Liberty	4	14	2	75	9	Sterling	25	91	21	51	
Limestone	13	61	6	77, 87	10	Stonewall	30	118	19	39	
Lipscomb	31	124	18	31	7	Sutton	29	86	21	112	
Live Oak	18	76	14	36	4	Swisher	31	120	18	64	
Llano	20	85	21	33	3	Tarrant	23	101, 102	12	17, 48, 67, 96	
Loving	29	88	16	109	8	Taylor	24	116	17	42, 104	
Lubbock	30	119	19	72, 99	7	Terrell	29	87	16	63	
Lynn	30	119	19	106	7	Terry	30	119	19	106	
Madison	5	56	7	12	10	Throckmorton	24	113	13	39	
Marion	1	3	1	76	6	Titus	1	35	1	76	
Martin	30	88	19	70	8	Tom Green	25	91	21	51, 119	
Mason	25	86	21	33	4	Travis	20	82	10	58, 98, 126	
Matagorda	17	21	9	23	1	Trinity	5	28	7	12	
Maverick	29	87	15	63	4	Tyler	3	12	2	75	
McCulloch	25	93	21	35	3	Upshur	7	4	3	7a	
McLennan	13	96, 97	11	19, 54, 74	10	Upton	29	88	16	83, 112	
McMullen	27	76	14	36	4	Uvalde	29	77	21	38	
Medina	29	77	15	38	4	Val Verde	29	87	21	63	
Menard	25	86	21	33	4	Van Zandt	7	53	3	86	
Midland	29	88	16	70	8	Victoria	18	69	9	24	
Milam	13	64, 65	11	20	3	Walker	5	29	7	12	
Mills	25	104	21	27	3	Waller	15	20	9	9	
Mitchell	24	117	19	32	11	Ward	29	88	16	109	
Montague	22	47	13	97	2	Washington	14	24	10	21	
Montgomery	5	27	7	9	9	Webb	27	75	15	49, 111	
Moore	31	124	18	69	7	Wharton	17	22	9	23	
Morris	1	35	1	76	6	Wheeler	31	122	18	31	
Motley	30	121	18	110	7	Wichita	23	112	13	30, 78, 89	
Nacogdoches	3	9	7	2	9	Wilbarger	23	112	13	46	
Navarro	6	58, 60	6	13	10	Willacy	27	74	15	103	
Newton	3	13	2	1	9	Williamson	20	83, 84	10	26	
Nolan	24	117	17	32	11	Wilson	18	79	14	81	
Nueces	27	71	14	28, 117	4	Winkler	29	88	16	109	
Ochiltree	31	124	18	84	7	Wise	22	48	13	43	
Oldham	31	123	18	69	7	Wood	7	34	3	7	
Orange	4	15	2	1	9	Yoakum	30	119	19	106	
Palo Pinto	22	108	17	29	11	Young	23	109	13	30	
Panola	2	7	3	123	6	Zapata	27	75	15	49	
Parker	22	103	12	43	2	Zavala	27	77	15	38	
Parmer	31	120	18	69	7						

Art. 197. [28] [20] [15] [Congressional Districts]

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

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

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

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

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

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

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

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

Eighth: The following Counties shall compose the Eighth District, to-wit: Harris.

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

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

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

Twelfth: The following Counties shall compose the Twelfth District, to-wit: Tarrant, Johnson, Parker, Hood and Somervell.

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

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

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

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

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

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

Nineteenth: The following Counties shall compose the Nineteenth District, to-wit: Bailey, Lamb, Hale, Cochran, Hockley, Floyd, Lubbock, Cros-

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

by, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Haskell, Gaines, Dawson, Borden, Scurry, Mitchell, Andrews, Martin and Howard.

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

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

Sec. 2. Nothing in this Act shall in anywise affect the tenure in office of the present delegation in Congress of Texas, but this Act shall take effect for the general election in 1934, and the congressman shall be elected from each said district for 1934, and thereafter until this law shall have been changed by the Legislature of this State. [As amended Acts 1933, 43rd Leg., p. 344, ch. 135.]

Effective 90 days after June 1, 1933, date 43rd Leg., repeals all conflicting laws and of adjournment. Section 3 of Acts 1933, parts of laws.

Article 198. [29] [21] [16] [Supreme Judicial Districts]

This State shall be divided into eleven (11) Supreme Judicial Districts composed of the following named counties for the purpose of constituting and organizing a Court of Civil Appeals in each of the several Supreme Judicial Districts as follows, to-wit:

First: Trinity, Walker, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Colorado, Lavaca, DeWitt, Jackson, Matagorda, Wharton, Brazoria, Fort Bend, Galveston, Anderson, Houston.

Second: Wichita, Clay, Montague, Wise, Tarrant, Cooke, Denton, Parker, Archer, Young, Jack, Hood.

Third: Milam, Lee, Bastrop, Caldwell, Hays, Travis, Williamson, Bell, Burnet, Blanco, Llano, San Saba, Lampasas, Mills, McCulloch, Brown, Coleman, Runnels, Tom Green, Concho, Comal, Fayette, Coke, Sterling, Irion, Schleicher.

Fourth: Val Verde, Guadalupe, Sutton, Edwards, Kinney, Maverick, Menard, Kimble, Kerr, Bandera, Uvalde, Zavala, Dimmit, Webb, LaSalle, Frio, Medina, Duval, McMullen, Atascosa, Bexar, Kendall, Wilson, Live Oak, Zapata, Bee, Karnes, Victoria, Goliad, Hidalgo, Cameron, Starr, Jim Hogg, Real, Brooks, Jim Wells, Kleberg, Kenedy, Willacy, Gillespie, Mason, Gonzales, Calhoun, Refugio, San Patricio, Aransas, Nueces.

Fifth: Grayson, Collin, Dallas, Rockwall, Henderson, Kaufman, Van Zandt.

Sixth: Fannin, Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Rains, Wood, Upshur, Marion, Harrison, Gregg, Smith, Cherokee, Rusk, Panola, Camp, Hunt.

Seventh: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Foard, Hardeman, Wilbarger, Crosby, Lubbock, Hockley, Cochran, Yoakum, Terry, Lynn, Garza, Dickens, Kent, King.

Eighth: Crockett, Gaines, Andrews, Martin, Loving, Winkler, Midland, Glasscock, Reeves, Ward, Crane, Upton, Reagan, Terrell, Pecos, Brewster, Presidio, Jeff Davis, El Paso, Ector, Culberson, Hudspeth.

Ninth: Shelby, Nacogdoches, Angelina, San Jacinto, Montgomery, Liberty, Jefferson, Orange, Hardin, Newton, Jasper, Tyler, Polk, Sabine, San Augustine.

Tenth: McLennan, Freestone, Coryell, Hamilton, Bosque, Navarro, Johnson, Somervell, Falls, Limestone, Hill, Brazos, Leon, Madison, Robertson, Ellis.

Eleventh: Dawson, Howard, Mitchell, Scurry, Nolan, Fisher, Stonewall, Taylor, Jones, Haskell, Knox, Callahan, Shackelford, Throckmor-

ton, Baylor, Comanche, Eastland, Stephens, Erath, Palo Pinto, Borden.

Sec. 2. That all appeals perfected from the County of Ellis prior to January 1, 1933, shall be taken to the Court of Civil Appeals for the 5th Supreme Judicial District and all cases appealed thereafter shall be appealed to the Court of Civil Appeals for the 10th Supreme Judicial District. [As amended Acts 1927, 40th Leg., p. 378, ch. 255; Acts 1929, 41st Leg., p. 106, ch. 51; Acts 1932, 42nd Leg., 3rd C. S., p. 103, ch. 38.]

Art. 199. [30] [22] [17] [Judicial Districts]

4.—Rusk.

Special judicial district of Rusk and Gregg counties, see subdivision 124a.

5.—Cass and Bowie.

The 5th Judicial District of the State of Texas shall be composed of the Counties of Bowie and Cass, and from and after September 1, 1933, the terms of the District Courts within said Counties shall be held therein as follows:

In Bowie County, a term beginning on the 1st Monday in January, and may continue in session for ten (10) weeks; and a term beginning on the 14th Monday after the 1st Monday in January and may continue in session for ten (10) weeks; and a term beginning on the 28th Monday after the 1st Monday in January and may continue in session for ten (10) weeks; and a term beginning on the 42nd Monday after the 1st Monday in January and may continue in session for ten (10) weeks.

In Cass County, a term beginning on the 10th Monday after the 1st Monday in January and may continue in session for four (4) weeks; and a term beginning on the 24th Monday after the 1st Monday in January and may continue in session for four (4) weeks; and a term beginning on the 38th Monday after the 1st Monday in January and may continue in session for four (4) weeks.

Sec. 2. All processes, writs, and bonds issued, served or executed prior to the taking effect of this Act and returnable to the terms of said Court in each or any of said Counties comprising the said Judicial District, and all processes heretofore returnable, as well as all bonds and recognizances heretofore entered into in any county of said Judicial District, shall be valid and binding. All processes issued or served before this Act goes into effect, including recognizances and bonds returnable after September 1, 1933, to the District Courts or any of said Courts of said District, shall be considered as returnable to said Courts in accordance with the terms prescribed by this Act, and all such processes are hereby validated and legalized, and all Grand and Petit Jurors drawn and selected under existing laws for the District Courts of any of the counties and said Judicial District for a term of Court after September 1, 1933, shall be considered lawfully drawn and selected for the next term of the District Court for their respective counties, as same may be held in accordance with this Act. [As amended Acts 1933, 43rd Leg., p. 887, ch. 254; Acts 1933, 43rd Leg., Spec. L., p. 147, ch. 104.]

7a.—Smith and Upshur.

Sec. 1. There is hereby created a Court to be held in Smith County and Upshur County, Texas, to be called the Special District Court of Smith and Upshur Counties, Texas.

Sec. 2. Said Special District Court of Smith and Upshur Counties shall have concurrent jurisdiction with the District Court of the Seventh Judicial District of all matters and causes of a civil and criminal nature in Smith and Upshur Counties over which under the Constitution and General Laws of the State of Texas the District Court of said Seventh Judicial District of Texas has original and appellate jurisdiction.

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

Sec. 3. The Judge of the Seventh Judicial District of Texas may, in his discretion, either in term time or in vacation, by order entered upon the minutes of the District Court of Smith and Upshur Counties, transfer any case or cases that may at that time be pending in said District Court of that County to the Special District Court of Smith and Upshur Counties, created by this Act, and holding sessions in that County, and said Special District Court shall have the same power and authority to try and finally dispose of such case or cases so transferred as the Court possessed from which the same were transferred; and the Judge of said Special District Court may, in his discretion, either in term time or in vacation, by order or orders entered upon the minutes of his court in any of the Counties for which the said Special District Court is created, transfer any case or cases pending upon his docket to the District Court of the Seventh Judicial District holding sessions in the County, and when said case or cases are transferred, the court to which the transfer is made shall have the same right and authority to try and finally dispose of same as was originally had by said Special District Court.

Sec. 4. Any party or person desiring to bring a suit over which the District Court of the Seventh Judicial District has jurisdiction in Smith and Upshur Counties, shall have the right to file the same either in said Court or in the Special District Court hereby created, subject to the right of the Judges of said Courts to transfer the same as herein provided.

Sec. 5. The Clerk of the District Court of each of the Counties of Smith and Upshur, and his successors in office, shall be the Clerk of the Seventh Judicial District Court in his county, and also the Clerk of the Special District Court in his County, and shall perform all duties pertaining to the clerkship of each of said courts.

Sec. 6. The District Attorney of the Seventh Judicial District of Texas shall represent the State in all cases wherein the State of Texas is a party in said Special District Court, and in case of the absence or inability of said District Attorney to so represent the State in any case pending in said Special District Court, then the County Attorney of the County in which said case is pending shall represent the State without extra compensation.

Sec. 7. The Governor of the State of Texas is hereby authorized and empowered to appoint some person having the qualifications provided by law for District Judges, as Judge of said Special District Court, who shall hold his office for the duration of the term for which said court is created. The compensation of the Judge of the Special District Court of Smith and Upshur Counties hereby created shall be the same as the compensation paid to the Judges of other District Courts, including the expenses as provided for in Article 6820, Revised Civil Statutes, 1925; and the Comptroller of the State of Texas is hereby authorized to draw his warrant upon the State Treasurer for such payment; and the compensation herein provided for shall be paid in the manner in which other District Judges of the State of Texas are paid.

Sec. 8. There is hereby conferred upon said Special District Court, and upon the Judge thereof, all of the rights, powers, privileges and duties that are given by law to the District Courts and District Judges of this State, and all laws of the State of Texas with reference to District Courts and District Judges shall be deemed equally applicable to said Special District Court and the Judge thereof, except as herein specially excepted.

Sec. 9. The terms of said Special District Court created by this Act in Smith County, Texas, and in Upshur County, Texas, shall be as follows:

In Smith County the Court shall meet on the first Monday in January of each year and may continue in session four weeks; on the fourth Monday after the first Monday in January and may continue in session four weeks; on the first Monday in May and may continue in session four weeks; on the first Monday in August and may continue in session four

weeks; on the first Monday in October and may continue in session four weeks.

In Upshur County said Court shall meet on the first Monday in March and may continue in session for six weeks; on the first Monday in November and may continue in session for four weeks; on the first Monday in June and may continue in session for eight weeks.

Sec. 10. The District Clerks of Upshur and Smith Counties shall, immediately upon the taking effect of this Act, secure a seal having engraved a star of five points in the center and the words: "Special District Court of _____ County, Texas," the imprints of which shall be attached to all process, except subpoenas, issued out of said Special District Court and shall be kept by said Clerk and used to authenticate his official acts as Clerk of said Court.

Sec. 11. Said Special District Court of Smith and Upshur Counties created by this Act shall cease to exist on the 15th day of November, 1934, at which time the term of office of the Judge of said Court shall expire by limitation of law and the provisions of this Act, except those as embodied in Section 12 herein.

Sec. 12. At the expiration of the term for which said Special District Court is created, the Judge thereof shall deliver all the dockets and records of said Court to the Clerks of the District Courts of Smith and Upshur Counties for preservation, and any case or cases pending upon the dockets of said Special District Court at the time shall be by said Clerks transferred to the Docket of the District Court of the Seventh Judicial District of the County in which said causes are pending. The Judge of said Special District Court shall also have authority and power, after the expiration of his term of office, to approve any and all statements of fact, bills of exception, or make any other order necessary in cases tried in said Special District Court and appealed.

Sec. 13. Nothing in this Act shall be construed as in any way affecting the process, terms, jurisdiction or authority of the District Court of the Seventh Judicial District of Texas, except as herein specially conferred upon said Special District Court hereby created, and all process issued in any case pending in the District Court of the Seventh Judicial District shall be equally valid in any case or cases transferred to said Special District Court.

Sec. 14. The Judge of said Special District Court may, in his discretion, from time to time, order drawn and convened, a grand jury in the counties of Smith and Upshur as he may deem proper and necessary.

Sec. 15. All laws or parts of laws in conflict with the provisions of this Act shall be and the same are hereby repealed.

Sec. 16. If any section, paragraph, or provision of this Act be held or declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect. [Acts 1932, 42nd Leg., 3rd C. S., p. 116, ch. 47.]

9a.—Special 9th District Court for Montgomery, Waller, Polk and San Jacinto Counties.

Sec. 1. There is hereby created a Court to be held in Montgomery County, Waller County, Polk County, and San Jacinto County, Texas, to be called the Special Ninth District Court of Montgomery, Waller, Polk, and San Jacinto Counties, Texas.

Sec. 2. Said Special Ninth District Court of Montgomery, Waller, Polk, and San Jacinto Counties shall have concurrent jurisdiction with the District Court of the Ninth Judicial District of all matters and causes of civil and criminal nature in Montgomery, Waller, Polk, and San Jacinto Counties over which, under the Constitution and General Laws of the State of Texas, the District Court of said Ninth Judicial District of Texas has original and appellate jurisdiction.

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

Sec. 3. The Judge of the Ninth Judicial District of Texas, may, in his discretion, either in term time or in vacation, by order entered upon the minutes of the District Court of Montgomery, Waller, Polk and San Jacinto Counties, transfer any case or cases that may at that time be pending in said District Court of that County to the Special Ninth District Court of Montgomery, Waller, Polk and San Jacinto Counties, created by this Act, and holding session in that County, and said Special Ninth District Court shall have the same power and authority to try and finally dispose of such case or cases so transferred as the Court possessed from which the same were transferred; and the Judge of said Special Ninth District Court may, in his discretion, either in term time or in vacation, by order or orders entered upon the minutes of his Court in any of the counties for which the said Special Ninth District Court is created, transfer any case or cases pending upon his docket to the District Court of the Ninth Judicial District holding sessions in the County and when said case or cases are transferred, the Court to which the transfer is made shall have the same right and authority to try and finally dispose of same as was originally had by said Special Ninth District Court.

Sec. 4. Any party or person desiring to bring a suit over which the District Court of the Ninth Judicial District has jurisdiction in Montgomery, Waller, Polk, and San Jacinto Counties, shall have the right to file the same either in said Court or in the Special Ninth District Court hereby created, subject to the right of the Judges of said Courts to transfer the same as herein provided.

Sec. 5. The Clerk of the District Court of each of the Counties of Montgomery, Waller, Polk, and San Jacinto, and his successors in office, shall be the Clerk of the Ninth Judicial District Court in his County, and shall perform all duties pertaining to the Clerkship of each of said Courts.

Sec. 6. The Governor of the State of Texas is hereby authorized and empowered to appoint some person having the qualifications provided by law for District Judges, as Judge of said Special Ninth District Court, who shall hold his office for the duration of the term for which said Court is created. The compensation of the Judge of the Special Ninth District Court of Montgomery, Waller, Polk, and San Jacinto Counties hereby created shall be the same as the compensation paid to the Judges of other District Courts, including the expenses as provided for in Article 6820, Revised Civil Statutes, 1925; and the Comptroller of the State of Texas is hereby authorized to draw his warrant upon the State Treasurer for such payment; and the compensation herein provided for shall be paid in the manner in which other District Judges of the State of Texas are paid.

Sec. 7. There is hereby conferred upon said Special Ninth District Court, and upon the Judge thereof all of the rights, powers, privileges and duties that are given by law to the District Courts and District Judges of this State, and all laws of the State of Texas with reference to the District Courts and District Judges shall be deemed equally applicable to said Special Ninth District Court and the Judge thereof, except as herein specially excepted.

Sec. 8. The District Judge of said Special Ninth District Court may in his discretion impanel Grand Juries and try and dispose of any and all criminal cases that may be filed in said Special Ninth District Court, or transferred thereto from the District Court in the Ninth Judicial District.

Sec. 8a. The District Attorney for the Ninth Judicial District of the State of Texas is hereby empowered and will have the authority to appoint one Assistant District Attorney to prosecute criminal cases in the Special Ninth District Court of the State of Texas, and the District Attorney is hereby empowered and will have the authority to dismiss the said Assistant District Attorney for a good and sufficient cause, and said Assistant District Attorney during the time of his services shall be paid a salary of Two Thousand Seven Hundred and Fifty Dollars (\$2,750.00),

per year and be payable out of the General Revenue of the State of Texas by warrants issued upon same.

Sec. 9. There is hereby conferred upon said Special Ninth District Court, all of the rights, powers, privileges and duties that are given by law to the District Courts of this State, and all laws of the State of Texas with reference to District Courts shall be deemed equally applicable to said Special Ninth District Court, except as herein specially excepted.

Sec. 10. The terms of said Special Ninth District Court created by this Act in Montgomery, Waller, Polk, and San Jacinto Counties, Texas, shall be as follows:

In Montgomery County the Court shall meet on the first Monday in January of each year and may continue in session eight (8) weeks; on the eighth Monday after the first Monday in January and may continue in session eight (8) weeks; on the first Monday in July of each year and may continue in session eight (8) weeks; and on the eighth Monday after the first Monday in July and continue in session eight (8) weeks.

In Waller County the Court shall meet on the twenty-fourth Monday after the first Monday in January of each year and may continue in session two (2) weeks; and on the twenty-fourth Monday after the first Monday in July of each year and may continue in session two (2) weeks.

In Polk County the Court shall meet on the eighteenth Monday after the first Monday in January of each year and may continue in session six (6) weeks; and on the eighteenth Monday after the first Monday in July of each year and may continue in session six (6) weeks.

In San Jacinto County the Court shall meet on the sixteenth Monday after the first Monday in January and may continue in session two (2) weeks; and on the sixteenth Monday after the first Monday in July of each year and may continue in session two (2) weeks.

Sec. 11. The District Clerks of Montgomery, Waller, Polk, and San Jacinto Counties shall, immediately upon the taking effect of this Act, secure a seal having engraved a star of five (5) points in the center and the words 'Special Ninth District Court of Montgomery County, Texas,' the imprints of which shall be attached to all process except subpoenas issued out of said Special Ninth District Court and shall be kept by said Clerk and used to authenticate his official acts as Clerk of said Court.

Sec. 12. Said Special Ninth District Court of Montgomery, Waller, Polk and San Jacinto Counties created by this Act shall cease to exist two (2) years from the date of the taking effect of this Act at which time the term of office of the Judge of said Court shall expire by limitation of law and the provisions of this Act, except those as embodied in Section 13 herein.

Sec. 13. At the expiration of the term for which said Special Ninth District Court is created, the Judge thereof shall deliver all the dockets and records of said Court to the Clerks of the District Courts of Montgomery, Waller, Polk and San Jacinto Counties for preservation, and any case or cases pending upon the dockets of said Special Ninth District Court at the time shall be by said Clerks transferred to the Docket of the District Court of the Ninth Judicial District of the County in which said causes are pending. The Judge of said Special Ninth District Court shall also have authority and power, after the expiration of his term of office, to approve any and all statements of fact, bills of exception, or make any other order necessary in cases tried in said Special Ninth District Court and appealed.

Sec. 14. Nothing in this Act shall be construed as in any way affecting the process, terms, jurisdiction or authority of the District Court of the Ninth Judicial District of Texas, except as herein specially conferred upon said Special Ninth District Court hereby created, and all process issued in any case pending in the District Court of the Ninth Judicial District shall be equally valid in any case or cases transferred to said Special Ninth District Court.

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Sec. 15. The Judge of said Special Ninth District Court may, in his discretion, from time to time, order drawn and convened, a Grand Jury in the Counties of Montgomery, Waller, Polk and San Jacinto as he may deem proper and necessary.

Sec. 16. All laws or parts of laws in conflict with the provisions of this Act shall be and the same are hereby repealed.

Sec. 17. If any section, paragraph, or provision of this Act be declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect.

Sec. 18. This Act shall take effect and be operative on and after the passage of this bill. [Acts 1933, 43rd Leg., p. 881, ch. 252; Acts 1933, 43rd Leg., Spec. L., p. 141, ch. 102, as amended Acts 1933, 43rd Leg., 1st C. S., p. 147, ch. 50, § 1.]

12.—Walker, Grimes, Trinity, Leon and Madison.

The Twelfth Judicial District of the State of Texas shall be composed of the counties of Walker, Grimes, Trinity, Leon and Madison, and from and after January 1, 1934 A. D., the terms of the District Courts within said counties shall be held therein as follows:

In the county of Walker on the first Monday in January and may continue in session three (3) weeks; and on the twenty-first Monday after the first Monday in January and may continue in session three (3) weeks; and on the eighth Monday after the first Monday in September and may continue in session three (3) weeks;

In the County of Grimes on the third Monday after the first Monday in January and may continue in session five (5) weeks; and on the twenty-fourth Monday after the first Monday in January and may continue in session five (5) weeks;

In the County of Trinity on the eighth Monday after the first Monday in January and may continue in session four (4) weeks; and on the first Monday in September and may continue in session four (4) weeks;

In the County of Leon on the twelfth Monday after the first Monday in January and may continue in session five (5) weeks; and on the fourth Monday after the first Monday in September and may continue in session four (4) weeks;

In the County of Madison on the seventeenth Monday after the first Monday in January and may continue in session four (4) weeks; and on the eleventh Monday after the first Monday in September and may continue in session three (3) weeks.

Sec. 2. All processes, writs, and bonds issued, served, or executed prior to the taking effect of this Act and returnable to the terms of said Court in each or any of said counties comprising the said Judicial District, and all processes heretofore returnable, as well as all bonds and recognizances heretofore entered into in any county of said Judicial District, shall be valid and binding. All processes issued or served before this Act goes into effect including recognizances and bonds returnable after January 1, 1934, to the District Courts or any of said Courts of said District, shall be considered as returnable to said Courts in accordance with the terms prescribed by this Act, and all such processes are hereby validated and legalized, and all Grand and Petit Jurors drawn and selected under existing laws for the District Courts of any of the counties in said Judicial District for a term of court after January 1st, 1934, shall be considered lawfully drawn and selected for the next term of the District Court for their respective counties, as same may be held in accordance with this Act. [As amended Acts 1931, 42nd Leg., p. 775, ch. 310; Acts 1933, 43rd Leg., 1st C. S., p. 318, ch. 115, § 1.]

25.—Gonzales, Colorado, Lavaca and Guadalupe.

Acts 1933, 43rd Leg., Spec. L., p. 79, ch. 63, a special law authorizes: the Judge of the Twenty-fifth Judicial District of Texas, to appoint an official shorthand reporter for such district at a

salary of not less than Two Thousand (\$2,000.00) Dollars, per annum nor more than Two Thousand Seven Hundred (\$2,700.00) Dollars, per annum, to be fixed by the Judge.

30.—Wichita, Archer and Young.

The Thirtieth Judicial District shall be composed of the counties of Wichita, Archer and Young; and the terms of the District Courts shall be held therein each year as follows:

In the county of Young on the first Mondays in January, May and September and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in Young County.

In the county of Archer on the third Mondays in February, June and October and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in Archer County.

In the county of Wichita on the second Mondays in March, July and November and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in Wichita County.

Any term of court may be divided into as many sessions as the judge thereof may deem expedient for the dispatch of business.

All process issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. [As amended Acts 1933, 43rd Leg., p. 880, ch. 251; Acts 1933, 43rd Leg., Spec. L., p. 139, ch. 100.]

Office of District Attorney abolished, see, art. 326p.

31.—Roberts, Wheeler, Gray, and Lipscomb.

The Thirty-first Judicial District of the State of Texas shall be composed of the counties of Gray, Roberts, Lipscomb and Wheeler, and the terms of the District Court shall be held therein each year as follows:

Gray County. On the first Monday in January of each year, and may continue in session ten weeks; and on the twenty-first Monday after the first Monday in January of each year, and may remain in session nine weeks; and on the fourth Monday after the fourth Monday in August of each year, and may remain in session seven weeks.

Roberts County. On the tenth Monday after the first Monday in January of each year, and may remain in session two weeks; and on the fourth Monday in August of each year and may remain in session two weeks.

Lipscomb County. On the twelfth Monday after the first Monday in January of each year, and may remain in session two weeks; and on the second Monday after the fourth Monday in August of each year and may remain in session two weeks.

Wheeler County. On the fourteenth Monday after the first Monday in January of each year, and may remain in session seven weeks; and on the eleventh Monday after the fourth Monday in August of each year, and may remain in session seven weeks.

Sec. 2. That all processes, writs and bonds issued, served or executed prior to the taking effect of this Act and returnable to the terms of said court in each of said counties comprising the Thirty-first Judicial District, and also process heretofore returnable, as well as all bonds and recognizances heretofore entered into in any of said courts in said Judicial District, shall be valid and binding. All processes issued or served before this Act goes into effect to the District Court of any of said counties shall

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be considered as returnable to said court in accordance with the terms prescribed by this Act, and also such process is hereby legalized and all grand and petit jurors drawn and selected under existing laws in any of the counties of said Judicial District for a term of court after this Act becomes effective shall be considered lawfully drawn and selected for the next term of the District Court for these prescribed counties held in accordance with this Act; provided, however, that if there should be a term of court being held at the time this Act goes into effect, said term of court shall remain and continue in session until said term is ended and terminated under the law as it exists prior to the time this Act takes effect. [As amended Acts 1929, 41st Leg., p. 11, ch. 6; Acts 1933, 43rd Leg., p. 878, ch. 250; Acts 1933, 43rd Leg., Spec. L., p. 128, ch. 96.]

32.—Nolan, Scurry, Mitchell, and Borden.

Sec. 1. The 32nd Judicial District of Texas shall be composed of the counties of Nolan, Scurry, Mitchell and Borden, and the terms of the District Court of said District shall be held therein each year as follows:

In the County of Nolan on the first Monday in January of each year and may continue in session eight weeks; on the seventeenth Monday after the first Monday in January of each year and may continue in session eight weeks; on the first Monday in September of each year and may continue in session six weeks.

In the county of Mitchell on the eighth Monday after the first Monday in January of each year and may continue in session five weeks; on the twenty-fifth Monday after the first Monday in January of each year and may continue in session four weeks; on the sixth Monday after the first Monday in September of each year and may continue in session four weeks.

In the county of Scurry, on the thirteenth Monday after the first Monday in January of each year and may continue in session three weeks; on the twenty-ninth Monday after the first Monday in January of each year and may continue in session four weeks; on the tenth Monday after the first Monday in September of each year and may continue in session four weeks.

In the county of Borden, on the sixteenth Monday after the first Monday in January of each year, and may continue in session one week; on the fourteenth Monday after the first Monday in September of each year and may continue in session one week. [As amended Acts 1931, 42nd Leg., p. 860, ch. 366; Acts 1931, 42nd Leg., 1st C. S., p. 27, ch. 14; Acts 1933, 43rd Leg., p. 371, ch. 145, § 1.]

Howard county transferred to 70th Judicial District, see art. 199—70. For sections 4, 5 and 6 of Act cited to the text, see art. 199—109, post.

37, 45, 57, 73, 94.—Bexar.

Acts 1933, 43rd Leg., Spec. L., p. 106, ch. 81 authorizes the judge of each judicial district, or the judge of each district court, either civil or criminal, in and for Bexar County, to appoint an official court reporter for the district court at a salary of not less than Two Thousand Four Hundred (\$2,400.00) Dollars, per annum, nor more than Three Thousand (\$3,000.00) Dollars, per annum, to be fixed by the judge.

47.—Randall, Potter and Armstrong.

Sec. 1. The District Court of the 47th Judicial District shall, upon the taking effect of this Act, be restored and have concurrent jurisdiction of civil business with the District Court of the 108th Judicial District in Potter County, Texas, and said District Court of the 47th Judicial District shall also have jurisdiction of criminal business and exercise general jurisdiction given or which shall be given by the Constitution and laws of the State of Texas to District Courts in said county, and shall also continue to exercise such general jurisdiction in the other counties now comprising said 47th Judicial District.

Sec. 2. The Judge of either of said Courts may, in his discretion, either in term time or in vacation, on motion of any party or by agreement of the parties, or on his own motion, transfer any civil cause on his docket to the docket of the other said District Court; and the Judges of said Courts may, in their discretion, exchange benches of Districts from time to time in civil causes; and whenever a Judge of one of said Courts is disqualified in a civil case, he shall transfer the case from his Court to the other Court, and either of said Judges may in his own Courtroom try and determine any such case or proceeding pending in the other Court, without having the case transferred, or may sit in the other Court and there hear and determine any civil 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 two (2) Judges may try different civil cases in the same Court at the same time and each may occupy his own Courtroom or the room of the other Court. In case of absence, sickness or disqualification of either of said Judges, the other Judge may hold Court for him in civil causes. Either of said Judges may hear any part of any civil case or proceeding pending in either of said Courts and determine the same or may hear or determine any question in any such case and the other Judge may complete the hearing and render judgment in the case. Either of said Judges may hear and determine demurrers, motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trials and all preliminary matters, questions and proceedings in civil cases, 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. Either of the Judges of said Courts may issue restraining orders and injunctions returnable to the other Judge or Court.

Sec. 3. The District Clerk of Potter County shall be the Clerk of the 47th Judicial District in both civil and criminal matters and shall also continue to be the Clerk of the 108th Judicial District. The District Attorney of the 47th Judicial District, as heretofore constituted, shall continue to be the District Attorney thereof during the term for which elected.

Sec. 4. The present Judges of the 47th District Court and the 108th District Court of Potter County, as the same now exists, shall remain and continue District Judges of their respective Districts and Courts and hold their respective offices of District Judge until the term for which he has been elected expires, and until his successor is elected and qualified.

Sec. 5. The Judges of the said District Courts may, each for his own Court, appoint an official Court Reporter who shall have the qualifications and receive the same compensation as are now, or may hereafter be, fixed by law, for Court Reporters in District Courts.

Sec. 6. All writs, process, bonds, recognizances, orders, decrees and judgments in both civil and criminal matters, executed, entered into, required or rendered prior to the taking effect of this Act, in either of said District Courts and returnable to terms of said Courts as heretofore constituted, empowered and fixed by law, are hereby made returnable to said respective Courts as if no change had been made in said Courts, and bonds executed and recognizances entered in said Courts shall bind the parties to their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said Courts, as heretofore fixed by law and continued by this Act, and all bonds and recognizances taken in either of said Courts (and all orders, decrees and judgments entered in either of said Courts) shall be as valid and binding as though no change had been made in said District Courts.

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Sec. 7. All laws and parts of laws not in conflict with this Act shall remain in force and effect.

Sec. 8. This Act shall not prevent the holding under present laws of any term of Court that may be in session when this Act takes effect, and said term of Court shall be held under the law existing at the beginning of said term. [As amended Acts 1927, 40th Leg., p. 10, ch. 7; Acts 1933, 43rd Leg., p. 873, ch. 248; Acts 1933, 43rd Leg., Spec. L., p. 55, ch. 47.]

66.—Hill. On the first Mondays in January, March, May, July, September and November, and each term may continue in session for eight (8) weeks. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 112, ch. 35, § 1.]

70.—Howard, Midland, Ector, Martin and Glasscock.

Sec. 1. That the following counties, to-wit: Howard, Midland, Ector, Martin and Glasscock shall hereafter constitute the 70th Judicial District of the State of Texas, and the terms of the District Court of said District shall be held therein each year as follows:

In the county of Howard on the first Monday in January of each year and may continue in session seven weeks; on the seventeenth Monday after the first Monday in January of each year and may continue in session eight weeks; on the second Monday after the first Monday in September of each year and may continue in session six weeks.

In the county of Midland on the seventh Monday after the first Monday in January of each year and may continue in session five weeks; on the twenty-seventh Monday after the first Monday in January of each year and may continue in session five weeks; on the eighth Monday after the first Monday in September of each year and may continue in session four weeks.

In the county of Ector on the twelfth Monday after the first Monday in January of each year and may continue in session two weeks; on the twenty-fifth Monday after the first Monday in January of each year and may continue in session two weeks; on the twelfth Monday after the first Monday in September in each year and may continue in session three weeks.

In the county of Martin on the fourteenth Monday after the first Monday in January of each year and may continue in session two weeks; on the first Monday in September of each year and may continue in session two weeks; on the fifteenth Monday after the first Monday in September of each year and may continue in session one week.

In the county of Glasscock on the sixteenth Monday after the first Monday in January of each year and may continue in session one week; on the sixteenth Monday after the first Monday in September of each year and may continue in session one week. [As amended Acts 1927, 40th Leg., p. 134, ch. 87; Acts 1929, 41st Leg., p. 50, ch. 19; Acts 1933, 43rd Leg., p. 371, ch. 145, § 2.]

Andrews County transferred to 109 Judicial District, see art. 199—109. For sections 4, 5 and 6 of Act cited to the text, see art. 199—109, post.

77, 87.—Limestone and Freestone.

District attorney for 77th Judicial District abolished, see art. 326o.

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

The 79th Judicial District shall, after this Act takes effect, be composed of the counties of Starr, Brooks, Duval and Jim Wells, and the terms of court of the 79th District shall be held in the respective Counties of said District as follows:

In the County of Duval: One term beginning on the first Monday in January, and may continue in session six weeks.

One term beginning on the sixteenth Monday after the first Monday in January, and may continue in session four weeks.

One term beginning on the fourth Monday after the first Monday in September, and may continue in session four weeks.

In the County of Jim Wells: One term beginning on the sixth Monday after the first Monday in January, and may continue in session four weeks.

One term beginning on the twentieth Monday after the first Monday in January, and may continue in session four weeks.

One term beginning on the eighth Monday after the first Monday in September, and may continue in session four weeks.

In the County of Starr: One term beginning on the tenth Monday after the first Monday in January and may continue in session four weeks.

One term beginning on the twenty-fourth Monday after the first Monday in January, and may continue in session four weeks.

One term beginning on the first Monday in September, and may continue in session four weeks.

In the County of Brooks: One term beginning on the fourteenth Monday after the first Monday in January, and may continue in session two weeks.

One term beginning the twenty-eighth Monday after the first Monday in January, and may continue in session two weeks.

One term beginning the twelfth Monday after the first Monday in September, and may continue in session four weeks.

Sec. 2. All processes and writs issued or served before this Act takes effect are hereby validated and continued, and are made returnable to the next terms of said court in the respective counties of said District as herein fixed, insofar as the same are applicable, and all recognizances and bonds are also made returnable to the next terms of said court in the respective counties in said district as herein fixed, insofar as they are applicable.

All Grand and Petit Juries drawn before this Act takes effect shall be valid for and returnable to the next terms of the District Court of the several counties, as herein fixed, as though issued and served for such terms, and returnable to and drawn for the same. [As amended Acts 1931, 42nd Leg., p. 876, ch. 370; Acts 1933, 43rd Leg., 1st C. S., p. 131, ch. 38.]

Section 4 of this act repeals all conflicting laws and parts of laws.

84.—Carson, Hutchinson, Hansford, Ochiltree and Hemphill.

The 84th Judicial District shall be composed of the Counties of Carson, Hutchinson, Hansford, Ochiltree and Hemphill. The terms of the District Court for the 84th Judicial District of the State of Texas shall, for and during the remaining portion of the year A. D., 1933, after this Act takes effect, be held as follows:

Beginning in Hutchinson County on the first Monday in June and may continue in session four weeks; and beginning in Hutchinson County on the second Monday in July and may continue in session three weeks.

Beginning in Carson County on the last Monday in August and may continue in session four weeks.

Beginning in Hutchinson County on the last Monday in September and may continue in session five weeks.

Beginning in Hansford County on the last Monday in October and may continue in session two weeks.

Beginning in Ochiltree County on the second Monday in November and may continue in session three weeks.

Beginning in Hemphill County on the first Monday in December and may continue in session four weeks.

The terms of the District Court of the 84th Judicial District of the State of Texas for and during the year A. D., 1934 and thereafter, shall

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be held in said District for the said year 1934 and each year thereafter as follows:

Beginning in Carson County on the first Monday in January of each year and may continue in session four weeks; and also beginning in Carson County on the last Monday in August of each year and may continue in session four weeks.

Beginning in Hutchinson County on the fourth Monday after the first Monday in January of each year and may continue in session five weeks; and also beginning in Hutchinson County on the fourteenth Monday after the first Monday in January of each year and may continue in session four weeks; and also beginning in Hutchinson County on the twenty-second Monday after the first Monday in January of each year and may continue in session five weeks; and also beginning in Hutchinson County on the twenty-seventh Monday after the first Monday in January of each year and may continue in session three weeks; and also beginning in Hutchinson County on the fourth Monday after the last Monday in August each year and may continue in session five weeks.

Beginning in Hansford County on the ninth Monday after the first Monday in January of each year and may continue in session two weeks; and also beginning in Hansford County on the ninth Monday after the last Monday in August of each year and may continue in session two weeks.

Beginning in Ochiltree County on the eleventh Monday after the first Monday in January of each year and may continue in session three weeks; and also beginning in Ochiltree County on the eleventh Monday after the last Monday in August of each year and may continue in session three weeks.

Beginning in Hemphill County on the eighteenth Monday after the first Monday in January of each year and may continue in session four weeks; and also beginning in Hemphill County on the fourteenth Monday after the last Monday in August of each year and may continue in session four weeks.

Sec. 2. That all processes, writs and bonds issued, served or executed prior to the taking effect of this Act and returnable to the terms of said court in each of said counties comprising the 84th Judicial District, and also process heretofore returnable, as well as all bonds and recognizances heretofore entered into in any of said courts in said Judicial District, shall be valid and binding.

All process issued or served before this Act goes into effect to the District Court of any of said counties shall be considered as returnable to said court in accordance with the terms prescribed by this Act, and also such process is hereby legalized and all grand and petit jurors drawn and selected under existing laws in any of the counties of said Judicial District for a term of court after this Act becomes effective shall be considered lawfully drawn and selected for the next term of the district court for these prescribed counties, held in accordance with this Act; provided, however, that if there should be a term of court being held at the time this Act goes into effect; said term of court shall remain and continue in session until said term is ended and terminated under the law as it exists prior to the time this Act takes effect. [Acts 1927, 40th Leg., p. 60, ch. 42, as amended Acts 1929, 41st Leg., p. 11, ch. 6; Acts 1931, 42nd Leg., p. 826, ch. 342; Acts 1933, 43rd Leg., p. 875, ch. 249; Acts 1933, 43rd Leg., Spec. L., p. 103, ch. 79.]

102.—Red River and Bowie.

The 102nd Judicial District of the State of Texas shall be composed of the Counties of Bowie and Red River, and from and after September 1, 1933, the terms of the District Courts within said Counties shall be held therein as follows:

In Bowie County, a term beginning on the 10th Monday after the 1st Monday in January and continuing in session for four (4) weeks; and a

term beginning on the 24th Monday after the 1st Monday in January and may continue in session for four (4) weeks; and a term beginning on the 38th Monday after the 1st Monday in January and may continue in session for four (4) weeks.

In Red River County, a term beginning on the 1st Monday in January, and may continue in session for ten (10) weeks; and a term beginning on the 14th Monday after the 1st Monday in January and may continue in session for ten (10) weeks; and a term beginning on the 28th Monday after the 1st Monday in January and may continue in session for ten (10) weeks; and a term beginning on the 42nd Monday after the 1st Monday in January and may continue in session for ten (10) weeks.

Sec. 2. All processes, writs, and bonds issued, served or executed prior to the taking effect of this Act and returnable to the terms of said Court in each or any of said Counties comprising the said Judicial District, and all processes heretofore returnable, as well as all bonds and recognizance heretofore entered into in any County of said Judicial District, shall be valid and binding. All processes issued or served before this Act goes into effect, including recognizances and bonds returnable after September 1, 1933, to the District Courts or any of said Courts of said District, shall be considered as returnable to said Courts in accordance with the terms prescribed by this Act, and all such processes are hereby validated and legalized, and all Grand and Petit Jurors drawn and selected under existing laws for the District Courts of any of the Counties and said Judicial District for a term of Court after September 1, 1933, shall be considered lawfully drawn and selected for the next term of the District Court for their respective Counties, as same may be held in accordance with this Act. [As amended Acts 1933, 43rd Leg., p. 885, ch. 253; Acts 1933, 43rd Leg., Spec. L., p. 145, ch. 103.]

109.—Reeves, Ward, Winkler, Crane, Andrews and Loving.

Sec. 1. The 109th Judicial District of Texas shall be composed of the following counties, to-wit: Reeves, Ward, Winkler, Crane, Andrews and Loving, and the terms of the District Court of said District shall be held therein each year as follows:

In the county of Reeves on the first Monday in January of each year and may continue in session four weeks; on the fourteenth Monday after the first Monday in January of each year and may continue in session four weeks; on the first Monday in September of each year and may continue in session four weeks.

In the county of Ward on the fourth Monday after the first Monday in January of each year and may continue in session three weeks; on the eighteenth Monday after the first Monday in January of each year and may continue in session four weeks; on the fourth Monday after the first Monday in September of each year and may continue in session four weeks.

In the county of Winkler on the seventh Monday after the first Monday in January of each year and may continue in session three weeks; on the twenty-second Monday after the first Monday in January of each year and may continue in session three weeks; on the eighth Monday after the first Monday in September of each year and may continue in session three weeks.

In the county of Crane on the tenth Monday after the first Monday in January of each year and may continue in session two weeks; on the twenty-fifth Monday after the first Monday in January of each year and may continue in session two weeks; on the eleventh Monday after the first Monday in September of each year and may continue in session two weeks.

In the county of Andrews on the twelfth Monday after the first Monday in January of each year and may continue in session one week; on the twenty-seventh Monday after the first Monday in January of each year

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and may continue in session two weeks; on the thirteenth Monday after the first Monday in September of each year and may continue in session one week.

In the county of Loving on the thirteenth Monday after the first Monday in January of each year and may continue in session one week; on the twenty-ninth Monday after the first Monday in January of each year and may continue in session one week; on the fourteenth Monday after the first Monday in September of each year and may continue in session two weeks.

Sec. 4. All process and writs issued out of, and bonds and recognizances entered into, and all grand or petit jurors drawn before this Act takes effect, shall be valid for and returnable to the next succeeding term of the District Court in and for the several counties as herein fixed, as though issued and served for such terms and returnable to and drawn for the same; and all such process, writs, bonds and recognizances taken before or issued by the various counties affected by this Act shall be as valid as though no change had been made in the District Courts herein in the time of the holding of the court herein.

Sec. 5. It is further provided that this Act shall go into effect and be operative on and after August 1, 1933, provided that if any court in any county of the hereinbefore mentioned Judicial Districts as the same existed prior to the passage of this Act shall be in session at the time this Act takes effect, such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws; but thereafter the court in such county or counties shall conform to the terms of this Act. [Acts 1929, 41st Leg., p. 50, ch. 19, as amended Acts 1933, 43rd Leg., p. 371, ch. 145.]

Section 6 of Acts 1933, 43rd Leg., p. 371, ch. 145 repeals all conflicting laws and parts of laws.

114.—(Repealed by Acts 1933, 43rd Leg., p. 865, ch. 246; Acts 1933, 43rd Leg., Spec. L., p. 1, ch. 1, § 1.)

This subd. prior to its repeal was Acts 1930, 41st Leg., 5th C. S., p. 246, ch. 81.

Section 2 of the repealing act cited to the text makes all processes, writs and bonds, civil and criminal, issued prior to and/or executed subsequent to the taking effect of this Act and returnable to the

terms of said 114th Judicial District Court as fixed by the law herein repealed, returnable respectively to the 31st and 84th Judicial District Courts as the terms of said 31st and 84th Judicial District Courts are now respectively fixed by law.

119.—Coleman, Concho, Runnels and Tom Green.

Sec. 1. The 119th Judicial District of Texas, comprised of the counties of Coleman, Concho, Runnels and Tom Green, shall hold terms of court in said counties as follows, to-wit:

Coleman County: A term to begin on the first Monday in January of each year and may continue in session six weeks.

A term to begin on the twenty-first Monday after the first Monday in January of each year and may continue in session five weeks.

Concho County: A term to begin on the first Monday in September of each year and may continue in session two weeks.

A term to begin on the sixth Monday after the first Monday in January of each year and may continue in session two weeks.

Runnels County: A term to begin on the tenth Monday after the first Monday in September of each year and may continue in session five weeks.

A term to begin on the sixteenth Monday after the first Monday in January of each year and may continue in session five weeks.

Tom Green County: A term to begin on the second Monday after the first Monday in September of each year and may continue in session eight weeks.

A term to begin on the eighth Monday after the first Monday in January of each year and may continue in session eight weeks.

Sec. 2. All process and writs issued out of and all bonds and recognizances made and entered into and all grand and petit jurors drawn before this Act shall take effect, shall be held valid and returnable to the next succeeding terms of the District Court in and for the several counties hereinabove specified as herein fixed, the same as though issued and served for such term and the same as if made returnable and drawn for the terms herein fixed and all such process, writs, bonds and recognizances issued or taken before this Act takes effect in the District Court of the several counties affected by this Act, shall be held valid as though no change had been made in the time of holding courts in the district herein affected, and all parties shall take notice of the change in the terms of the court and shall answer in response to all writs and process to the terms of court as herein specified the same as if said writs and process, bonds and recognizances had been executed, issued or entered into after the taking effect of this Act.

Sec. 3. This Act shall not become effective until January 1, 1934, at which time it shall become effective and be in full force and effect, and thereafter the terms of court in the several counties constituting said Judicial District shall be holden as herein provided.

Sec. 4. All laws and parts of laws in conflict herewith are hereby in all things repealed.

Sec. 5. Nothing herein contained shall be construed as changing or affecting the terms of court to be held in the several counties comprising said district between the date of the passage of this Act and the date it shall become final and in full force and effect as hereinabove provided. [Acts 1931, 42nd Leg., p. 864, ch. 367, as amended Acts 1933, 43rd Leg., 1st C. S., p. 78, ch. 24.]

124a.—Rusk and Gregg.

Sec. 1. There is hereby created a Court to be held in Rusk and Gregg Counties, to be called the Special District Court of Rusk and Gregg Counties, Texas.

Sec. 2. Said Special District Court of Rusk and Gregg Counties shall have concurrent jurisdiction with the District Court of the Fourth Judicial District of Rusk County and of the One Hundred Twenty Fourth Judicial District of Gregg County, over all matters and causes of a civil and criminal nature, in Rusk and Gregg Counties, over which, under the Constitution and General Laws of the State of Texas, the District Court of said Fourth Judicial District of Texas of Rusk County, and the One Hundred Twenty Fourth Judicial District of Gregg County, have original and appellate jurisdiction.

Sec. 3. The Judge of the Fourth Judicial District of Rusk County, Texas, and of the One Hundred Twenty Fourth Judicial District of Gregg County, Texas, may, in their discretion, either in term time or in vacation, by order entered upon the minutes of the District Court of Rusk and Gregg Counties, transfer any case or cases that may at that time be pending in said District Courts of said Counties to the Special District Court of Rusk and Gregg Counties created by this Act and holding sessions in said Counties; and said Special District Court shall have the same power and authority to try and finally dispose of such case or cases so transferred, as the Court possessed from which the same were transferred; and the Judge of said Special District Court may, in his discretion, either in term time or in vacation, by order or orders entered upon the minutes of his Court in any of the Counties for which the said Special District Court was created, transfer any case or cases pending upon the docket, to the District Court of the Fourth Judicial District of Rusk County and the One Hundred Twenty Fourth Judicial District of Gregg County, holding sessions in the County; and when said case or cases are transferred,

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the Court to which the transfer is made shall have the same right and authority to try and finally dispose of same as was originally had by said Special District Court.

Sec. 4. Any party or person desiring to bring suit over which the District Court of the Fourth Judicial District of Rusk County has jurisdiction, and the One Hundred Twenty Fourth Judicial District of Gregg County has jurisdiction, shall have the right to file the same either in said Courts or in the Special District Court hereby created, subject to the right of the Judges of said Courts to transfer the same as herein provided.

Sec. 5. The Clerk of the District Courts of each of the Counties of Rusk and Gregg and his successors in office shall be the Clerk of the Fourth Judicial District Court of Rusk County, and the Clerk of the One Hundred Twenty Fourth Judicial District Court of Gregg County and also the Clerk of the Special District Court in his County and shall perform all duties pertaining to the clerkship of each of said counties, in their respective counties.

Sec. 6. The District Attorney of the Fourth Judicial District of Texas and of the One Hundred Twenty Fourth Judicial District of Texas, shall represent the State in all cases wherein the State of Texas is a party, in said Special District Court, in their respective counties, and in case of the absence or inability of said District Attorney to so represent the State in any case pending in said Special District Court, then the County Attorney of the county in which said case is pending, shall represent the State without extra compensation, and said District Attorneys shall receive no extra compensation, other than provided for by their original respective offices.

Sec. 7. The Governor of the State of Texas is authorized and empowered to appoint some person having the qualifications provided by law for District Judges, as Judge of said Special District Court, who shall hold his office for the duration of the term for which said Court is created; the compensation of the Judge of said Special District Court of Rusk and Gregg Counties, hereby created, shall be the same as the compensation paid to the Judges of other District Courts, including the expenses as provided for in Article 6820, of the Revised Civil Statutes of Texas for 1925, and the Comptroller of the State of Texas is hereby authorized to draw his warrant on the State Treasurer for such payment and the compensation herein provided for shall be paid in the manner in which other District Judges of the State of Texas are paid.

Sec. 8. There is hereby conferred upon said Special District Court, and upon the Judge thereof, all of the rights, powers, privileges and duties that are given by law to the District Courts and the District Judges of this State and all laws of the State of Texas with reference to District Courts and District Judges shall be deemed equally applicable to said Special District Court and the Judge thereof, except as herein specially excepted.

Sec. 9. The terms of said Special District Court created by this Act in Rusk County and in Gregg County, Texas, shall be as follows:

In Rusk County the Court shall meet on the first Monday in December, February, April, June, August and October each year, and may continue in session four weeks for each respective term thereof.

In Gregg County said Court shall meet on the first Monday in November, January, March, May, July and September, and may continue in session four weeks for each respective term thereof.

Sec. 10. The District Clerks of Rusk and Gregg Counties shall, immediately upon the taking effect of this Act, secure a seal having engraved a star of five points in the center and the words: "Special District Court of Rusk County, Texas," and "Special District Court of Gregg County" respectively, the imprints of which shall be attached to all process, except subpoenas, issued out of said Special District Court and shall

be kept by said Clerk and used to authenticate his official acts as Clerk of said Special District Court.

Sec. 11. Said Special District Court of Rusk and Gregg Counties, created by this Act, shall cease to exist on the first day of November, 1934, at which time the term of office of the Judge of said Court shall expire by limitation of law and the provisions of this Act, except those as embodied in Section 12, herein.

Sec. 12. At the expiration of the term for which said Special District Court is created, the Judge thereof shall deliver all of the documents and records of said Court to the Clerks of the District Courts of Rusk and Gregg Counties for preservation, and any case or cases pending upon the Docket of said Special District Court at the time shall be, by said Clerk, transferred to the docket of the District Court of the Fourth Judicial District of the County of Rusk, and of the District Court of the One Hundred Twenty Fourth Judicial District of the County of Gregg, in which said causes are pending. The Judge of said Special District Court shall also have authority and power after the expiration of his term of office to approve any and all statements of fact, bills of exception, or make any other order necessary in cases tried in said Special District Court and appealed.

Sec. 13. Nothing in this Act shall be construed as in any way affecting the process, terms, jurisdiction or authority of the District Court of the Fourth Judicial District of Texas and of the One Hundred Twenty Fourth Judicial District of Texas, except as herein specially conferred upon said Special District Court hereby created, and all process issued in any case pending in the District Court of the Fourth Judicial District and of the One Hundred Twenty Fourth Judicial District shall be equally valid in any case or cases transferred to said Special District Court.

Sec. 14. The Judge of said Special District Court, may, in his discretion, from time to time, order drawn, and convened, a grand jury in the counties of Rusk and Gregg as he may deem proper and necessary.

Sec. 15. All laws or parts of laws in conflict with the provisions of this Act shall be, and the same are hereby, repealed.

Sec. 16. If any section, paragraph or provision of this Act be held or declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect. [Acts 1932, 42nd Leg., 3rd C. S., p. 120, ch. 48.]

TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

Article 322. [339] [276] [241] Districts may elect

The following Judicial Districts in this State shall each respectively elect a District Attorney, viz: first, second, third, fourth, fifth, seventh, eighth, ninth, twelfth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-seventh, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, forty-second, forty-sixth, forty-seventh, forty-ninth, fiftieth, fifty-first, fifty-second, fifty-third, sixty-third, sixty-fourth, sixty-ninth, seventieth, seventy-second, seventy-fifth, seventy-sixth, seventy-ninth, eighty-first, eighty-third, ninetieth, hundredth, and hundred and sixth. There shall also be elected a Criminal District Attorney for Harris County, a Criminal District Attorney for Dallas County, a Criminal District Attorney for Tarrant County, and one Criminal District Attorney for the Counties of Nueces, Kleberg, Kenedy, Willacy and Cameron. [As amended Acts 1927, 40th Leg., p. 222, ch. 151; Acts 1933, 43rd Leg., p. 74, ch. 43; Acts 1933, 43rd Leg., Spec. L., p. 150, ch. 107.]

Section 2 of Acts 1933, 43rd Leg., Spec. L., p. 150, ch. 107, cited to the text reads as follows: "This Act shall not alter, amend, or change any other law, General or Special of the State of Texas, affecting District Attorneys, and it is hereby declared the inten-

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tion of the Legislature that the sole intent and purpose of this bill is to omit the Fortieth Judicial District from the list of Judicial Districts in which District Attorneys shall be elected. It is also hereby declared to have been the Legislative intent in the passage of House Bill No. 411 [p. 74,

ch. 43], Regular Session of the 43rd Legislature to have affected only the Fortieth Judicial District and not to have amended, altered or changed any other Act or Statute, General or Special, relating to any other Judicial Districts."

[Art. 326n. District attorneys, assistants, investigators and salaries in certain judicial districts]

Acts 1933, 43rd Leg., Spec. L., p. 26, ch. 21, provides for the election of a district attorney in the 18th judicial district, whose compensation shall be the Five Hundred Dollars (\$500.00) provided for by the Con-

stitution, and in addition thereto such further compensation as may be provided by the General Laws of this State for district attorneys of districts composed of two or more counties.

[Art. 326o. District Attorney abolished in Seventy-Seventh Judicial District]

The office of District Attorney in the 77th Judicial District of Texas is hereby abolished and the County Attorney of each county composing said district shall represent the State of Texas in all matters wherein the State of Texas is a party, in his respective county, and shall receive such fees and compensation for his services, as is provided by the General Laws of the State of Texas. [Acts 1933, 43rd Leg., Spec. L., p. 90, ch. 68.]

[Art. 326p. District Attorney abolished in Thirtieth Judicial District]

Sec. 1. The District Attorney of the 30th Judicial District now elected and acting as such shall continue to hold the office of District Attorney of said 30th Judicial District in and for Wichita, Young and Archer Counties until the time for which he has been elected expires, and until there have been elected successors for the now County Attorneys and they have qualified as successors to the now County Attorneys. From and after the said date of induction into office of the now County Attorneys, the office of District Attorney of the 30th Judicial District shall cease to exist and no successor for the now District Attorney will be elected.

Sec. 2. The County Attorneys of Archer, Young and Wichita Counties performing the duties of the District Attorney in their respective counties shall receive such fees for their service as are now or may hereafter be provided for County Attorneys performing like duties under and by virtue of the General Laws of this State. [Acts 1933, 43rd Leg., Spec. L., p. 114, ch. 87.]

TITLE 16—BANKS AND BANKING

[Art. 375a. Banking moratorium]

Sec. 1. That the Banking Commissioner of the State of Texas, with the approval of the Governor of Texas, from and after the passage of this Act, be and he is hereby authorized and empowered to declare financial moratoriums for and invoke a uniform limitation withdrawal, coextensive with the boundaries of the State, of deposits from all State Banks, National Banks, State Banks and Trust Companies, Trust Companies, Private Banks, Building and Loan Associations, and all other banking and financial institutions in the State of Texas, or both such moratoriums and limitations of withdrawal of deposits, and to promulgate any and all orders and decrees necessary to enforce such powers herein delegated.

Sec. 2. Any State Bank or State Banking institution, Trust Company, Building and Loan Association, Private Bank or financial institution other than a national bank in the State of Texas, violating or refusing to comply with any order or regulation promulgated hereunder shall forfeit its charter, and the State Banking Commissioner shall thereupon take charge of and

liquidate such institutions, as provided in Chapter 1, Title 16 of the Revised Civil Statutes of the State of Texas.

Any other banking institution within this State so violating or refusing to comply with any such order shall immediately forfeit its right to act as reserve agent for any State banking institution; and shall also forfeit its right to act as depository of any State, County, Municipal or other public funds, and all such reserve deposits and/or deposits of State, County, Municipal, or other public funds shall be immediately withdrawn by the depositor on order of the State Banking Commissioner. [Acts 1933, 43rd Leg., p. 36, ch. 16.]

[Art. 375b. Transfers for collection to banks in receivership as preferred claims]

Upon the appointment of a receiver or liquidating agent of any State Bank, and/or State Bank and Trust Company engaged in the banking business under the laws of this State, the transferors of negotiable instruments transferred to said bank for collection shall be a preferred claimant in the amount of the liability of such bank, if such negotiable instrument (1) is forwarded to such bank by any other bank, firm, or individual for collection and remittance, and payment therefor in money or its equivalent in value has not been made; (2) such negotiable instrument has been transferred to such bank after the enactment of this Act; and (3) has been collected either in the whole or in part by such bank. The provisions of this Act shall not apply to any case where the transferor is a voluntary depositor in the bank and the proceeds of the collection have been upon request of indorser, credited by the bank to his account. [Acts 1933, 43rd Leg., p. 133, ch. 64.]

[Art. 375c. Commissioner may pledge assets of closed bank for loan]

That the Commissioner of Banking, as statutory receiver or liquidator, is hereby authorized and empowered, when any state bank or bank and trust company organized under the laws of the state of Texas voluntarily places itself in his hands for liquidation, or when he closes a state bank or bank and trust company and takes charge of same for the purpose of liquidating it, to borrow money from the Reconstruction Finance Corporation as created by Act of Congress of the United States, and he is further authorized and empowered to pledge as collateral security to such loan or loans any part or all of the assets of such closed bank or bank and trust company, and to execute in connection with said loan or loans, and the pledging of said assets, all notes, collateral security agreements, and other instruments necessary, and said Commissioner of Banking of Texas, as statutory receiver or liquidator, is further authorized and empowered to execute such renewals and extensions of said loan or loans from time to time as may be necessary, and to execute in connection with said renewals and extensions all necessary instruments. [Acts 1933, 43rd Leg., p. 197, ch. 91.]

Art. 413. [395] Powers of corporation

Act authorizing investment of funds in stock of Federal Home Loan Bank, see art. 881a-69.

[Art. 489a. State policy as to deposit insurance]

Sec. 1. It is hereby declared to be the public policy of this State to afford depositors of every State Bank and of every State Bank and Trust Company, organized under the laws of Texas, a plan of protection comparable to and equally as effective as the protection afforded depositors of banks by the Federal Deposit Insurance Corporation under what is styled "Banking Act of 1933", enacted by the Congress of the United

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States of America; and to carry such public policy into effect the following law is enacted by the Legislature of the State of Texas. The terms "member bank" and "member banks" as used herein shall include any State Bank and any State Bank and Trust Company organized under the laws of this State.

[Corporation created]

Sec. 2. The "Bank Deposit Insurance Company" (sometimes hereinafter referred to as the "Corporation"), is hereby created a body corporate with the powers provided in this law and with all general corporate powers incident thereto.

[General corporate duties]

Sec. 3. The duties of the Corporation are and shall be to insure, in the manner and to the extent herein provided, the deposits in the State Banks and in State Bank and Trust Companies organized under the laws of Texas, which are and may be entitled to the benefits of this Act; it may acquire, hold and dispose of its property, real and personal, and may do and perform all acts necessary or proper in the exercise of the powers and in the discharge of the duties herein imposed upon such Corporation.

[Board of directors]

Sec. 4. The general management of the affairs of the corporation shall be vested in the Board of Directors selected and composed as follows:

The Commissioner of Banking of the State of Texas shall at all times be an ex-officio member of said Board.

Beginning with the effective date hereof and continuing to January 1, 1935, said Board shall consist of seven (7) members, namely: The Commissioner of Banking of the State of Texas as ex-officio member, two (2) members to be appointed by the Governor of the State of Texas; two (2) members to be appointed by the Speaker of the House of Representatives of the State of Texas; and two (2) members to be appointed by the Lieutenant Governor of the State of Texas. The members thus appointed shall hold office until January 1, 1935, and until their successors shall have been elected and qualified as herein provided.

Beginning January 1, 1935, the Board of Directors of the Corporation shall be reduced to five (5) in number, including the Commissioner of Banking of the State of Texas, who shall always be an ex-officio member thereof; effective January 1, 1935, the member banks of the corporation shall elect four (4) directors to replace those appointed as hereinabove provided; of the number thus to be elected by the member banks, one (1) shall serve for a period of one (1) year; another shall serve for a period of two (2) years; another shall serve for a period of three (3) years; and another shall serve for a period of four (4) years, or until their respective successors shall have been elected and qualified, and thereafter the terms of office of the directors shall be for a period of four (4) years. At the initial and all subsequent elections of the Directors by the member banks the election shall be effective by a vote of the member banks taken in such manner as the by-laws of the corporation may provide, and each member bank shall be entitled to one (1) vote. In order to determine the period for which they are to serve, the directors-elect as of January 1, 1935, shall draw lots to determine which of them shall serve the respective terms of one (1), two (2), three (3), and four (4) years; the purpose being that after January 1, 1935, there shall be one (1) director elected each year to serve a term of four (4) years. In all instances herein a director shall serve until his successor shall have been elected and qualified and nothing herein shall prohibit the election or re-election of any director then or theretofore serving as such.

Vacancies on the Board of Directors shall be filled by the remaining directors by a majority vote.

No person shall be eligible to be appointed or elected director of the Corporation who shall not have had at the time of his appointment or election at least five (5) years active banking experience in a managerial capacity, as an active chairman of the board, as an active president, as an active vice president or as cashier.

The members of the Board of Directors and officers of the Corporation shall not draw any salary or compensation as such from the State of Texas; and no member of such board shall draw a fixed salary from the Corporation; but as compensation each member may receive from the Corporation actual expenses and not to exceed Fifty Dollars (\$50.00) for attending each meeting of the board, and any meeting of the board which may continue any number of days successively shall be deemed to be one meeting. Furthermore, if more than four (4) meetings should be held during one calendar month, then for attending such meetings each member of the Board shall be paid by the Corporation not to exceed a total of Two Hundred Dollars (\$200.00), together with his actual expenses incurred in attending such meetings for such calendar month.

The President of the Corporation shall receive such salary, if any, as the Board of Directors may determine, but such amount as he may receive hereunder for acting as a director shall be credited upon such salary and shall not be additional thereto.

There shall be a regular meeting of the Board of Directors held in Austin, Texas, immediately upon the effective date of this Act; and at this meeting the directors shall adopt such by-laws as they think proper for the Corporation and shall take such other steps, within their authority and power, as may be necessary and proper to carry this Act into effect and to place the Corporation in operation as contemplated by this Act.

Regular meetings of the Board of Directors shall be held thereafter at such time and at such place or places as the by-laws of the Corporation may prescribe. Special meetings of the Board may be called by the President of this Corporation, by the Banking Commissioner of the State of Texas, or by any two (2) members of the Board of Directors.

The by-laws of the Corporation when adopted may be amended, by a majority vote of the Directors, at any regular meeting or at any special meeting called for that purpose.

At their first regular meeting the directors shall choose by ballot a president who shall be a member of the board, and shall elect a secretary and treasurer and such other officials as the by-laws may provide. Such officials shall be elected to serve for a period of two (2) years or until their successors shall have been elected and qualified. But any officer may be removed for good cause, and his successor elected, at any time by a majority vote of the board. All officers shall be eligible to re-election; and the offices of secretary and treasurer may, if the directors so decide, be filled by one person. The president by virtue of his office shall be general manager of the Corporation.

[Powers specified]

Sec. 5. Upon the effective date of this Act, the said "Bank Deposit Insurance Company" shall come into existence as a body corporate and shall have, among others, these powers, namely:

First: To adopt and use a corporate seal.

Second: To have succession until dissolved by an Act of the Legislature of Texas.

Third: To enter into any obligation or contract essential or incident to the performance of its duties and the exercise of its powers and the conduct of its business.

Fourth: To maintain and defend judicial proceedings of any character whatever and in any Court, commission or tribunal.

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Fifth: To appoint by its Board of Directors such officers and employees as are not otherwise provided for in this Act, and to define their duties, fees and compensation where the same are not fixed by this Act, to require bonds of the officers and employees as the Board of Directors may determine, and to fix the terms of such bonds, and dismiss at pleasure, the officers and employees of the Corporation.

Sixth: To exercise by its Board of Directors or duly authorized agents all powers specifically granted by this Act and such incidental powers as may be necessary to carry out the powers so granted.

[Banks permitted to become members of corporation]

Sec. 6. Every State Bank and every State Bank and Trust Company organized under the laws of Texas, which shall have been certified by the Commissioner of Banking to be solvent on January 1, 1934, except those banks which are then members of the Federal Reserve System and except those banks that shall on January 1, 1934, become members of the Federal Deposit Insurance Corporation, and/or except those banks entitled to the benefits of this Act who shall on or before January 1, 1934, certify in writing to the Commissioner of Banking of the State of Texas such bank's intention not to participate in the "Bank Deposit Insurance Company" as provided in this Act, shall become a member of this Corporation on January 1, 1934. And further, provided any State Bank or State Bank and Trust Company which is a member of the Federal Reserve System, which obtains a certificate of solvency from the Banking Commissioner of Texas showing solvency on January 1, 1934, and which bank shall have, on or before January 1, 1934, given written notice to the Federal Reserve System, withdrawing such bank's membership in said Federal Reserve System, shall become a member of this Corporation by complying with the provisions hereof and when such member bank shall furnish to the Corporation a certificate showing said bank to no longer be a member of the Federal Reserve System and provided said certificate is furnished on or before July 1, 1934. On and after January 1, 1934, except as herein provided, no Bank and no Bank and Trust Company may become a member of this Corporation until its solvency shall have been determined and certified by the Banking Commissioner of the State of Texas and until a majority of the directors of the Corporation shall have certified their assent in writing to the president of the Board of the Corporation; and every State Bank or State Bank and Trust Company coming into existence on or after January 1, 1934, which may be so certified and approved, may become a member of this Corporation and shall thereupon comply with all of the provisions of this Act.

The Banking Commissioner of Texas shall certify, on or before January 1, 1934, to the president of this Corporation those banks that are solvent and entitled to the benefits of this Act and those banks so certified as solvent for the purpose of this Act shall be only banks whose capital is not impaired and such certificate shall not be conclusive as to the exercise of their discretion therein by the Board of Directors.

The charter powers of every State Bank and of every State Bank and Trust Company organized under the laws of Texas are hereby enlarged and extended so as to enable them to become members of this Corporation and to discharge the duties and to have the privileges and powers of a member thereof.

[Capital of corporation how subscribed]

Sec. 7. The capital of this Corporation shall be derived from the member banks in the following manner:

On January 1, 1934, each State Bank and each State Bank and Trust Company which as of that date becomes a member of this Corporation shall subscribe an amount equal to five per cent (5%) of such member

bank's capital stock; and the aggregate sum thus subscribed by the member banks and by those subsequently becoming members, shall be deemed to be the capital of the Corporation; and the respective member banks shall be considered as owning capital stock of the Corporation to the extent of the amount thus subscribed. Of the amount which each member bank is hereby required to subscribe, seventy-five per cent (75%) thereof shall be immediately deposited with the respective subscribing member bank, to the credit and for the account and subject to the check of the Corporation; the other twenty-five per cent (25%) of the amount thus required to be subscribed shall be remitted promptly to the Corporation. All banks becoming members at any time subsequently to January 1, 1934, must at the time of becoming members meet the same requirements as prescribed in this paragraph for the banks which become members of January 1, 1934.

On January 1, 1935, and on January 1st of each year thereafter, each bank which is a member of said Corporation shall as of said date adjust with the corporation with respect to the capital stock of such member bank, and as of January 1st of each year, each member shall pay to, or receive from the Corporation, in the manner prescribed in Section 7 hereof, such an amount as will comply with the capital stock requirement as prescribed in Section 7 hereof, to the end that all member banks shall have invested in the Corporation five per cent (5%) and no more of said member bank's capital stock.

Beginning January 1, 1934, each member bank shall, upon all of its loans made on or after January 1, 1934, and on all loans upon which interest is earned and collected on or after January 1, 1934, and upon all renewals and extensions of its loans, pay to the Corporation as follows:

First: At the rate of three-fourths of one per cent per annum until January 1, 1937.

Second: At the rate of one-half of one per cent per annum from January 1, 1937 to January 1, 1940.

Third: From and after January 1, 1940, at the rate of one-fourth of one per cent per annum.

There shall, at no time, be any charge upon any member bank by or in favor of the Corporation by reason of a member bank owning bonds or certificates of indebtedness of which both the principal and interest constitute the direct and unconditional obligation of the United States Government but member banks shall pay the Corporation upon all bonds issued by any State, county, city, school, water improvement district, road district bonds or other defined subdivisions of the State of Texas, authorized to issue bonds and to contract indebtedness, owned by any member bank on January 1, 1934, or purchased by any member bank subsequent to said date, as follows:

First: At the rate of one-half of one per cent per annum from January 1, 1934, until January 1, 1940.

Second: At the rate of one-fourth of one per cent per annum from and after January 1, 1940.

And such amounts thus due by member banks to the Corporation shall be remitted monthly by the respective member banks to the Corporation and shall be accompanied by a report containing such details and information as the Corporation may prescribe.

Said remittances shall be made on or before the 10th day of each month, for the preceding month, and in each examination the Bank Examiner shall certify to the Commissioner of Banking of the State of Texas the correctness of said reports.

The sums thus derived by the Corporation shall be added to and constitute a part of its surplus and shall be used if, as and when needed by the Corporation for the purposes of affording the protection to the depositors in member banks as prescribed by this Act. And further provided, when the surplus fund thus derived by the Corporation shall reach the sum of

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Twenty-five Million Dollars (\$25,000,000.00), exclusive of all losses paid, the directors of the Corporation may, from time to time, temporarily suspend collection of the monthly payments as herein provided from the member banks; with the proviso, however, that when said surplus fund shall have fallen below the sum of Twenty-four Million Dollars (\$24,000,000.00), the member banks shall resume payments to the Corporation as herein provided until said surplus fund shall again reach the sum of Twenty-five Million Dollars (\$25,000,000.00), exclusive of all losses paid, to the end that the surplus fund shall always be not less than Twenty-four Million Dollars (\$24,000,000.00).

[Payments to depositors of closed banks and subrogation of corporation to rights]

Sec. 8. Whenever any Bank or Bank and Trust Company which has become a member of this Corporation shall be closed by action of its Board of Directors or by the appropriate State authorities, as the case may be, on account of its inability to meet the demands of its depositors, and the Bank is by reason thereof placed in liquidation either voluntarily or by the action of the State Banking Department, then in that event, upon the proper certification to the Corporation by the State Banking Commissioner as to the liability of the Corporation to the depositors of the closed Bank, and upon his furnishing a list showing the names and addresses of the depositors of the closed member bank and the amount owing each respective depositor by this Corporation under the terms of this Act, the Corporation shall, within not to exceed thirty (30) days, issue its check or voucher payable to the order of each respective depositor for the amount thus shown to be this Corporation's liability to such depositor; and upon such depositor receiving the proceeds of such check, each respective depositor shall assign to the Corporation such depositor's claim against such closed member Bank for and to the extent of the amount thus paid to such depositor by such Corporation; (and even though such depositor shall fail or refuse to execute a written assignment to the Corporation such assignment to the Corporation shall nevertheless be deemed to have been executed and delivered); and the Corporation shall be in all respects subrogated to all of the rights, liens and equities of said depositor ratably and equally for the amount so paid by the Corporation; and to the extent of such payment, the Corporation shall succeed to all of the rights of the depositor.

[Insurance liability limited]

Sec. 9. Effective as of January 1, 1934, the Corporation shall be deemed to have insured the unsecured deposits of all member banks; and further, the Corporation shall not insure any secured deposit in any member bank; provided, however, that this insurance liability of the Corporation shall not exceed the sum of Two Thousand, Five Hundred Dollars (\$2,500.00) to any one unsecured depositor, except that on and after July 1, 1934, this insurance liability of the Corporation to any one unsecured depositor, shall be increased as follows: One hundred per cent (100%) of such net amount not exceeding Ten Thousand Dollars (\$10,000.00); and seventy-five per cent (75%) of the amount, if any, by which such net amount exceeds Ten Thousand Dollars (\$10,000.00), but does not exceed Fifty Thousand Dollars (\$50,000.00); and fifty per cent (50%) of the amount, if any, by which such net amount exceeds Fifty Thousand Dollars (\$50,000.00). In determining the amount due any unsecured depositor for the purpose of fixing this Corporation's liability, there shall be added together all net amounts due by the member bank to such unsecured depositor, in the same capacity or in the same right, on account of the unsecured deposits in such bank regardless of whether such unsecured deposit be maintained in such depositor's name or in the name of

others for such depositor's benefit; and the aggregate sum of such unsecured deposits thus maintained in the name of or for the benefit of any particular depositor, less that depositor's total indebtedness to the member bank, direct or indirect, shall be deemed to be the total unsecured deposit of such particular depositor, for the purposes of this Act.

The liability of the Corporation to such unsecured depositors shall be discharged in the manner prescribed in Section 8 hereof.

[Discharge of deposit obligations]

Sec. 10. In discharging the deposit obligation imposed upon the Corporation by Sections 8 and 9 hereof, it shall be deemed to use first its surplus and then its capital.

[Dissolution of corporation]

Sec. 11. Should the Corporation be dissolved, or for any other reason its business and affairs be liquidated, such liquidation shall be effected by the Banking Commissioner of the State of Texas, and member banks shall have no further liability.

[Liability of member banks limited]

Sec. 12. There shall be no liability of any member bank to the Corporation, or otherwise, under or by reason of this Act, except as herein specifically provided.

[Return of contribution to member bank voluntarily liquidating or joining Federal Deposit Insurance Corporation]

Sec. 13. Whenever any member bank shall voluntarily liquidate and pay all of its depository liability, without recourse to this Corporation, or shall become a member of the Federal Deposit Insurance Corporation, such member bank shall immediately cease to be a member of the Bank Deposit Insurance Company, and that Corporation shall as promptly as possible return to such withdrawing member bank all of that part of the capital contributed by such withdrawing member bank to the Corporation, which may not have been consumed by the Corporation in the payment of depositor claims and which may not be needed to pay that bank's proper part of pending depositor claims.

[Corporation to have access to records of State Banking Department, reports by Board of Directors]

Sec. 14. The Corporation shall at all times have access to the files and records of the State Banking Department with respect to the members of the Corporation, and shall be entitled to all information afforded thereby and to such other information available in the State Banking Department as the Corporation may require.

On January 1, 1935, and on the first day of January of each year thereafter, the Board of Directors of the Corporation shall file or cause to be filed with the State Banking Board, full, correct, and detailed reports as to the operation and condition of the Corporation; and summarized or condensed reports showing its operation and condition shall be sent by the Corporation to each member bank.

[Expenses how paid]

Sec. 15. The expenses of the Corporation shall be paid out of its funds and under the direction of the Board of Directors.

[Funds invested in United States securities]

Sec. 16. Other than that part of its capital which by Section 7 hereof is permitted to remain on deposit with the respective member banks,

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the funds accumulated by the Corporation and not immediately needed in the performance of its functions and discharge of its liabilities shall be invested from time to time in bonds or certificates of indebtedness of which both the principal and interest constitute the direct and unconditional obligation of the United States Government.

[Principal office at Austin]

Sec. 17. The Corporation shall maintain its principal office and place of business in the City of Austin, Travis County, Texas; but if its by-laws should so provide, meetings of the Board of Directors may be held elsewhere in the State of Texas.

Suits or legal proceedings against the Corporation may be brought only in a Court of Travis County, Texas, and in no other Court of the State.

[Forfeiture of charter by failure or refusal to subscribe for stock]

Sec. 18. If any Bank or any Bank and Trust Company organized under the laws of Texas, which by the provisions hereof is subject to this Act, shall fail or refuse to subscribe and pay for the capital stock in the Corporation as required by Section 7, hereof, the Commissioner of Banking shall promptly report such failure or refusal to the Attorney General of this State, who shall thereupon institute suit in the District Court of Travis County to forfeit the charter of such bank or of such Bank and Trust Company; and such Court shall, upon hearing and proof of such failure or refusal, enter a decree and judgment forfeiting and annulling the charter of such Bank or Bank and Trust Company.

For any delay in making the monthly remittances to the Corporation of the fractional part of one per cent on loans, as required by Section 7 hereof, a member bank shall incur a penalty, payable to the Corporation at Austin, Travis County, Texas, of five per cent (5%) for each month or fractional part thereof of such delay, calculated upon the amount of such delayed remittance or remittances, as liquidated damages.

If a member bank should fail for two (2) successive months to make the monthly remittances as required by Section 7 hereof, the Corporation shall make written demand upon such member bank therefor; and if such member bank, for a period of thirty (30) days after the making of such demand, fails or refuses to send to the Corporation all remittances due at the time the demand was made, the Commissioner of Banking shall promptly report such fact to the Attorney General of this State, who shall thereupon institute suit in the District Court of Travis County, Texas, to forfeit the charter of such Bank or Bank and Trust Company; and such Court shall, upon hearing and proof thereof, enter a decree and judgment forfeiting and annulling the charter of such Bank or Bank and Trust Company.

In the event the charter of any Bank or Bank and Trust Company should be forfeited as provided in this Section, the Commissioner of Banking shall thereupon immediately take charge of all of its property, and shall liquidate its affairs as in case of a closed bank.

Any Bank, or any officer or Director thereof, or any other person who shall knowingly publish, make or cause to be made any false statement as to such Bank's participation in the Bank Deposit Insurance Company shall forfeit and pay to the Corporation at Austin, Travis County, Texas, One Hundred Dollars (\$100.00) per day for every day such offense is committed, which amount shall be sued for and recovered by the Corporation as liquidated damages.

[Partial invalidity]

Sec. 19. The invalidity of any section, paragraph, sentence or clause of this Act, shall not affect the remainder of said Act, and it is hereby

declared that the Legislature would have passed any sections, paragraphs, sentences or clauses hereof independently of all other sections, paragraphs or provisions.

[Legislative rights reserved]

Sec. 20. The right on the part of the Legislature to alter, amend or repeal this Act, and any and all parts hereof, is hereby expressly reserved. [Acts 1933, 43rd Leg., 1st C. S., p. 21, ch. 9.]

Art. 514. [547] Real estate

Banks and Bank and Trust Companies created under this Title shall own only such real state [estate] as may be acquired for the transaction of their business, and such as they may acquire in the enforcement and collection of debts and liabilities due to them, which lands so acquired by any such corporation shall be alienated by it within five years after its acquisition; it shall not hold such property for a longer period unless it shall procure a certificate from the Banking Commissioner that its interests will suffer materially by the forced sale thereof; in which event the time for the sale may be extended from year to year as the Commissioner shall direct in such certificate, not to exceed an additional five years, but in no event shall a Bank or Bank and Trust Company own such real estate for a period longer than ten years; provided that any and all sales of real estate to officers, directors or stockholders of such Bank and Bank and Trust Company shall be made only upon the consent of a majority of such stockholders. [As amended Acts 1929, 41st Leg., 1st C. S., p. 161, ch. 62; Acts 1933, 43rd Leg., p. 608, ch. 203.]

Art. 515. Limitation of indebtedness

No State Banking Corporation shall at any time be indebted or in any way liable to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on account of demands of the nature following:

1. Moneys deposited with or collected by it;
2. Bills of exchange or drafts drawn against money actually on deposit to the credit of the corporation or due thereto;
3. Liabilities to the stockholders of the association for dividends and reserve profits;
4. Liabilities incurred under the provisions of the Federal Reserve Act;
5. Liabilities incurred under the provisions of the Federal "Agricultural Credits Act of 1923."
6. Liabilities incurred under the provisions of the Federal "Reconstruction Finance Corporation Act";
7. This article shall not apply to any guaranty executed by any bank and trust company whose demand deposits are not in excess of its interest bearing deposits; provided such company is not a member of a Federal Reserve Bank.
8. Upon a written permit obtained from the Commissioner, any bank may borrow a sum not in excess of its unimpaired surplus in addition to its capital stock. [As amended Acts 1932, 42nd Leg., 3rd C. S., p. 4, ch. 3, § 1.]

Art. 517. [570] Pledge of securities

It shall be unlawful for any bank or bank and trust company to hypothecate or pledge as collateral its securities to an amount greater than fifty per cent in excess of the amount borrowed upon bills payable, certificates of deposit or otherwise, or for any banking corporation to issue and execute any notes, bills or other evidences of indebtedness secured, or to be secured by the pledge or hypothecation of any of its securities,

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which shall not contain a provision that in the event such banking corporation shall for any cause have its property and business taken possession of by the Commissioner at any time before such pledge or hypothecation shall have been actually foreclosed, a grace of thirty days after date of such taking possession shall be allowed in which such bank or the Commissioner shall be permitted to redeem such securities so hypothecated or pledged by the payment of the amount due as principal and interest on such indebtedness. No attorney's fee shall be collectible on notes or other evidence of indebtedness executed by a State Bank in the hands of the Commissioner for liquidation, where such notes or other evidences of debt are placed with an attorney for collection within thirty days after such bank is taken over by the Commissioner for liquidation; provided, however, that nothing in this Act shall prevent any bank or bank and trust company from hypothecating or pledging, as collateral for indebtedness to the Reconstruction Finance Corporation, its securities and assets in an amount greater than 50% in excess of the amount of such indebtedness. [As amended Acts 1927, 40th Leg., p. 200, ch. 130; 1932, 42nd Leg., 3rd C. S., p. 2, ch. 2, § 1.]

[Art. 522a. Purchase of stock of Federal Deposit Insurance Company]

All Banks, and Bank and Trust Companies, and Savings Banks, incorporated under the laws of Texas, shall have authority to purchase, hold, and dispose of stock in the Federal Deposit Insurance Corporation, created by the Act of Congress known as the Banking Act of 1933, under such terms and limitations as are now or may hereafter be prescribed by the laws of the United States. [Acts 1933, 43rd Leg., 1st C. S., p. 182, ch. 65, § 1.]

See, art. 489a.

[Art. 540a. Voluntary closing and suspension for conserving assets pending liquidation or reorganization]

Sec. 1. Whenever, in the opinion of the Board of Directors of any State Bank or Bank and Trust Company and the Banking Commissioner of Texas, unusual withdrawals of funds on deposit therein or any other condition which may tend to jeopardize the interest of the depositors, creditors and stockholders of such banking institution, it shall be lawful for such board, with the consent of the Commissioner, to close the bank and suspend the business thereof for a period of not exceeding thirty days for the purpose of conserving the assets and formulating a plan of liquidation or reorganization of the bank as hereinafter enacted.

Sec. 2. The board of directors of such banking institution shall cause a notice of such suspension to be posted on the front door of the bank to the effect that "this institution has temporarily suspended business," and the posting of such notice shall constitute a discontinuance of the usual functions of said bank, and shall operate as a bar to any attachment proceeding whatever. And the board shall also give notice thereof to each bank, bank and trust company, corporation and individual holding or in possession of any assets of such suspended bank or bank and trust company, and no lien or charge for any payment, advance or clearance thereafter made or liability thereafter incurred, shall exist in favor of any person, firm or corporation against any of the assets of such suspended bank.

Sec. 3. As soon as practicable after such suspension of the bank, the board of directors shall, with the approval of the Commissioner, appoint a depositors' committee, the membership of which shall consist of five depositors or their representatives, and thereupon it shall be the duty of such committee to thoroughly examine into and investigate the condition of the bank and the assets thereof. Such committee is also authorized to formulate and recommend any plan of liquidation or reorgan-

ization as to it may appear fair and reasonable to all depositors, creditors and stockholders of the bank.

Sec. 4. If the committee shall formulate a plan considered by it as fair and equitable as to all depositors, other creditors and stockholders and is in the public interest, it may thereupon notify the depositors and creditors by a notice mailed to them at their last known address, setting forth in such notice the substance of the plan of liquidation or reorganization so formulated and recommended by it.

Sec. 5. No such plan of liquidation or reorganization shall become effective until (1) the Banking Commissioner of Texas shall be satisfied that the plan is fair and equitable as to all depositors, other creditors and stockholders, and is in the public interest, and shall have approved the plan, and (2) depositors and other creditors of such bank representing at least seventy-five per cent in amount of its total deposits and other liabilities, except the liability to stockholders as such, approve the plan. In any such plan of liquidation or reorganization which shall have been approved and shall have become effective as provided herein, all depositors and other creditors and stockholders of such bank or bank and trust company, whether or not they shall have consented to such plan of liquidation or reorganization, shall be fully and in all respects subject to and bound by its provisions, and claims of all depositors and other creditors shall be treated as if they had consented to such plan of liquidation or reorganization.

Sec. 6. If any secured creditor shall refuse to participate in said plan of liquidation or reorganization the committee and the directors of such bank may, with the approval of the Banking Commissioner, agree on a fair value of the security or collateral held to secure such deposit or debt, and said secured deposit or debt shall be reduced to the extent of such agreed value of said security, or in the event such secured creditor and the committee cannot agree on a fair value of such security, such creditor shall have the right to dispose of his collateral in the manner prescribed in the agreement under which it was pledged and said creditor shall then participate in the same manner as unsecured creditors to the extent of the unsecured portion of such secured deposit or debt.

Sec. 7. Should any such suspended bank be indebted to the State of Texas, any county, city, common school district, independent school district, or any other political subdivision of this State, the proper administrative official, officials, board or tribunal in charge of said deposit or fund shall be authorized and empowered to participate in and agree to said plan of liquidation or reorganization as herein provided and in every respect conform to the provisions and spirit of this law.

Sec. 8. The Banking Commissioner, in his discretion, for good causes shown, may extend the time of the suspension of such bank for a period or periods not exceeding ninety days from and after the initial suspension date. Whenever it shall appear to the Banking Commissioner that the condition of the suspended bank is such that it should not or cannot be liquidated or reorganized under the provisions of this Act, he shall immediately take charge of and liquidate the bank as otherwise provided by law.

Sec. 9. The provisions of the above sections shall extend to any State Bank or Bank and Trust Company operating under restrictions authorized under the provisions of Senate Bill No. 416, Acts 1933, Forty-Third Legislature, page 36, Chapter 16 [art. 375a]. [Acts 1933, 43rd Leg., 1st C. S., p. 191, ch. 71.]

Section 10 of this act repeals all conflicting laws and parts of laws.

TITLE 20—BOARD OF CONTROL

Art. 606. Suits and injunctions

Acts 1933, 43rd Leg., Spec. L., p. 133, ch. 99, authorizes the Board of Control to sell certain land owned by the Gilmer State Orphanage, reserving the mineral rights of said land.

[Art. 634a. Bids on public contracts; mailing lists of contractors]

Sec. 1. The Board of Control shall in all public contracts to be let or awarded by it invite bids and furnish proposals to those desirous of bidding on such forms as it may deem proper. Said Board may place any person, firm or corporation so desiring on a State mailing list which said list shall entitle said holder to a copy of the proposal on any contract that is to be let. To be entitled to receive such State mailing list, said holder shall first pay in advance an annual service charge to be determined by the Board of Control, which same shall not be less than Five (\$5.00) Dollars nor more than Seven Dollars and Fifty (\$7.50) Cents.

Sec. 2. Where any bidder or prospective bidder, other than those appearing on said State mailing list, desires to bid on any contract to be let by said Board, he shall pay such amount for the proposal or proposals furnished to him, as said Board may determine is just and necessary; provided, however, in the event said Board finds that a service charge may work a hardship on some particular bidder or class of bidders, it may forego such charge and shall be authorized to furnish such proposals.

Sec. 3. All amounts collected from the annual service charge of those on the State mailing list or from proposals furnished shall be deposited in the State Treasury in the name of the "State Board of Control Special Service Account," and enough of said funds so collected shall be used by said Board and paid out as other funds are to defray all necessary expenses and charges in connection with the making and furnishing of said proposals. [Acts 1933, 43rd Leg., p. 602, ch. 199.]

[Art. 689a. Board of Control to cooperate with State Highway Commission]

That the Board of Control cooperate with the State Highway Commission in equipping said Highway Motor Patrol so as to eliminate from the operation of said Highway Motor Patrol the rental costs in providing equipment for said Motor Patrol to transport the instruments and facilities to be used in making such tests and in weighing commercial motor vehicles. [Acts 1933, 43rd Leg., p. 975, H. C. R. #21.]

The joint resolution cited to the text contained the following preamble:

WHEREAS, The State Highway Commission is charged with the duty of fixing the policies and selecting the personnel of the Highway Motor Patrol of this State; and

WHEREAS, The State Highway Motor Patrol is charged with the duty of policing the State Highways of this State and enforcing violations of all the highway laws; and

WHEREAS, It is believed that many commercial motor vehicles, including those privately owned and operated as well as those operated for hire, are being used to transport loads over the highways of this State, the weight of which is in excess of that for which they have paid license fees; and

WHEREAS, The safety of the traveling public is being endangered by persons driving automobiles in a careless and reckless manner, without regard for the safety and

welfare of others using said highways; and

WHEREAS, Many of such automobiles are inadequately and improperly equipped with lights and brake facilities; now therefore, be it

RESOLVED by the House of Representatives, the Senate concurring, That the State Highway Commission, be requested to equip said Highway Patrol with facilities and instruments necessary for enforcing all of said highway laws, including scales and brake testing machines, as the Highway Commission may deem necessary and proper, and that said State Highway Patrol be instructed by said State Highway Commission to enforce all of said motor vehicle laws without favor or partiality to any class or persons using the said highways; provided, however, that before any such instruments are purchased, the Legislature shall make provision therefor in the Appropriation Bills. Be it further RESOLVED,

[Art. 689a—19.]

Section 20 of Acts 1931, 42nd Leg., p. 339, ch. 206, being a penal provision is published as Penal Code, art. 414b.

TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.**[Art. 717b. Borrowing from Federal Agencies]**

Any governmental agency and/or municipality of the State of Texas, heretofore authorized to borrow money from the Reconstruction Finance Corporation under Acts of the 43rd Legislature and prior Acts, is also authorized to borrow money in accordance with the provisions of the several Acts of the 43rd Legislature and prior Acts from any other Federal Agency now or to be hereafter created. [Acts 1933, 43rd Leg., p. 601, ch. 198, § 1.]

[Art. 717c. Counties authorized to borrow from Federal Agencies and to levy tax to repay indebtedness]

Sec. 1. All counties in this State acting by and through their respective Commissioners Courts may borrow money and/or receive grants of money from the Federal Emergency Administrator of Public Works or any other Federal agency that may be provided for similar purposes under the terms and provisions, and in accordance with the provisions of the Act of the Congress of the United States commonly known as the "National Industrial Recovery Act." Provided that all actions taken by the Commissioners Courts in carrying out the provisions of this Act shall be done in accordance with, and subject to all the restrictions of Chapter 163 of the Acts of the Forty-second Legislature, and nothing in this Act shall be construed as repealing any of the provisions of House Bill No. 312, passed by the Regular Session of the Forty-second Legislature.

Sec. 2. When any such money is borrowed as authorized and provided in Section 1 hereof for any purpose for which counties in this State may create an indebtedness and levy a tax to pay such indebtedness under the Constitution and laws of this State the repayment of such loan by such county making the loan may be secured in the following manner:

(a) Such county or counties may sell or pledge its bonds to such Federal Emergency Administrator of Public Works or other Federal Agency at not less than par value and accrued interest; and/or

(b) Such counties may issue its warrants and certificates of indebtedness to such Federal Emergency Administrator of Public Works or other Federal Agency in such sums as may be borrowed by such counties; and/or

(c) Such counties may pledge the income and revenue from any project as may be self-liquidating and within the power of such counties to undertake; and/or

(d) Such counties may convey the site on which any county project is located to such Federal Emergency Administrator of Public Works or other Federal agency and lease said county project from such Administrator at such rental as will repay such loan within the time agreed upon at which time title to such project shall vest in such county.

Sec. 3. In all instances where the Federal Emergency Administrator of Public Works or other Federal Agency delivers to any county officer or agent authorized to receive the same the consideration or money for which the security provided for herein is given and such money is so received such counties may not thereafter contest the validity of any such security except for fraud or forgery; provided, however, that such bonds or other security herein provided for is first approved by the Attorney General of the State of Texas, whose duty it shall be to pass upon any such security to be given by any such county to the Federal Emergency Administrator of Public Works or other Federal Agency.

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Sec. 4. This Act shall expire and cease to be in effect two (2) years from and after the effective date hereof, except that any contract or agreement made and entered into by any such county under the authority and provisions of this Act during the life of said Act shall be valid and in full force and effect for the period of time provided for in said contract and agreement made by such county.

Sec. 5. The provisions of this Act shall be cumulative of any existing laws; provided, however, that the provisions of this Act shall apply wherever there is any conflict with any other law or laws during the period of the existence of this Act. [Acts 1933, 43rd Leg., 1st C. S., p. 298, ch. 109.]

Arts. 726-752. [Repealed by Acts 1926, 39th Leg., 1st C. S., p. 23, ch. 16, § 30]

State assumption of highway bonds, see arts. 6674q-1 to 6674q-11.

[Art. 752y. Bonds validated; tax levy]

That all road bonds heretofore voted and authorized by any political subdivisions, or by any road district, in accordance with the provisions and requirements of Section 52 of Article 3 of the Texas Constitution, and which bonds have not yet been issued and sold, are hereby validated, and the Commissioners' Court of the county including such political subdivision or road district, shall have the power, and is hereby expressly authorized, to make and enter any and all orders and provisions necessary for the purpose of issuing and selling the bonds so authorized to be issued by the qualified electors of such political subdivision or road district, and such court is hereby further expressly authorized to levy general ad valorem taxes on all taxable property situated in such political subdivision or road district as such taxable property appears upon the assessment rolls for State and county taxes, in amount sufficient to pay the interest on such bonds and the principal thereof at maturity, and such bonds, when approved by the Attorney General, registered by the State Comptroller and delivered shall be the general direct and binding obligations of such political subdivision or road district issuing the same.

It is hereby expressly found that the property in all political subdivisions and road districts the bonds of which are validated by this act, will be benefited by the improvements proposed to be made with the proceeds of said bonds to an amount not less than the taxes which will be levied against said property for the purpose of paying principal of and interest on said bonds. [Acts 1932, 42nd Leg., 3rd C. S., p. 106, ch. 41, § 1.]

[Art. 784a. Cancellation or revocation of unsold road bonds; election; readjusting tax levies]

Sec. 1. In the event any road bonds voted or issued or any portion of such road bonds voted or authorized by a county, political subdivision or defined district of the county, remain unsold at the time of passage of this Act, then the Commissioners' Court may upon its own motion or upon petition of not less than fifty (50) or a majority of the qualified property taxpaying voters thereof, as shown by the records of the county tax collector, shall order an election to determine whether or not such road bonds shall be revoked or cancelled. Such election shall be ordered, held and conducted in the same form and manner as that at which such bonds were originally authorized.

Sec. 2. The result of such election, whether favorable to the cancellation of such bonds or not, shall be duly recorded by the Commissioners' Court, and the returns thereof and the result duly entered of record in the minutes of said Court, and in the event the result of such election for the cancellation and revocation of such unsold bonds shall show that

two-thirds of the qualified resident property taxpaying voters of such county, political subdivision or defined district of such county, voting at such election, have voted for the cancellation and revocation of such unsold bonds, the Commissioners' Court shall cancel and burn all such bonds, and forward to the Comptroller a certified copy of the minutes showing such destruction and cancellation. The Comptroller shall thereupon cancel the registration of said bonds on the records of his office.

Sec. 3. When said bonds have been destroyed the Commissioners' Court shall readjust the existing tax levies in such county; political subdivision or defined district thereof by an amount equal to that levied or proposed to be levied for the interest and sinking fund accounts of the bonds to be cancelled.

Sec. 4. After deducting the compensation of the Tax Assessor, Tax Collector and County Treasurer, and any other claims properly chargeable against such taxes, the unexpended part of all taxes that have been collected, with a view to the sale of such bonds as destroyed, shall be refunded to the taxpayers ratably upon order of the Commissioners' Court. The county treasurer shall take and file proper receipts for all funds so refunded.

Sec. 5. The expense of holding any such election shall be paid out of the General Fund of the county.

Sec. 6. Nothing in this Act shall be construed as invalidating any bond election or any bonds which have been sold by such county, political subdivision or defined district thereof. [Acts 1932, 42nd Leg., 3rd C. S., p. 94, ch. 31.]

[Art. 784b. Election for repurchase and cancellation of bonds]

Sec. 1. In the event unexpended and unpledged money realized from the sale of any road bonds voted or issued by any county, political subdivision or defined district of the county, remains to the credit of said county, political subdivision, or defined district voting or issuing said bonds, the commissioners' court upon petition of not less than fifty (50) of the qualified property taxpaying voters thereof as shown by the records of the County Tax Collector, shall order an election to determine whether or not such road bonds to the extent of the unexpended and unpledged money remaining to the credit of such county, political subdivision or defined district of the county shall be repurchased and upon such repurchase, cancelled and revoked. Such election shall be ordered held and conducted in the same manner and form as that at which said bonds were originally authorized.

Sec. 2. The result of such election, whether favorable to the repurchase, cancellation and revocation of such bonds or not, shall be duly recorded by the commissioners' court and the result thereof duly entered in the records of said court, and in the event the result of such election for the repurchase, cancellation and revocation of such bonds shall show that two-thirds of the qualified resident property taxpaying voters of such county political subdivision or defined district of such county voting at such election have voted for the repurchase, cancellation and revocation of bonds, theretofore sold, the commissioners' court shall be authorized to advertise for and purchase said outstanding bonds from the holders thereof and upon completion of said purchase shall cancel and burn all such bonds so purchased and forward to the Comptroller of Public Accounts a certified copy of the minutes showing such purchase, destruction and cancellation. The Comptroller shall thereupon cancel the registration of said bonds on the record of his office to the extent of the amount so repurchased, cancelled and destroyed.

Sec. 3. The expense of holding any such election shall be paid out of the general funds of the county.

Sec. 4. Nothing in this Act shall be construed as invalidating any bond election or bonds which have been sold by such county, political

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subdivision or defined district thereof. [Acts 1933, 43rd Leg., 1st C. S., p. 289, ch. 105.]

[Art. 835a. Repealed by Acts 1931, 42nd Leg., p. 33, ch. 26, § 1]

Effective March 14, 1931 Acts 1929, 41st Leg., 2nd C. S., p. 80, ch. 46 is the act repealed.

[Art. 842a. Securities Issued by Federal Agencies]

That, hereafter, all bonds, debentures, notes, collateral trust certificates, and other such evidences of indebtedness which have been, or which may be issued by Federal Home Loan Bank Board, or Home Owners Loan Corporation, or by any Federal savings and loan association, or by the Reconstruction Finance Corporation, or by the Federal Farm Loan Board, or by any Federal Land Bank, or by any entity, corporation or agency which has been or which may be created by or authorized by any act which has been enacted, or which may hereafter be enacted, by the Congress of the United States, or by any amendment thereto, which has for its purpose the relief of, refinancing of, or assistance to owners of mortgaged, or encumbered homes, farms and other real estate, shall hereafter be lawful investments for all fiduciary and trust funds in this State, and may be accepted as security for all public deposits, where deposits of bonds or mortgages are authorized by law to be accepted. Such bonds, debentures, collateral trust certificates, notes and other such evidences of indebtedness shall be lawful investments for all funds which may be lawfully invested by guardians, administrators, trustees and receivers, for building and loan associations, savings departments of banks incorporated under the laws of Texas, for banks, savings banks and trust companies chartered under the laws of Texas, and for all insurance companies, of every kind and character, chartered or transacting business under the laws of Texas, where investments are required or permitted by the laws of this State; provided, further, that where such bonds, debentures, notes, collateral trust certificates and other such evidences of indebtedness are issued against and secured by promissory notes, or other obligations, the payment of which is secured, in whole or in part, by mortgage, deed of trust, or other valid lien upon real estate situated in this State, or where such bonds, debentures, collateral trust certificates, notes, or other such evidences of indebtedness, are acquired, directly or indirectly, in exchange for, or in substitution of notes or other obligations secured by mortgage, deed of trust, or other valid lien upon real estate situated in this State, then such bonds, debentures, collateral trust certificates, notes, or other such evidence of indebtedness, so issued and so secured, or so acquired, shall be regarded for investment purposes by insurance companies as "Texas securities" within the meaning of the laws of this State governing such investments. [Acts 1933, 43rd Leg., p. 406, ch. 160.]

[Art. 842b. Issuance of tax exempt bonds authorized]

Sec. 1. In conformity with the provisions of Section 51-A, Article 3, of the Constitution of the State of Texas, the Legislature of the State of Texas hereby issues Five Million, Five Hundred Thousand (\$5,500,000.00) Dollars of bonds.

a. Such bonds are issued on the faith and credit of the State of Texas, but the redemption of any of such bonds or the payment of interest thereon shall be made from sources other than a tax on real property and the indebtedness as evidenced by such bonds shall never become a charge against or lien upon any property, real or personal within this State. The bonds shall be known and designated as TEXAS RELIEF BONDS—First Series.

b. Such bonds shall be numbered consecutively, beginning with Number One and shall be in denominations of One Hundred (\$100.00) Dol-

lars each or such multiples thereof as may be determined by the Texas Bond Commission hereinafter created, aggregating, however, the sum of Five Million, Five Hundred Thousand (\$5,500,000.00) Dollars.

c. They shall be dated October 15, 1933, and the principal of said bonds shall mature as follows:

\$500,000.00 on October 15, 1935
\$525,000.00 on October 15, 1936
\$550,000.00 on October 15, 1937
\$575,000.00 on October 15, 1938
\$600,000.00 on October 15, 1939
\$625,000.00 on October 15, 1940
\$650,000.00 on October 15, 1941
\$700,000.00 on October 15, 1942
\$775,000.00 on October 15, 1943

provided, however, that any amount of said bonds may be redeemed by the State, at its option, at any time on or after October 15, 1938.

d. They shall bear interest at the rate of four per cent (4%) per annum, payable semi-annually on April 15th and October 15th of each year, the first interest being due and payable on April 15, 1934.

e. The principal and interest shall be payable in lawful money of the United States upon presentation and surrender of bonds or proper coupons at the office of the Treasurer of the State of Texas at Austin, Texas.

f. They shall be exempt from taxation by the State, County, municipal or quasi municipal corporation, or any political subdivision of the State or any county.

g. Each bond shall be signed by the Governor, attested by the Secretary of State, under the seal of the State of Texas, countersigned by the State Comptroller of Public Accounts, approved as to form by the Attorney General of Texas and registered by the State Treasurer of Texas. The facsimile signatures of the Governor, Secretary of State and the State Comptroller of Public Accounts may be lithographed on the interest coupons of said bonds.

h. The form of said bonds, which shall have interest coupons attached to them, and the printing and/or engraving of same shall be provided for by the Commission and after being printed and/or engraved, signed, attested and countersigned by the proper officials, they shall be immediately deposited with the State Treasurer of Texas for registration and safe keeping. It shall be the duty of said officer to keep a record of said bonds so deposited with him in a special book procured and kept for that purpose. He shall also keep a record of any and all bonds delivered by him to the Texas Bond Commission for sale as hereinafter provided.

[Texas Bond Commission]

Sec. 2. For the purpose of selling such bonds and of performing such other duties as may be hereinafter imposed upon it, there is hereby created an official commission for the State of Texas, to be known as the "Texas Bond Commission," to be composed of three members as follows:

The Comptroller of Public Accounts, the State Treasurer, and the Attorney General, who shall serve without additional compensation.

Immediately upon the effective date of this Act, said Commission shall meet and elect one of its members as Chairman and another as Secretary, and the Secretary shall keep the minutes of all proceedings of the Commission in a book to be kept as a public record in the archives of his office. The Commission shall meet at any and all times as may be necessary to carry out the provisions hereof and the purposes for which it was created, upon the call of the Chairman or of any two members of the Commission.

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

[Sale of bonds on application of Texas Relief Commission]

Sec. 3. The sale of Five Million, Five Hundred Thousand (\$5,500,000.00) Dollars of Texas Relief Bonds by the Texas Bond Commission is hereby authorized in the following manner:

The Texas Relief Commission, which is hereinafter provided for, shall make application to the Texas Bond Commission for the sale of such part of said Five Million, Five Hundred Thousand (\$5,500,000.00) Dollars of bonds as, in its judgment, is needed to procure State money necessary for the relief of the unemployed and needy for a period of two months, and upon the filing of said application said Texas Bond Commission, shall sell the amount of bonds so requested by the Texas Relief Commission. For further periods, upon application of the Texas Relief Commission, said Texas Bond Commission is hereby directed to sell additional bonds, but the amount sold at any one time shall not exceed the amount, which is necessary to provide State funds sufficient to care for the needy and unemployed for a period of two months. Upon the sale by the Texas Bond Commission of any portion of the Five Million, Five Hundred Thousand (\$5,500,000.00) Dollars of Texas Relief Bonds as herein provided for, the said Bond Commission shall by order provide that the bonds shall mature over a period of nine years beginning with October 15, 1935, and in the same proportion as set out in Sub-section-c of Section 2 hereof. The order of the Bond Commission fixing the maturities shall be entered upon the minutes of the Commission. In no event shall the total amount of the bonds sold under authority of this Act exceed a total face value of Five Million, Five Hundred Thousand (\$5,500,000.00) Dollars. No bond as provided for hereunder shall be sold from and after the 15th day of September, A. D. 1935. It is further provided that no officer or officers, board, commission, or any person whatsoever shall borrow from any government or from any source, or permit advances of any amount whatsoever, for any of the purposes stated in Section 51-A, Article III of the Constitution in anticipation of the future issuance of bonds, and any such loan or advance shall be void and shall create no obligation against the State of Texas; and any officer of the State of Texas, or any officer or member of any Board or Commission of the State of Texas, participating in such attempted loan or advance shall be deemed guilty of high crimes and misdemeanors. Provided that loans and advances may be secured from the Federal Government to be paid out of the proceeds of the Five Million, Five Hundred Thousand (\$5,500,000.00) Dollars of bonds hereby issued but not out of or against any other bonds than said Five Million Five Hundred Thousand (\$5,500,000.00) Dollars of bonds.

[Sale of bonds on competitive bidding]

Sec. 4. The bonds authorized to be sold by this Act shall be sold by the Texas Bond Commission at a time and place to be designated by the Bond Commission and after advertisement published in three (3) newspapers of general public circulation in the State of Texas, which publication shall be made for at least once each week for two (2) consecutive weeks prior to the day said bonds are offered for sale, the advertisements specifying date, amount and maturities of the bonds, the rate of interest and such other provisions as the said Commission may deem proper. The sale shall be made upon sealed bids filed with the Secretary of said Bond Commission and accompanied by such earnest payment as the Bond Commission may direct, provided, however, that no bonds shall be sold for less than par and accrued interest. The said Bond Commission shall reserve the right to reject all bids, but in the event a bid is accepted, the State Treasurer, on order of the Texas Bond Commission, is directed to deliver said bonds to the purchasers when he shall have received for the credit of the State of Texas, current funds of the United States to the extent of the highest bid made for said bonds, which shall in no event be

less than par and accrued interest. In event the Bond Commission rejects all bids, it shall be the duty of the Bond Commission to readvertise said bonds as above provided and again offer same for sale in the manner above provided. The Texas Bond Commission may also sell at private sale to the Reconstruction Finance Corporation or to any other governmental agency other than such agencies as are specifically prohibited from purchasing same by the provisions of this Act, the entire amount of bonds offered for sale by the Bond Commission on any particular date, or any part thereof, and it shall not be necessary as a prerequisite of its purchase of such bonds that the Reconstruction Finance Corporation or such other agency of government offering to buy said bonds shall make a sealed bid as required of persons and private concerns, and it shall not be necessary as a prerequisite of its purchase of said bonds that the Reconstruction Finance Corporation or other governmental agency file with the Bond Commission the earnest payment above referred to as required of persons and private concerns; provided, however, that the Bond Commission shall not sell to the Reconstruction Finance Corporation or other governmental agency any of said bonds at a price less than the par value thereof and accrued interest thereon. No Commission, directly or indirectly, shall be allowed upon the sale of said bonds or any of them.

The funds other than accrued interest received from the sale of said bonds shall be credited to the State Treasurer to a fund to be known as the "Relief Bond Fund." Any amounts received as accrued interest from the sale of said bonds shall be placed to the credit of a fund designated as "The Texas Relief Bond Sinking Fund." Both of said funds may be deposited in accordance with the depository laws of the State of Texas for the deposit of other State funds.

[Investment of certain public funds in Relief Bonds prohibited]

Sec. 5. No bonds sold by the Texas Bond Commission under the terms of this Act shall ever be purchased by, for, on account of, or out of the permanent fund of the University of Texas, Public Free School Fund, Highway Fund or any other fund now existing under the control of or for the use and maintenance of any institution of higher education in Texas or the public school system of this State or any eleemosynary institution of the State, or the sinking funds of any county in this State.

[Disbursements by warrants of Comptroller of Public Accounts]

Sec. 6. The funds belonging to the "Relief Bond Fund" shall be disbursed by warrants drawn by the Comptroller of Public Accounts on said fund in the payment of allocations made and approved by the Texas Relief Commission, which approval shall be reflected by the minutes of the Texas Relief Commission, signed by its Chairman and attested by its Secretary, and filed with the Comptroller of Public Accounts; provided that such warrants shall be issued by the Comptroller of Public Accounts against vouchers signed by the Director or someone authorized by him in writing to sign for the Director and countersigned by the Secretary of the Texas Relief Commission or by someone authorized by him in writing to countersign said vouchers by the Secretary, in amounts not exceeding in the aggregate the amount allocated to any payee, by the Texas Relief Commission as evidenced by its minutes as signed, attested and filed as hereinbefore provided.

[Sinking fund]

Sec. 7. Any and all bonds, as well as all interest thereon issued and sold under authority and direction of this Act, shall be redeemed in the following manner:

Each year after this Act becomes operative and until the bonds herein provided for have been retired, the State Treasurer of the State of

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Texas as he received any and all moneys obtained for the use and benefit of the General Revenue Fund of the State of Texas, other than any tax on real property shall annually set up a special and separate fund, in anticipation of, and sufficient to meet, all interest and maturity requirements on said bonds for the fiscal year succeeding, which said fund shall be deposited to the credit of the "Texas Relief Bond Sinking Fund." Said Texas Relief Bond Sinking Fund shall be kept by said State Treasurer as a special fund, out of which the interest of said bonds shall be paid, and out of which said bonds shall be redeemed, and the same is hereby appropriated for the purpose of paying the interest and principal of the bonds authorized by this Act, it being the intention of the Legislature to set apart and preserve an adequate fund to pay off and discharge the principal and interest of said obligation as and when the same becomes due and payable.

And there is hereby specially appropriated for the years ending August 31, 1934, and August 31, 1935, an amount for each of said years out of said "Texas Relief Bond Sinking Fund" equivalent to the amount of interest maturing on any and all outstanding bonds during each of said years, and the State Treasurer is hereby directed to make payment of said interest as it matures during each of said years upon presentation of coupons evidencing such.

[Unsold bonds to be destroyed]

Sec. 8. If on the twenty-sixth of August, A. D. 1935, all of the bonds which have been issued herein have not been sold, it shall be the duty of the State Treasurer in the presence of the other two members of the Commission to destroy by burning any unsold bonds and any interest coupons appended thereto, and after said bonds have been destroyed by burning as above provided, it shall be the duty of said members of said Commission to make a certificate in writing to the effect that said bonds were destroyed in accordance with the provision of this law and giving the date on which said bonds were destroyed by the State Treasurer, and file said certificate in the office of the Secretary of State of Texas. As bonds mature and are paid they shall be forthwith destroyed and report of such filed in like manner.

[Transfer of proceeds of bonds to sinking fund]

Sec. 9. If at the time the Texas Relief Commission has ceased to function as a body there shall remain with the State Treasurer any sums of money which have been derived from the sale of any of said bonds, it shall be the duty of said State Treasurer to transfer said money out of said special account to the Texas Relief Bond Sinking Fund.

[Proceeds of sale of bonds appropriated to Relief Commission]

Sec. 10. The proceeds of the sale of any and all bonds not to exceed Five Million, Five Hundred Thousand (\$5,500,000.00) Dollars under this Act sold as herein provided, during each of the years of the biennium ending August 31, 1935, are hereby appropriated to the Texas Relief Commission for the said biennium, for the purposes and subject to the restrictions as set forth in this Act. The expense for printing, lithographing and/or engraving the bonds, as well as all expense incident to the sale thereof, shall be paid out of said funds.

[Proceeds of bonds to be used only to furnish relief to needy]

Sec. 12. The funds derived from the sale of Texas Relief Bonds shall be used exclusively for the purpose of furnishing relief and work relief to the needy and distressed people of the State of Texas, and for the purpose of relieving the hardships resulting from unemployment now existing or that may hereafter exist in the State of Texas. No person, rea-

sonably able to perform manual labor, shall be given direct relief, unless circumstances are such as to make opportunity for work impractical, and in no event shall direct relief and/or work relief be granted to any person unless he is in necessitous circumstances.

[Work projects—formulation—requisites—approval by Relief Commission]

Sec. 13. The County Relief Boards acting with the Commissioners' Courts of the county or with the governing body of any municipal or quasi municipal corporations or other political subdivisions of the county are authorized to formulate plans and specifications for the construction of such lateral roads and other work projects as may be needed in said county, provided the construction of same will be feasible and practicable from the standpoint of utilizing labor by unemployed people in said county. All projects for which relief bonds are to be expended shall be submitted to and approved by the Texas Relief Commission. The application to the Commission shall contain such data as is necessary to show the details of the project undertaken and shall be accompanied by plans and specifications showing the way and manner in which the work is to be performed. Before any application is approved, it shall be made to appear to the State Relief Commission that the following essential facts exist, to wit:

1. That the project presents a practical opportunity to provide work for unemployed people of the county or subdivision making the application; and at least 95% of the funds for such project will be used for labor.

2. That the project can be constructed with local unemployed labor eligible for employment on relief projects.

3. That a needed civic improvement of a public nature will result.

4. That the project will not require the expenditure of an inequitable portion of the relief funds when compared with the needs of the whole state and the amount of money available for relief and work relief purposes.

5. That the project could not be accomplished as a Public Work Project on account of the demonstrated inability of the county, municipality or other political subdivision concerned to finance its part of the project under the requirements of the Public Works Administration.

If a county, municipal, or quasi municipal corporation, or other political subdivision of the county is allotted funds to be used for the construction, repair, or maintenance of lateral roads or any other public project then and in such event, said Commissioners' Court or the governing body of such municipality, quasi municipality or other political subdivision of the county shall have the direct supervision and control of the expenditures of such funds, allotted to it, subject, however, to such rules and regulations as may be prescribed by the State Relief Commission, and in the expenditure of such funds, the Commissioners' Court or other governing body may act free from the County Board in all matters except as to the employment of labor which shall be supplied by the County Board. At least ninety-five per cent of the State funds granted by this Section shall be used for the purpose of paying for labor of unemployed persons who are eligible for work under the provisions of this Act, and an amount not to exceed five per cent of the funds granted by this Section may be used for the purchase of materials, tools and supplies; provided, however, that nothing herein shall be construed as prohibiting the use of any funds received from the U. S. Public Works Administration for the furnishing of material, tools, supplies, and for other purposes.

[Cooperation of state agencies in formulating plans for work projects—limitation on amounts expended for materials and equipment]

Sec. 14. The State Director and/or Commission are hereby authorized to cooperate with other agencies and/or departments of the State Gov-

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ernment in formulating plans for other feasible work relief projects. The State Reclamation Engineer, State Water Engineers, State Forester, all State Educational Institutions and all other departments and agencies of the State government are hereby instructed and required to cooperate with the State Director and Commission in formulating plans for work projects and it is their duty to furnish to said Commission all information and data and to provide all technical reports desired concerning any matter under the control of such department, provided, however, in no event shall any of the funds derived from the sale of bonds be used for the purpose of securing any technical reports which may be supplied by any existing department of State government; and provided further that in no event shall an amount in excess of five per cent of the funds expended on any project be used for the purchase of materials and/or equipment for such project whatever.

[Hospitalization in emergency cases]

Sec. 15. The Texas Relief Commission is hereby authorized to use not more than one per cent (1%), or so much thereof as may be necessary, of the proceeds of the Texas Relief Bonds for the payment of hospital bills. Provided, however, that such hospital bills shall not be in excess of Two Dollars and Fifty Cents (\$2.50) per day per patient. Such hospitalization shall be authorized only in emergency cases where special attention is essential to the preservation of life and such care cannot be adequately administered in the homes of the patients or in the doctor's private offices. Provided that no funds shall be used in counties having either county or city hospitals.

[Distribution of food and clothing]

Sec. 16. The Texas Relief Commission is hereby authorized to use not to exceed one per cent (1%) or so much thereof as may be necessary, of the proceeds of the Texas Relief Bonds for the purpose of distributing food and/or clothing supplied by any agency of the Federal and/or State government, in instances where the Federal government will not bear the cost of such distribution.

[Allocation of relief funds to counties]

Sec. 17. The Texas Relief Commission shall allocate to the several counties the sums to be received by such counties, which allocations shall be made upon applications for both work relief and direct relief and a statement shall be made available by such Commission to the Press, once each month showing the total amount of funds allocated to each county in the State. No portion of said funds shall be expended by any private or unofficial agency.

[Records and data of Rehabilitation and Relief Commission to be turned over to Relief Commission]

Sec. 18. All records, papers, accounts, data, books and documents belonging to the present Texas Rehabilitation and Relief Commission shall be turned over to the Texas Relief Commission immediately upon the appointment and qualification of its members, or a majority thereof, and all such records, papers, accounts, data, books and documents shall be kept by the Texas Relief Commission, and shall become a part of the records of said Texas Relief Commission. At the expiration date of this Act, all the records of the Texas Relief Commission shall be delivered to the Secretary of State and preserved by the Secretary of State as public records.

[Nepotism]

Sec. 19. None of the funds herein appropriated nor any of the funds arising from the sale of the Bonds shall be used to pay the salary of any

employee of the Texas Relief Commission who is related by blood or marriage within the second degree to the Head of any Department of the State Government or to any member of the Legislature or to any member of the Texas Relief Commission, and no person so related shall be employed by the Texas Relief Commission. [Acts 1933, 43rd Leg., 1st C. S., p. 118, ch. 37.]

Section 11 of Acts 1933, 43rd Leg., 1st C. S., p. 118, ch. 37 is published as art. 5190a; sections 20 and 21 being penal provisions are published as Penal Code, art. 107c. Section

22 provides that any decision that any section, clause or sentence of this act is unconstitutional shall not affect the remainder.

TITLE 24—BUILDING AND LOAN ASSOCIATIONS

Art. 881a—21a. Reorganization

Any building and loan association heretofore or hereafter organized under the laws of this State shall have the power in any special meeting called for that purpose, to reorganize the association and provide for the transaction of its future business under the provisions of this Act by a vote of two-thirds of the shares of the members of the association who vote at such meeting; and no such meeting shall be called for such purpose nor shall such plan be submitted to the shareholders unless and until the plan shall have first been approved and adopted by a majority of the directors of such association, called for the purpose of considering the adoption of such plan, notice of such meeting shall be given by mailing such notice from the home office of such association to each shareholder at least thirty days prior to the date of such meeting in a sealed envelope, postage paid, addressed to the shareholder at the last known address, and such meeting shall be otherwise provided for and conducted as shall be provided in such plan; in addition to sending out notice as provided for by mail in this Section to the shareholders of such association, notice of the proposed re-organization shall be advertised for four weeks consecutively at least once a week in a newspaper published and circulated in the municipality in which the association is located, which advertisement shall be signed by the Secretary of the association and shall state the time and place and the purpose for which such meeting is called; provided, however that shareholders may vote in person, by proxy or by mail and that all votes shall be cast by ballot and the Banking Commissioner or any examiner; deputy, assistant deputy or clerk so designated by said Banking Commissioner, shall supervise and direct the method and procedure of said meeting and appoint adequate inspectors to conduct the voting of such meeting, who shall have power to determine all questions of the verification of the ballots, the ascertainment of the validity thereof, the qualification of the voter and the canvas of the vote and to certify to the Banking Commissioner and to the Association the result thereof and with respect thereto shall act under such rules and regulations as shall be prescribed by the Banking Commissioner; that all necessary expenses incurred by the Banking Commissioner shall be paid by the Association as certified to by him. The plans of reorganization may provide for re-incorporation under the existing corporate name, or under a different name, and in addition to all other lawful provisions may provide for the exchange of shares in the association for shares of the same or a different class in the reorganized association, and may fix the time or times prior to which notice of withdrawal of such shares so issued in exchange for shares in the association being reorganized shall not be given, and if the withdrawal of such shares is so postponed, such fact shall be printed or stamped upon the face of the certificates and/or pass-books evidencing shares so to be issued. The reorganization of such building and loan association shall not prejudice the right of any creditor of any such association to have payment of his debt out of the assets and property thereof, nor shall any

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creditor be thereby deprived of or prejudiced in any right of action then existing against the officers or directors of said association for any neglect or misconduct; all obligations to any such prior association shall inure to the benefit of the reorganized association and enforceable by it and in its name, and demands, claims and rights of action against any such association may be enforced against it as fully and completely as they might have been enforced theretofore; and all deeds, notes, mortgages, contracts, judgments, transactions and proceedings whatsoever theretofore made, received, entered into, carried on or done by such association before such re-incorporation shall be as good, valid, and effectual in law as though such association had continued to operate under its original certificate of incorporation. The privilege of reorganization is likewise extended to building and loan associations that are now or may hereafter be in the course of voluntary or involuntary liquidation; and providing further, that no reorganization provided herein shall take effect until the terms and conditions have been approved by the Banking Commissioner of Texas, or by the court in which the receiver was appointed, if the Association sought to be reorganized is being conducted under a receivership, and until a copy of the resolution, certified by a majority of the board of directors of such association, or by the receiver, shall be filed with said Banking Commissioner of Texas, and recorded in the same manner provided for amendments to charters; and provided further, in order that equity may be done all members of such association, in the event of reorganization, merger, consolidation, or liquidation of an association, all pending withdrawal applications shall be cancelled." [Acts 1932, 42nd Leg., 3rd C. S., p. 34, ch. 18, § 2.]

Section 8 of Acts 1932, 42nd Leg., 3rd C. S., p. 34, ch. 18, provides that if any provision of the act is declared unconstitutional, such decision shall not affect the remainder of the act.

Art. 881a—26. Restrictions on taking, holding and conveying real estate

Every parcel of real estate acquired by any such association shall be sold by it within five years of the date on which it shall have been acquired unless (a) there shall be a building thereon occupied by it as an office; or (b) the Banking Commissioner of Texas on application of the board of directors shall have extended the time within which such sale shall be made. Any association by resolution of its Board of Directors may sell, convey, issue, improve, repair, mortgage, or exchange for other real estate any real property lawfully acquired by it; such sales or exchange to be effected on such terms and conditions as the board may consider appropriate and advantageous in each case provided, however, if such exchange involves the payment by the association of any difference in value, such transaction must be approved by a unanimous vote of the Directors present at the meeting to which such transaction is presented; and provided, further, that any association in partial or full payment and settlement of the price and consideration of any sales made of real estate belonging to it, and acquired by foreclosure or otherwise, may accept the unpledged shares of said association at a value not greater than the withdrawal value of such shares; and provided further, that the sale price of such real estate shall not be less than the book value thereof; and provided further, that a correct and accurate list, together with street address and description of all the real estate owned by the Association, upon which it is willing to accept its own shares in partial or full payment of the sales price therefor, shall be kept in the home office of the Association and be open to the inspection of any shareholder of such Association at any time during the regular hours of business of such Association, and provided, further, that whenever the aggregate of real property acquired by the Association in satisfaction of debts previously contracted in the course of its business by foreclosure, or otherwise, becomes a burdensome asset, the board of directors, acting with the approval of the Banking

Commissioner and under such rules as may be prescribed by him, may segregate such real estate assets of the association and convey them in trust or to a holding corporation, reducing the share liability of the Association in a total amount equal to the total book value of the real property so conveyed and distributing to all of the members trust certificates or shares in the holding company, as the case may be, for their proportionate interest in such real property, in the manner as provided in Section 57 of this act relating to the reduction of liability to members. No building and loan association shall enter or at any time carry on its books the real estate and building or buildings thereon, used by it as a place of business, at a valuation exceeding their actual cost to such association, unless such additional valuation has been specifically approved in writing by the Banking Commissioner of Texas. No real estate taken by such association in satisfaction of debts previously contracted in the course of its business or purchased at sales under judgments, decrees or mortgages held by it shall be entered or carried on its books at a value in excess of the amount due the association, including principal, interest, premium, advances of taxes and insurance, attorney's fees and court costs, less the withdrawal value of the shares pledged as security for such debt, unless permanent improvements have been made thereon and the value of the property as improved shall have been determined by a written appraisal made in accordance with the manner governing original appraisals as specified in Section 12 of this Act. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 27, as amended Acts 1932, 42nd Leg., 3rd C. S., p. 34, ch. 18, § 3.]

Effective Sept. 20, 1932. See note to art. 881a—21a.

Art. 881a—37. Investments of funds

Subject to the provisions of this Act, any building and loan association may invest the funds by it as follows:

1. In loans to its members, either with or without premium as the borrower may in writing agree to pay. The manner in which said premium, if any, shall be paid shall be prescribed in the by-laws.

(a) Borrowers shall be required to execute their note or obligation payable directly to the association, and to transfer and pledge to the association installment shares of the association having matured value at least equal to the amount of such loan, and further secured by a mortgage or deed of trust on improved real estate, unincumbered except by prior liens held by such association. No loan made to a member upon real estate security shall exceed in amount two-thirds of the appraised valuation of such real estate, such appraisal to be made in writing by an appraiser or a committee of appraisers appointed by the Board of Directors, which appraisal report shall state the conservative value of the real property and the improvements separately and which report shall be filed as a permanent record of such association.

(b) Upon their note or obligation payable directly to the association, secured by the transfer and pledge to the association, of installment shares having a matured value at least equal to the amount of such loan, and further secured by a first mortgage or deed of trust lien upon improved real estate by the terms of which dues paid by the borrower may by his direction, be immediately, or at stated periods as agreed upon with borrower, applied in reduction of his indebtedness; and provided further, that said loan shall not exceed two-thirds of the conservative appraised valuation of the real estate securing such loan, the value of the real estate being determined in accordance with terms and in the manner herein expressed. Provided, however, that the installment shares pledged under (a) and (b) above shall require a minimum dues payment of 25¢ per month per \$100.00 share; provided, further that subject to the approval of the Commissioner, the number of payments of dues, interest and premium required from the borrowing shareholder to pay off his loan and secure a release may be limited to such a definite number as their

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by-laws provide; (c) upon their note or obligation, payable in monthly installments directly to the association, said installment on principal to be not less than \$2.50 per \$1,000.00 of the amount of loan, secured by first mortgage or deed of trust lien upon improved real estate; and provided further, that said loan shall not exceed two-thirds of the conservative appraised valuation of the real estate securing such loan, the value of said real estate being determined in accordance with terms and the manner herein expressed. (d) Upon their notes secured by the transfer and pledge to the association of its free shares, no such loan or loans to exceed an amount equal to ninety per cent of the withdrawal value of such shares pledged for security. All such notes and mortgages taken by any such association from its members shall be deemed to obligate the maker to the performance of the provisions of this Act and by-laws of the association relating to payment of loans, premiums, interest, dues, fees and fines, although the same may not be fully expressed therein. Such association may advance such sums from time to time for the payment of insurance premiums and taxes due and owing on real estate upon which it has loaned money and to carry such advances upon its books as an asset of the association; and such association shall have a good and valid lien against such real estate and pledged shares to secure the payment of funds so advanced. (e) On first mortgages secured by improved real property worth 50 per cent more than amount of lien and which may be repaid in monthly installments as may be provided in the deed of trust, or other liens or contracts.

2. In real property as follows: (a) Any building and loan association on having assets of five hundred thousand dollars or more may, with the approval of the Banking Commissioner of Texas permanently invest a portion of its funds in the purchase of lands and the erection of buildings for the purpose of providing offices for the transaction of its business from portions of which are not required for its own use, a revenue may be derived, provided that the amount so invested shall not exceed five per cent of all other assets of such association; (b) such real estate as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business; (c) such real estate as it shall purchase at sales under foreclosure at any sheriff's or other judicial sale, or at any other sale, public or private, upon which real estate the association may have or hold any mortgage lien, or other encumbrance or in which the association may have any interest for the purpose of collecting any debt due it; for the protection of its interest in such real estate. Real estate may be acquired and sold in accordance with the provisions of Section 27 hereof.

3. If at any time it has funds in the treasury applicable for loans, which funds are deemed to be in excess of the amount needed for loans to its members and for the payment of matured shares and withdrawals, such association may invest its funds (a) in loans to non-members upon improved real estate, secured by first mortgage liens upon such security in an amount not to exceed fifty per cent of the conservative appraised value of such real estate, the value to be determined in the manner provided in this Section; (b) in bonds, debentures, securities and other obligations of a Federal Home Loan Bank, and such other securities as are authorized to be accepted by savings banks and savings departments of state banks in this State; (c) in temporary loans to other building and loan associations incorporated under this Act; such loans to be made only when approved by the Banking Commissioner of Texas. No loans shall at any time be made to members, or others, on personal security or on lease-holds. At no time shall the aggregate amount of funds invested by such association in the loans and securities authorized under subdivision three of this Section exceed twenty per cent of the gross assets.

4. A reasonable amount of furniture and fixtures, against which must be charged a sufficient annual depreciation.

5. It shall be lawful for any building and loan association heretofore or hereafter incorporated under the laws of this State, to become a member of the Federal Home Loan Bank, organized or to be organized in the Federal Home Loan Bank District in which such association is located, (or of the Bank of a district adjoining such district, if demanded by convenience), under the provisions of the Act of Congress known as the "Federal Home Loan Bank Act", approved July 22, 1932; and such building and loan association may subscribe for, purchase, hold and surrender, from time to time, such amounts of the capital stock of such Federal Home Loan Bank as such association may deem advisable, and do such other things as may be required under said "Federal Home Loan Bank Act," or any amendment thereto, in order to obtain and continue such membership; and to assume all the duties, obligations, responsibilities and liabilities and become entitled to all the benefits provided in said "Federal Home Loan Bank Act." [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 38, as amended Acts 1932, 42nd Leg., 3rd C. S., p. 34, ch. 18, § 4.]

Art. 881a—43. Power to borrow money

Building and loan associations may borrow money for any of its corporate purposes when authorized by proper resolution of its Board of Directors, such loans not to exceed, however, twenty per cent of the accumulated capital and in no event to exceed five hundred thousand dollars, unless such excess loan over twenty per cent or over \$500,000.00 be first approved by the Banking Commissioner of Texas; provided, however, that any loans made by such Association from the Federal Home Loan Bank or from the Reconstruction Finance Corporation or from any other corporation or agency established under authority of the United States Government (except National Banks) may be consummated by such association without obtaining the approval of the Banking Commissioner regardless of the restrictions fixed by this Act. No loan, except such as may be made from the Federal Home Loan Bank or from the Reconstruction Finance Corporation or similar Federal agency, shall be made for a longer period than two years. Associations are authorized and empowered to assign and pledge its notes, mortgages or other property, and to repledge the shares of stock pledged as collateral security (without securing the consent of the owner thereto), as security for the repayment of its indebtedness for money borrowed. Any pledges or other lawful holder of any note or other evidence of indebtedness due to an association, shall have the right to enforce, in his own name or in the name of the Association, all appropriate remedies to enforce collection, whether or not the stock described in connection with said note be held by such pledgee or holder. Any obligation incurred or loan made by an association shall constitute a claim against the corporate assets, and shall be payable in advance of, and by preference over, all claims or rights of the shareholders in any of the assets of said association, and shall prime and outrank particularly any demand or application for the withdrawal or cancellation of all classes of shares in said association. No association shall have authority to issue its own bonds or debentures against its mortgage loans. Such association may issue its evidence of indebtedness therefor; and such association may borrow from and lend to like associations upon the approval of the Board of Directors of both the borrowing and lending associations, together with the approval of the Banking Commissioner of Texas. Whenever the Banking Commissioner of Texas shall deem any indebtedness incurred under the provisions of this section other than that owing to the Federal Home Loan Bank, the Reconstruction Finance Corporation or any other governmental agency to be detrimental to the interest of the shareholders of any such association, he shall notify such association to reduce its indebtedness to such amount as shall be

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considered reasonable, giving such association a reasonable time in which to effect such reduction of indebtedness. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 44, as amended Acts 1932, 42nd Leg., 3rd C. S., p. 34, ch. 18, § 5.]

Art. 881a—46. Withdrawals

No building and loan association shall permit any member to withdraw any portion of his investment in excess of \$100.00 in any one month without thirty days written notice to the association, and any withdrawal must be made subject to the provisions of the by-laws with respect thereto, providing, however, that whenever the association has on hand idle funds it may pay same out to its members when and as may be determined by the Board of Directors, and provided in by-laws approved by the Banking Commissioner of Texas. The withdrawing shareholder or the legal representative of any deceased shareholder, when funds are on hand applicable to his request for withdrawal, shall be paid the amount of the withdrawal value of the shares, provided, that upon withdrawal of shares pledged to the association for a stock loan, the association shall first deduct therefrom the indebtedness due the association, and withdrawals in excess of \$100.00 shall be paid in the order of their filing except as hereinafter provided, and it shall be the duty of the secretary or other officer discharging such duties to enter upon each notice the order and date of filing. Not more than one-half of the 'net receipts' of the association in any month shall be applied to the payment of withdrawals and maturities without the consent of the board of directors. By the term 'net receipts' is meant the cash receipts of the association obtained from dues, investments, interests, loans repaid to the association, premiums, fees, fines and all other receipts (except borrowed money), less disbursements for all expenses necessary and incidental to doing business, expenses of maintaining and improving foreclosed property, including the payment of taxes and insurance thereon, the payment or renewal of obligations and the creation of reserves needed for the payment of cash dividends.

Whenever the net receipts so made applicable to listed withdrawals and maturities are not sufficient to pay such requests so listed, the Board of Directors may, from time to time, fix maximum amounts to be paid upon each application during any one month; provided that full payment may be made at any time to members whose entire interest in the association amounts to not exceeding \$100.00; providing further, that the Board of Directors may, from time to time, provide that all listed requests for withdrawals shall be paid out of funds made available on a pro rata basis, or, with the approval of the Commissioner of Banking may provide that all funds available for withdrawals shall be apportioned and paid pro rata to all shareholders of the association irrespective of the order of filing.

Notwithstanding the existence of a withdrawal list, the board of directors, as long as there are debts owing by the association, may use all or any part of the funds and current receipts for the payment of such debts; provided, however, that after allowance for due and past due indebtedness of the Association, one-half of the 'net receipts' of the Association in any one month shall be applied to the payment of withdrawals and maturities when there are maturities or requests for withdrawals on file.

After filing notices of withdrawal provided herein, the withdrawing member shall be entitled, if so provided in the by-laws, to the dividends credited to the same class of shares until the final payment of his shares is made, and membership in the association shall remain unimpaired so long as any accumulation remains to his credit. The existence of a withdrawal list shall not prevent the making of new loans to new or continuing members, and the board of directors, in its discretion, may borrow

money to be used solely for the purpose of making mortgage loans to the members of the Association, in which event all of such amount of borrowed money may be exclusively used for the purpose borrowed.

The by-laws and all certificates of shares of stock in any building and loan association operating under the provisions of this title shall expressly provide that withdrawals of subscriptions or funds in said association shall be paid only as and when funds are available out of receipts and income for the purpose. Such association shall not hold out as an inducement to the public or members thereof to purchase share or shares of such stock that such funds may be withdrawn at a time certain upon notice of the shareholder's intention to withdraw such funds. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 47, as amended Acts 1932, 42nd Leg., 3rd C. S., p. 34, ch. 18, § 6.]

Art. 881a—47. Defining withdrawal value

The 'Withdrawal Value' of shares, as that term is used in this Act, shall be the sum of all payments made on the shares, and remaining credited thereto, plus all dividends, if any, credited or allocated thereto on the books of the Association prior to the date of the filing of notice of withdrawal, less all fines, membership fees, withdrawal fees or other unpaid charges; provided that a reasonable portion of the dividends previously credited to the shares or of the earnings previously allocated to the shares, upon cancellation and withdrawal of such shares before maturity, may be retained by the Association and deducted from the withdrawal value of the shares, if the by-laws of the association definitely so provide. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 48, as amended Acts 1932, 42nd Leg., 3rd C. S., p. 34, ch. 18, § 7.]

[Art. 881a—69. Authorizing investment of funds in Federal Home Loan Bank]

That any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, Fraternal Benefit Associations and Societies, or savings bank, or any Loan Company organized under the provisions of Chapter 275 of the Acts of the Regular Session of the 40th Legislature, now organized or hereafter to be organized, which is eligible to become a member of a Federal Home Loan Bank, in compliance with the provisions of the Act of Congress known and cited as the "Federal Home Loan Bank Act" shall be and is hereby fully authorized and empowered to subscribe for the stock of the Home Loan Bank for the district in which it is located, and to invest its funds in such stock, for the purpose and to the extent required by the provisions of the Federal Home Loan Bank Act for the qualification of members therein. [Acts 1932, 42nd Leg., 3rd C. S., p. 32, ch. 17, § 1.]

TITLE 25—CARRIERS

[Art. 911b. Motor carriers and regulation by Railroad Commission]

Sec. 13. Before any permit or certificate of public convenience and necessity may be issued to any motor carrier and before any motor carrier may lawfully operate under such permit or certificate as the case may be, such motor carrier shall file with the Commission bonds and/or insurance policies issued by some insurance company including mutuals and reciprocals or bonding company authorized by law to transact business in Texas in an amount to be fixed by the Commission under such rules and regulations as it may prescribe, which bonds and insurance policies shall provide that the obligor therein will pay to the extent of the face amount of such insurance policies and bonds all judgments which may be recovered

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against the motor carrier so filing said insurance policies and bonds, based on claims for loss or damages from personal injury or loss of, or injury to property occurring during the term of said bonds and policies and arising out of the actual operation of such motor carrier, and such bonds and policies shall also provide for successive recoveries to the complete exhaustion of the face amount thereof and that such judgments will be paid by the obligor in said bonds and insurance policies irrespective of the solvency or insolvency of the motor carrier, provided, however, such bonds and policies shall not cover personal injuries sustained by the servants, agents or employees of such motor carrier. Provided further that in the event the insured shall abandon his permit or certificate and leave the State, a claimant, asserting a claim within the provisions of said bonds or policies, may file suit against the sureties executing such bond or the company issuing such policies in a court of competent jurisdiction without the necessity of making the insured a party to said suit. Provided, however, that the Commission shall not require insurance covering loss of or damage to cargo in amount excessive for the class of service to be rendered by any motor carrier. Each such motor carrier shall, on or before the date of the expiration of the term of any policy or bond so filed by him, file a renewal thereof, or new bonds or policies containing the same terms and obligations of the preceding bonds and policies, and shall each year thereafter on or before the expiration date of the existing bonds and policies, file such renewal policies and bonds so as to provide continuous and unbroken protection to the public having legal claims against such motor carrier, and in the event such renewal bonds and policies are not so filed, the Commission, after notice to the motor carrier, and hearing, may, within its discretion if it shall find and determine that the ends of justice will be better subserved thereby, cancel such permit or certificate for failure to furnish and provide such bonds or insurance as herein required.

Each motor carrier shall also protect his employees by taking out workmen's compensation insurance, either as provided by the Workmen's Compensation Laws of the State of Texas, or in a reliable insurance company authorized to write workmen's compensation insurance approved by the Commission. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1929, 41st Leg., 2nd C. S., p. 38, ch. 24; Acts 1931, 42nd Leg., p. 480, ch. 277; Acts 1933, 43rd Leg., p. 135, ch. 65.]

Sec. 17. (a) For the purpose of defraying the expense of administering this Act, every common carrier* motor carrier now regularly operating, or which shall hereafter regularly operate in this State, shall at the time of the issuance of a certificate of convenience and necessity, unless otherwise provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special fee of Ten (\$10.00) Dollars, for each motor propelled vehicle operated or to be operated by such motor carrier in the carriage of property. If the certificate of convenience and necessity herein referred to is issued after the month of September of any year the fee paid shall be prorated to the remaining portion of the year ending August 31st following, but in no case less than one-fourth ($\frac{1}{4}$) the annual fee. In case of emergency or unusual temporary demands for transportation the fee for additional motor propelled vehicles for less period shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order. Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the certificate of convenience and necessity be granted or not. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 18.]

(b) Every application filed with the Commission for an order approving the lease, sale or transfer of any certificate of convenience and neces-

sity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.-00) Dollars, which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale or transfer of the certificate of convenience and necessity is approved or not.

(c) All fees except the fee provided in Section 5 of this Act accruing under the terms of this Act and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasury at Austin and credited to a fund to be known and designated as the "Motor Carrier Fund," which fund is appropriated for the purpose of carrying out the terms of this Act and out of which all warrants and expenditures necessary in administering and enforcing this Act shall be paid. [Acts 1929, 41st Leg., p. 698, ch. 314.]

* [Common carrier in section 17 seems superfluous.]

TITLE 28—CITIES, TOWNS AND VILLAGES

Art. 1027. [924] [485] Ad valorem tax

Acts 1932, 42nd Leg., 3rd C. S., p. 113, ch. 45, § 1, validates all levies of ad valorem taxes and declares them enforceable the same as though they had been made and adopted originally in compliance with the law or special charters under which said cities may operate.

Art. 1028. Ad valorem tax in large cities

Acts 1932, 42nd Leg., 3rd C. S., p. 113, ch. 45, § 1, and Acts 1933, 43rd Leg., p. 626, ch. 210, validate all levies of ad valorem taxes and declares them enforceable the same as though they had been made and adopted originally in compliance with the law or special charters under which said cities may operate.

Art. 1109a. Cities may mortgage

Sec. 1. All cities having more than one hundred and sixty thousand (160,000) inhabitants shall have power to issue bonds or notes therefor, and to secure payment thereof, to mortgage and encumber any such water system, and the incomes thereof and everything pertaining thereto.

And to purchase or otherwise acquire additions to, or extensions or enlargements of any such water systems, or additional water powers, riparian rights, or repair of such systems, or either of them; all cities having more than one hundred and sixty thousand (160,000) inhabitants shall have power to issue bonds and notes therefor, and to secure payment thereof, to mortgage and encumber such additions, extensions, enlargements, additional water powers, riparian rights, the income therefrom, and everything pertaining thereto, either separately or with such systems, or either of them.

And as additional security therefor, by the terms of such encumbrance, may grant to the purchaser, or purchaser under any sale or foreclosure thereunder, a franchise to operate the system and properties so purchased, for a term not over twenty (20) years after such purchase, subject to all laws regulating the same then in force.

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

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tem shall ever be used to pay any other debt, expense or obligation of such city, until the indebtedness so secured shall have been finally paid.

Sec. III. All cities acquiring a water system, or any addition, improvement or extension thereto, under this Act, may borrow money on the security of the plant, or addition or extension, so acquired, or owned, for the purpose of paying the purchase price and for the addition, improvement and extension thereof, and may issue bonds, notes or other obligations to evidence the moneys so borrowed, which bonds, notes or other obligations shall have the characteristics of negotiable instruments under the law merchant. Every contract, bond, or note executed or issued under this Act 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." No such obligation shall ever be a debt of such city, but solely a charge upon the properties so encumbered, and shall never be reckoned in determining the power of such city to issue bonds for any purpose authorized by law.

Sec. IV. The management and control of any such system or systems during the time same are encumbered, may by the terms of such encumbrance be placed in the hands of the city council of such city; but if deemed advisable may be placed in the hands of a board of trustees to be named in such encumbrance, consisting of not more than five (5) members, one of whom shall always be the mayor of such city; and the compensation of such trustees shall be fixed by such contract, but shall never exceed five per cent (5%) of the gross receipts of any such systems in any one year. The terms of office of such board of trustees, their powers and duties, the manner of exercising same, the election of their successors, and all matter pertaining to their organization and duties may be specified in such contract of encumbrance; but in all matters where such contract is silent, the laws and rules governing the council of such city shall govern said board of trustees so far as applicable. Said city council or board of trustees having such management and control shall have power to make rules and regulations governing the furnishing of service to patrons and for the payment for same, and providing for discontinuance of such service to those failing to pay therefor when due until payment is made; and such city council shall have power to provide penalties for the violation of such rules and regulations and for the use of such service without the consent or knowledge of the authorities in charge thereof, and to provide penalties for all interference, trespassing or injury to any such systems, appliances or premises on which same may be located.

Sec. V. Any contract of encumbrance under this Act may name, or provide for the selection of a trustee to make sale upon default in the payment of the principal or interest according to the terms of such contract, and for the selection of his successor, if disqualified or failing to act, and may provide for collection fees not exceeding five per cent (5%) of the principal; but no collection fees shall accrue, and no foreclosure proceedings shall be begun in any court or through any trustee, and no option to mature any part of such obligation, because of default in payment of any installment of principal shall be exercised until ninety (90) days written notice shall be given to each member of the city council of such city and to each member of such board of trustees, if any, that payment has been demanded and default made, which notice shall date from the sending of a letter to each person to be notified, by registered mail, postage and registration fees prepaid, and addressed to them at the post office in such city; and if the installments of principal and interest then due shall be paid before the expiration of said ninety (90) days, together with the interest prescribed in such contract, not exceeding ten per cent (10%) per annum, from the date of default until the date of payment, it shall have like effect as if paid on the date same was originally due.

Sec. VI. In the encumbrance of any properties under this Act such

city may encumber any such water systems, or any extensions, additions or enlargements thereof, singly or together, and may or may not include in such encumbrance the franchise provided for, and may omit or include in said encumbrances the whole or any part of the properties mentioned in Section I of this Act; but no such system shall ever be sold until such sale is authorized by a majority vote of the qualified property taxpayers of such city; or under the terms of any such mortgage or encumbrance, nor shall same be encumbered for the purchase money or original cost, until authorized in like manner; such vote in either case to be ascertained at an election, of which notice shall have been given in like manner as cases of the issuance of municipal bonds by such cities.

All obligations herein authorized to be issued under Section I of this Act shall be submitted to the Attorney General for examination, and upon his approval as to the form thereof, shall be registered by the Comptroller in a book kept for that purpose; the Comptroller shall endorse his certificate of registration on each such obligation.

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

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

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

Provided, further, that all obligations of said last mentioned cities authorized under Section 1 of this Act shall be submitted to the Attorney General of Texas for his examination and when such bonds have been examined and certified as legal obligations of such cities by said Attorney General they shall be registered by the Comptroller of Texas in a book kept for such purposes, and the Comptroller shall endorse his certificate of registration upon each of such obligations.

Provided, further, that nothing in this Act, however, shall repeal or effect any other legislation pertaining to the same or similar subjects, but shall be cumulative of all Acts granting the power to all cities and towns, including home rule cities, operating under Title Twenty-Eight (28) of the Revised Civil Statutes of 1925, and it is not intended to limit or impair any power given by any other of such acts, nor shall any other Act be deemed to limit or impair the power of any city under this Act. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 113, ch. 36, § 1.]

Art. 1111. Powers

All cities and towns including Home Rule Cities operating under this title shall have power to build and purchase, to mortgage and encumber their light systems, water systems, sewer systems, or sanitary disposal equipment and appliances, or natural gas systems, parks and/or swim-

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ming pools, either, or all, and the franchise and income thereof and everything pertaining thereto acquired or to be acquired and to evidence the obligation therefor by the issuance of bonds, notes or warrants, and to secure the payment of funds to purchase same; or to purchase additional water powers, riparian rights, or to build, improve, enlarge, extend or repair such systems, or any one of them, including the purchase of equipment and appliances for the sanitary disposal of excreta and offal, and as additional security therefor, by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereunder, a franchise to operate the systems and properties so purchased for a term of not over twenty (20) years after purchase, subject to all laws regulating same then in force. No such obligation of any such systems shall ever be a debt of such city or town, but solely a charge upon the properties of the system so encumbered, and shall never be reckoned in determining the power of any such city or town to issue any bonds for any purpose authorized by law. [As amended Acts 1927, 40th Leg., p. 276, ch. 194; Acts 1932, 42nd Leg., 3rd C. S., p. 96, ch. 32; Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1112. Vote, etc.

No such light, water, sewer, or natural gas systems, parks and/or swimming pools, shall ever be sold until such sale is authorized by a majority vote of the qualified voters of such city or town; nor shall same be encumbered for more than Five Thousand (\$5,000.00) Dollars, except for purchase money, or to refund any existing indebtedness lawfully created, until authorized in like manner. Such vote in either case shall be ascertained at an election, which election shall be held and notice thereof given as is provided in the case of the issuance of municipal bonds by such cities and towns. [As amended Acts 1927, 40th Leg., p. 276, ch. 194; Acts 1932, 42nd Leg., 3rd C. S., p. 96, ch. 32; Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1113. Income [records, reports, penalty]

Whenever the income of any light, water, sewer, or natural gas systems, parks and/or swimming pools, shall be encumbered under this law, the expense of operation and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such incomes. Provided, that only such repairs and extensions, as in the judgment of the governing body of such city or town, are necessary to keep the plant or utility in operation and render adequate service to such city or town and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the original securities, shall be a lien prior to any existing lien. The rates charged for services furnished by any such system shall be equal and uniform, and no free service shall be allowed except for city public schools or buildings and institutions operated by such city or town. There shall be charged and collected for such services a sufficient rate to pay all operating, maintenance, depreciation, replacement, betterment and interest charges, and for interest and sinking fund sufficient to pay any bonds issued to purchase, construct or improve any such systems or any outstanding indebtedness against same. No part of the income of any such system shall ever be used to pay any other debt, expense or obligation of such city or town, until the indebtedness so secured shall have been finally paid.

It shall be the duty of the Mayor of such city or town to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the free service rendered, and the value thereof, and showing separately the amounts expended and/or set aside for operation, salaries, labor, materials, repairs, maintenance, deprecia-

tion, replacements, extensions, interest, and the creation of a sinking fund to pay off such bonds and indebtedness.

It shall likewise be the duty of the superintendent or manager of such plant to file with the Mayor of such city or town, not later than February first, a detailed report of the operations of such plant for the year ending January first preceding, showing the total sums of money collected and the balance due, as well as the total disbursements made and the amounts remaining unpaid as the result of operation of such plant during such calendar year.

Failure or refusal on the part of the Mayor to install and maintain, or cause to be installed and maintained, such system of records and accounts within ninety (90) days after the completion of such plant, or on the part of such superintendent or manager, to file or cause to be filed such report, shall constitute a misdemeanor and, on conviction thereof, such Mayor or Superintendent or manager shall be subject to a fine of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars; and any taxpayer or holder of such indebtedness residing within such city or town shall have the right, by appropriate civil action in the District Court of the County in which such city or town is located, to enforce the provisions of this Act as amended. [As amended Acts 1927, 40th Leg., p. 276, ch. 194; Acts 1932, 42nd Leg., 3rd C. S., p. 96, ch. 32; Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1114. Notes, etc.

Every contract, bond, note or other evidence of indebtedness issued or included under 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 such cities or towns. In such case, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds. [As amended Acts 1933, 43rd Leg., p. 320, ch. 122.]

[Art. 1114a. Self-liquidating]

Projects financed in accordance with this law are hereby declared to be self-liquidating in character and supported by charges other than by taxation. [Acts 1933, 43rd Leg., p. 320, ch. 122.]

[Art. 1114b. Conflicting laws repealed]

All laws and parts thereof, in conflict herewith, are hereby repealed to the extent of the conflict, and this law shall take precedence over all conflicting city charter provisions. [Acts 1933, 43rd Leg., p. 320, ch. 122.]

[Art. 1114c. Ordinances, resolutions, and securities validated]

The actions of all cities and towns and of all officials in passing ordinances, adopting resolutions, executing securities and delivering securities to accomplish the objects permitted under this Act are hereby expressly authorized and validated in like manner as if this law had been effective at the time of such actions, subject to the provisions of Section 5. [Acts 1933, 43rd Leg., p. 320, ch. 122.]

[Art. 1118a. Mortgage of gas, water, light or sewer systems by cities and towns]

Sec. 2a. That notwithstanding any of the provisions of House Bill No. 312, Chapter 163, Acts of the 42nd Legislature, 1931, the requirements of said House Bill No. 312, Acts 42nd Legislature, 1931, Chapter 163, with reference to notice, competitive bids, and the right to referendum, shall not apply to cities and towns acting under the authority conferred in this

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Act, until after June 1, 1934, instead of until after June 1, 1932, as provided in House Bill No. 312, Chapter 163, Acts 42nd Legislature, 1931. [Acts 1932, 42nd Leg., 3rd C. S., p. 46, ch. 20, as amended Acts 1933, 43rd Leg., p. 106, ch. 53.]

[Art. 1118b. Bonds and proceedings validated]

Sec. 1. That where the governing body of any city or town, owning and operating its light system and gas system, or water system and gas system, or sewer system and gas system, has authorized and/or issued bonds to purchase any one of such systems or to purchase additional water powers, riparian rights, or to build, improve, enlarge, extend or repair said systems, or any one of said systems, under authority of Chapter 314, of the General Laws passed by the Forty-second Legislature, at its Regular Session in 1931, and as security therefor has mortgaged and encumbered any one or more of its gas, water, light or sewer systems and the franchise and income thereof, and everything pertaining thereto, acquired or to be acquired, the ordinance or ordinances of such governing body, prescribing the date and maturity of such bonds, the rate of interest the same were to bear, the place of payment of principal and interest, and appropriating revenues of any such system or systems to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity, having been recorded in the minutes or records of such governing body, and where the mortgage or indenture on the properties comprising such system or systems, to secure payment of said bonds, has been duly executed by the proper officers of said city, and the trustee therein named, and recorded in the proper deed of trust and mortgage records of the county or counties in which are situated the properties of such system or systems so mortgaged and encumbered, and such bonds having been heretofore approved by the Legal Department of the Reconstruction Finance Corporation in Washington, D. C., both as to legality and as being eligible for loan under the Act of Congress authorizing loans to municipalities to aid in financing projects which are self-liquidating in character, known as "Emergency Relief and Construction Act of 1932", all acts and proceedings had and done in connection therewith by the governing body and/or the mayor, city secretary, city treasurer or any other officers of such city or town, and the trustee named in such mortgage or indenture in respect of such bonds, the appropriation and pledge of revenues of any such system or systems, and/or the mortgage or indenture on the properties of any such system or systems to secure payment of such bonds are hereby ratified, confirmed, legalized, approved and validated.

Sec. 2. That sale of said bonds, or any parcel or installment thereof, by the governing body of any such city or town, is hereby ratified, confirmed, legalized, approved and validated, and such bonds, so sold and delivered, are hereby legalized and validated, and constituted the legal obligations upon the properties of such city or town so encumbered in accordance with the terms and provisions of such recorded mortgage or indenture.

Sec. 3. In event any of said bonds, or any parcel or installment thereof, have not been sold, issued, delivered, or put into circulation, power and authority is hereby expressly conferred upon and delegated to the governing body of any such city or town, the mayor, city secretary, city treasurer or other proper officer thereof, and the trustee named in such mortgage or indenture, to discharge and perform all acts and duties necessary in the issuance or sale and delivery of such bonds, and such governing body is hereby further authorized to adopt all other and further orders, resolutions or ordinances necessary in the issuance, sale, delivery and payment of said bonds, or any parcel or installment thereof. [Acts 1933, 43rd Leg., p. 517, ch. 167.]

[Art. 1134a. Incorporation of cities and towns validated]

Sec. 1. All cities and towns in Texas of five thousand (5000) inhabitants or less, heretofore incorporated and/or attempted in good faith to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or under the commission form of government, and which have in good faith functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of irregularities in the petition for election, order for election, notice of election, returns of election, order declaring result of election, or other incorporation proceedings.

Sec. 2. All governmental proceedings performed in good faith by the governing bodies of such cities and towns since their incorporation or attempted incorporation, respectively, are hereby in all respects validated as of the respective dates of such proceedings, and such governmental proceedings shall be effective the same as if such cities and towns had been regularly incorporated in the first instance.

Sec. 3. The provisions of this bill shall affect no city or town now in litigation. [Acts 1933, 43rd Leg., p. 125, ch. 58.]

[Art. 1187a. Construction of bridges over navigable waters]

Sec. 1. Any city in this State, whether organized and operating under general law or under special charter granted by the Legislature of the State of Texas or under charter adopted or amended under Section 5 of Article XI of the Constitution of the State of Texas, which city is situated within the territorial limits of a navigation district organized under the general laws of the State of Texas and having a deep water port located within the limits of said city, may within such city purchase, construct, own, maintain and operate a bridge or bridges over or across any stream, inlet or arm of the Gulf of Mexico or entrance canal to said port connecting up any of the public streets, highways or other thoroughfares of said city and improve, enlarge or repair the same. Any such city may purchase, construct, own, maintain, operate or lease any wharf, pier, pavilion, and/or boat house and dams and dykes and spillways with roads and bridges thereon or thereover for the purpose of creating a fresh water supply for domestic, irrigation and other purposes within such navigation district, or within the county or counties adjacent to such fresh water basin and may acquire, reclaim, reconstruct, or fill in any submerged lands along its water front, may build and construct sea walls, breakwaters or other shore protection to protect its water front of said city, may provide for and construct water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets, or other like improvements in connection with such reconstructed or reclaimed properties and may operate, repair and otherwise maintain the same. And any such city reconstructing or reclaiming any such property may rent, lease or sell the same, or grant franchises for the use of any such reconstructed or reclaimed property and apply the income therefrom in accord with this Act, and may dredge out, construct, reconstruct, maintain and operate any channel in connection with any such deep water port in aid of navigation within said city and subject to the provisions of this Act.

[Ordinances for operation of bridges]

Sec. 2. Any such city may enact all necessary, appropriate and reasonable ordinances providing rules and regulations for the operation of any such bridge or bridges and concerning the manner in which traffic shall move over and across any such bridge or bridges not inconsistent with the General Laws of the State.

[Construction of act]

Sec. 3. This Act shall be construed as cumulative authority for the purposes named herein, and as to the manner and form of issuances of any revenue bonds for any such purpose or purposes, and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intent of this Act to create an additional and alternate method for the purposes named herein.

[Estimating cost of improvement]

Sec. 4. Whenever the governing body of such city shall determine to acquire, construct, improve, enlarge, extend or repair any such bridge or bridges, and/or reclaim or reconstruct, improve, repair, or extend any such dams, dykes and spillways with roads and bridges thereon and thereover, sea walls, breakwaters, shore protection or water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets, wharfs, piers, pavilions, or other like improvements in any such reconstructed or reclaimed area or territory, it shall first cause an estimate to be made of the cost thereof, and thereafter it shall then cause a notice to be published in such city in a newspaper of general circulation once each week for four (4) consecutive weeks stating in said notice the following:

- (1) The contemplated improvement;
- (2) The estimated cost thereof;
- (3) The use or disposition of the reclaimed lands, if any;
- (4) The amount and location of lands to be reclaimed, if any;
- (5) The time when the ordinance authorizing said improvements, and the issuance of the bonds shall be passed or acted upon (which shall be not less than twenty days after the last publication of said notice); and
- (6) Reference shall be made to the right of referendum, as provided for in the next succeeding paragraph.

If by the time set for action upon said ordinance, which shall be not less than twenty (20) days after the last publication of the notice provided for herein, as many as one hundred (100) of the qualified voters of such city whose names appear on the last approved tax rolls as property taxpayers, petition the city council or governing body of such city in writing to submit to a referendum vote the question as to the making of such improvements and the issuance of such bonds for such purposes, then such city, city council or governing body shall not be authorized to make said improvements or issue said bonds unless the proposition making such improvements and issuing such bonds for such purposes is sustained by a majority of the votes cast at such election for such purpose. The law in reference to elections for the issuance of city 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. If such petition is not so filed with the city secretary, or clerk, then the city council or governing body may proceed with the improvements and may issue said bonds, but in the absence of such petition, the city council or governing body may at its discretion submit such question to a vote of the people.

[Bonds for improvement]

Sec. 5. For the purpose of acquiring, constructing, improving, enlarging, extending or repairing any such bridge or bridges, and/or for the purpose of acquiring, constructing, reclaiming, reconstructing, repairing or improving any such dams, dykes and spillways with roads and bridges thereon and thereover sea walls, breakwaters, shore protection, water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets, and other like improvements in such reconstructed or reclaimed area, or territory, any one or all, any such city may borrow money and issue its negotiable bonds, provided that no such bonds shall be issued unless and until authorized by an ordinance which shall set forth a brief description of

the contemplated improvement, the estimated cost thereof, the amount, the maximum rate of interest, time and place of payment and other details in connection with the issuance of such bonds. Such bonds shall bear interest at the rate of not more than six per centum (6%) per annum payable semiannually or otherwise, and shall be payable at such times, not exceeding forty-five (45) years from their date, and at such place or places as shall be prescribed in the ordinance providing for their issuance. The bonds and coupons shall be executed in such manner and shall be substantially in the form provided in the authorizing ordinance. Such bonds shall be sold in such manner and upon such terms as the governing body shall deem for the best interest of the city. In no event shall any of the bonds be sold on a basis to yield more than six per centum (6%) per annum from the date of sale to the date of average maturity of the bonds sold, provided, however, that in any contract for the purchase or construction of any such project or projects as hereinbefore described or for the improvement, enlargement, extension, reclamation, reconstruction or repair of the same, provision may be made that payment therefor may be made in such bonds. Such bonds and their coupons may be made payable in lawful money of the United States of America, or in gold [gold] coin of or equal to the standard of weight and fineness existing on the date thereof. Such bonds shall mature annually and the first installment thereof shall be made payable not less than two (2) years nor more than five (5) years from the date of such bonds. No such installment shall be more than two and one-half times as great in amount as the smallest prior installment of the same issue. If all of the bonds of an issue are not issued at the same time, the bonds at any one time outstanding shall mature as aforesaid. The principal of and interest upon such bonds shall be payable solely from the income and revenues derived from the operation of the bridge or bridges, sea walls, breakwaters, shore protection, water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets and other like improvements including rentals or other charges received from any reclaimed or reconstructed area or territory for the acquisition, construction, improvement, reconstruction, reclamation, enlargement, extension or repair of which the same are issued; provided, however, that where any such city acquires or constructs a bridge or bridges under authority of this Act, and in connection therewith acquires or constructs any sea wall, break waters or other shore protection and reclaims or reconstructs any submerged area or territory and constructs therein or thereon any water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets or other like improvements, any such city, may as additional security for the payment of any bonds issued for the acquisition or construction of any such bridge or bridges, pledge any income or revenues derived from any such projects, and additionally secure the payment of any such bonds with a mortgage on any such project or projects or reclaimed area as hereinafter provided. No bond or coupon issued pursuant to this Act shall constitute an indebtedness of such city within the meaning of any State constitutional or statutory limitation. No such obligation shall ever be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law. It shall be plainly stated on the face of each such bond and coupon that the same have been issued under the provisions of this Act and that it does not constitute an indebtedness of such city within any state constitutional or statutory limitation, and that the holder of such bond shall never have the right to demand payment of such obligation out of any funds raised or to be raised by taxation.

[Security for payment of bonds]

Sec. 6. As security for the payment of the principal of and interest on such bonds, such city may mortgage and encumber any part, parts or all of the properties and facilities for the acquisition, construction, reconstruction, reclamation, repair or improvement of the same such bonds

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were issued, and may provide in such mortgage or encumbrance for a grant to the purchaser under sale or foreclosure thereunder of a franchise to operate the properties and facilities so encumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulating same then in force. The ordinance authorizing the issuance of such bonds shall contain a substantial description of the franchise which is to appear in the mortgage.

[Provision of mortgage as to foreclosure]

Sec. 7. The mortgage or encumbrance shall provide for a trustee to enforce foreclosure and the city shall have the option at any five (5) year period within said twenty (20) years after purchase of properties designated in the franchise, to repurchase said properties under reasonable terms and reasonable prices, to be set forth in said mortgage or encumbrance, but this limitation shall not extend to any reclaimed area acquired by individual purchasers.

[Management of encumbered property]

Sec. 8. The management and control of any such properties and/or facilities so encumbered, during the time they are so mortgaged and encumbered, shall be in the hands of the governing body of the city, except as otherwise provided in Section 29 of this Act. The provisions of this Section and Section 29 hereof shall not apply when there has been a sale on foreclosure under the mortgage in this Act provided for.

[Bonds as legal investments]

Sec. 9. The bonds issued under the provisions of this Act are legal investments for executors, administrators, trustees and other fiduciaries and for savings banks and insurance companies organized under the laws of this State.

[Bonds exempt from taxation]

Sec. 10. Bonds and interest coupons issued hereunder are hereby exempted from any and all State, county, municipal and other taxation whatsoever under the laws of the State of Texas, and it shall be plainly stated on the face of each such bond as follows:

"The principal of and interest on this bond are exempted from any and all State, county, municipal and other taxation whatsoever under the laws of the State of Texas."

[Bonds as negotiable instruments]

Sec. 11. Bonds issued under the provisions of this Act shall have all of the qualities of negotiable instruments under the law merchant and the Negotiable Instruments law.

[Deposit of proceeds of bonds]

Sec. 12. The governing body of any such city issuing any such bonds shall, where practicable, require that the proceeds of the sale of bonds issued under the provisions of this Act be deposited in a special account or accounts in a bank or banks which are members of the Federal Reserve System, and shall require, in so far as practicable, that each such deposit be secured by direct obligations of the United States Government having an aggregate market value at least equal to the sum at the time on deposit, or, in any event, the proceeds shall be deposited in some bank or other depository, either within or without the State, which will secure such deposit satisfactorily to said governing body.

[Use of proceeds of bonds solely for improvements]

Sec. 13. All moneys received from any such bonds shall be used solely for the acquisition, construction, improvement, reclamation, recon-

struction, enlargement, extension or repair of the project or projects for which issued including not more than five (5%) per centum for engineering, legal and other expenses and discounts incident thereto; provided, however, that such moneys may be used also to advance the payment of interest on such bonds during the first three (3) years following the date of such bonds to not more than the contract rate of interest. Provided, that any unexpended balance of the proceeds of the sale of any such bonds remaining after the completion of the project for which issued shall be put immediately into the Bond and Interest Redemption Fund for such bonds, and the same shall be used only for the payment of the principal of the bonds, or, in the alternative, to acquire outstanding bonds of the general issue from which the proceeds were derived, by purchase of such bonds at a price (exclusive of accrued interest) not exceeding the face amount thereof. Any bonds so acquired by purchase shall be cancelled and shall not be reissued.

[Validity of signatures to bonds]

Sec. 14. In case any of the officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery.

[Payment for services rendered city]

Sec. 15. The reasonable cost and value of any service rendered to any such city by any such project or projects shall be charged against the city and shall be paid for monthly or otherwise, as the service accrues, from the current funds, or from the proceeds of taxes which such city, within constitutional limitations, is hereby authorized and required to levy in an amount sufficient for the purpose, and such funds, when so paid, shall be accounted for in the same manner as other revenues of such project or projects.

[Additional bonds for extension of projects]

Sec. 16. Any city acquiring, constructing, reconstructing, reclaiming, improving, enlarging or repairing any project or projects as aforesaid pursuant to the provisions of this Act, may, at the time of the authorization of such bonds for any such purpose or purposes, provide in the authorizing ordinance for additional bonds for extensions and permanent improvements, which additional bonds may be issued and be negotiated from time to time as such proceeds for such purpose may be necessary. Such bonds, when so negotiated, shall have equal standing with the bonds of the same issue.

[Refunding bonds]

Sec. 17. Where a city has outstanding any bonds issued under the provisions of this Act, it may thereafter issue and negotiate new bonds on such terms as the governing body of such city shall deem advisable for the purpose of providing for the payment of any such outstanding bonds. Such new bonds shall be designated "refunding bonds", and shall be secured to the same extent and shall have the same source of payment as the bonds which have been thereby refunded.

[Rates or charges for services]

Sec. 18. Rates or other charges for services and facilities afforded by the project and for sales of reclaimed area shall be sufficient to provide for the payment of the interest upon and principal of all such bonds as and when the same become due and payable, to create a Bond and Interest Redemption Fund therefor, to provide for the payment of expenses of ad-

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ministration and operation and such expenses for maintenance of the project or projects necessary to preserve the same in good repair and working order, to build up a reserve for depreciation of the project or projects, and to build up a reserve for improvements, betterments and extensions thereto other than those necessary to maintain the same in good repair and working order, as herein provided. Such rates and/or charges shall be fixed and revised from time to time so as produce these amounts, and the governing body shall covenant and agree in the ordinance authorizing the issuance of such bonds, and on the face of each bond at all times to maintain such rates and/or charges for services furnished by such project or projects as shall be sufficient to provide for the foregoing.

[Cost of operation as first lien on income]

Sec. 19. The reasonable cost of administration and operation and the reasonable expense of maintaining such project or projects in good repair and working order shall be a first lien and charge against the income and revenues derived from the operation of such project or projects, superior to the lien of the mortgage or encumbrance on such project or projects.

[Operation and maintenance account]

Sec. 20. Out of the gross income and revenues of such project or projects there should be first set aside into an account to be known as the "Operation and Maintenance Account" monthly or oftener if necessary, sums sufficient to meet the cost and expenses set forth in Section 19 hereof. After provision for the "Operation and Maintenance Account" the ordinance authorizing the issuance of such bonds shall make provision for a "Bond and Interest Redemption Fund" into which there shall be set aside monthly or oftener if necessary such portion of the gross income and revenues of such project or projects as shall be sufficient to pay when due the principal of and interest upon the bonds provided, however, that in the segregation and separation of such gross income and revenues the governing body of the city may prescribe a reasonable excess amount to be placed in said Bond and Interest Redemption Fund from time to time during the earlier years of maturities of such bonds so as thereby to produce and provide a reserve fund for contingencies to meet any possible deficiencies therein in maturities of future years.

[Ordinance to determine fiscal year]

Sec. 21. The ordinance authorizing the issuance of such bonds shall definitely determine whether such project or projects shall be operated upon a calendar, operating or fiscal year basis and the dates of the beginning and ending of same.

[Disposition of surplus]

Sec. 22. The governing body of such city may make adequate and suitable provision for the disposition of any surplus accumulations in the Operation and Maintenance Account, or Depreciation Account, by causing same to be transferred to the Bond and Interest Redemption Fund, invested, or otherwise disposed of.

[Provision for redemption of bonds before maturity]

Sec. 23. The governing body of the city authorizing the bonds under the provisions of this Act may make provision for any such bonds to be called for payment on any interest payment date before maturity provided that the city shall have on hand in its Bond and Interest Redemption Fund sufficient moneys not otherwise appropriated or pledged, in excess of the interest and principal requirements within the next two succeeding calendar, operating or fiscal years.

[Construction as not prohibiting use of available incomes and revenues]

Sec. 24. Nothing in this Act shall be construed to prohibit the city, county or the State from appropriating and using any part of its available income and revenues derived from any source, other than in case of the city, from the operation of such project or projects, in paying any immediate expenses of operation or maintenance of any such project or projects or otherwise aiding in financing any part of the construction of said bridge or bridges, or reclaiming any submerged area or territory herein described.

[Projects not subject to regulation by State agencies]

Sec. 25. Rates of the city charged for services and/or facilities furnished by any such project or projects shall not be subject to supervision or regulation by any State bureau, board, commission or other like agency or instrumentality thereof; provided, however, that the functions, powers and duties of the State Board of Health shall remain unaffected by this Act.

[Separate books and records to be kept]

Sec. 26. Any city issuing bonds under the provisions of this Act shall install and maintain proper books of record and account (Separate entirely from other records and account of such city) in which full and correct entries shall be made of all dealings or transactions of or in relation to the properties, business and affairs of the project or projects and the same shall be open for examination and inspection by any tax payer, user of the services furnished by the project or projects, or any holder of the bonds issued under the provisions of this Act, or any one acting for or on behalf of such tax payer, user of the services of the project or projects, or bond-holder.

[Construction as not authorizing impairing other obligations]

Sec. 27. Nothing in this Act shall be construed as authorizing any city to impair or commit a breach of the obligation of any valid lien or contract created or entered into by it, the intention hereof being to authorize the pledging, setting aside and segregation of income and revenues as aforesaid only where consistent with outstanding obligations of such city.

[Borrowing from Federal agencies]

Sec. 28. Any such city mentioned in Section 1 of this Act, in addition to the powers conferred under this Act, is hereby granted and shall hereafter have the power to borrow money from the Federal Government or any of its agencies created for the purpose of making such loan, for the purpose of constructing and maintaining said bridge and the other improvements herein provided for and to mortgage and encumber said properties and facilities and the net revenues and income from the operation thereof and everything pertaining thereto acquired or to be acquired to secure the payment of the funds necessary to said construction and improvement and as additional security therefor by the terms of such encumbrance may pledge and encumber the net income and revenues from the operation of all of said properties and facilities and may provide in such encumbrance for a grant to the purchaser under a sale or foreclosure thereunder of a franchise to operate the property and facilities so encumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulating same then in force.

[Permit from Navigation and Canal Commissioners]

Sec. 29. Anything in this Act to the contrary notwithstanding, no such bridge shall be constructed, maintained or operated over any entrance channel to any port operated by any navigation district without a

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permit from the Navigation and Canal Commissioners of such District and all plans and specifications for said bridge shall be subject to the joint approval of the governing bodies of the city and district. Whenever any said toll bridge is constructed, maintained and operated over and across any entrance channel into a deep water port under the provisions of this Act, the Navigation and Canal Commissioners of the Navigation District governing said port shall have the power to prescribe reasonable rules and regulations for the operation of said bridge in aid of navigation and shall have and exercise direct control over the operation of the mechanical facilities of said bridge, providing for the clearance of the channel for the ingress and egress of vessels to said deep water port and to employ and direct all agencies in the management and operation of same, and said facilities shall be maintained and operated under the direct control and direction of said Navigation and Canal Commissioners; provided, that said Commissioners may appropriate and use any available revenues of said District in defraying part of the cost of operation and maintenance of any bridge or bridges constructed hereunder. No city shall have the power to construct, maintain or operate any such bridge over any such entrance channel to any such deep water port except in conformity with this section.

[County appropriation authorized]

Sec. 30. Any county in which any such city is situated is hereby authorized to appropriate to any such city for use in constructing any such bridge or bridges, or reclaiming or reconstructing any such submerged area or territory, or constructing seawall or breakwater protection for its waterfront, any available revenues of such county, and any such county is authorized to appropriate and apply any part of its available income and revenues to the operation and maintenance of any such project or projects.

[Appropriations by State Highway Department]

Sec. 31. The State Highway Department of the State of Texas, with the approval of the Governor may appropriate and apply any available revenues of such department to aid in the construction, operation and maintenance of any bridge or bridges acquired or constructed under the provisions of this Act, together with any approaches thereto, or the acquisition of any properties in connection with or in furtherance thereof.

[Partial invalidity]

Sec. 32. The invalidity of any section, sentence, clause, paragraph or portion of this Act shall not affect the validity of the remainder of this Act. [Acts 1933, 43rd Leg., p. 774, ch. 231.]

Section 33 of Laws 1933, 43rd Leg., p. 774, ch. 231 repeals all conflicting laws and parts of laws.

Art. 1257. [1090-1-2] Prior claims

The compensation of the receiver, together with all court costs and expenses, shall constitute a prior claim against such city or town, and shall be first paid out of any money on hand or collected. In case of taxation the money collected each year shall be paid pro rata upon all claims according to their priorities until all claims established and all costs and expenses are fully paid. On final settlement of such receivership, any money or property left on hand shall be turned over by the receiver to the trustees or other officers in charge of the public free school the district of which is wholly situated within the boundaries of such city or town for the benefit of such school, but if there be no public free school the district of which is within the boundaries of said city or town, then the money or property left on hand shall be turned over to the county in

which said city or town is situated, the money to be placed in the general fund of such county, and property to be used for the benefit of such county. [As amended Acts 1933, 43rd Leg., p. 768, ch. 227.]

Section 2 of Acts 1933, 43rd Leg., p. 768, ch. 227, repeals all conflicting laws and parts of laws.

Art. 1259. [1094] School taxes

All taxes for municipal or school purposes which shall have been levied prior to the date of the abolishment of such corporation, and which shall not have been paid, shall be collected by the receiver, together with such penalties and interest as may be due; but the portion of such taxes levied for the purpose of maintaining the public free schools of said city or town shall be paid over by said receiver to the trustees of the public free schools of said city or town and applied by them for the purpose for which they were levied. [As amended Acts 1933, 43rd Leg., p. 768, ch. 227.]

Section 2 of Acts 1933, 43rd Leg., p. 768, ch. 227, repeals all conflicting laws and parts of laws.

Art. 1269d. Same subject—subsequent elections

That the governing body of any city or town shall upon similar petition as provided in Section 3 of Chapter 22 of the General Laws of the Thirty-ninth Legislature, Regular Session, 1925, cause subsequent elections to be held for the purpose of determining whether or not a band shall be established and maintained by a city or town; or where any city or town has been previously authorized to establish and maintain a band at an election held for that purpose, whether or not the establishment and maintenance of said band by said city or town shall be abrogated. If at an election held to abrogate the establishment and maintenance of a band by a city or town, a majority of the voters voting at such an election shall vote in favor of the proposition to abrogate the establishment and maintenance of a band, the governing body of said city or town shall thereupon discontinue said band and the maintenance thereof. Said elections shall be held and conducted in the same manner as provided in Section 3 of Chapter 22 of the General Laws of the Thirty-ninth Legislature, Regular Session, 1925, but no two of such elections shall be held within the same city or town within a period of less than two (2) years. [As amended Acts 1933, 43rd Leg., p. 185, ch. 86.]

TITLE 32—CORPORATIONS—PRIVATE

Article 1302. [1121] [642] [566] Purposes

95. Corporations may be created for, or after being created, charters may be amended to include the construction, maintenance, and operation of radio broadcasting equipment and stations. [Acts 1933, 43rd Leg., p. 278, ch. 108.]

95a. Corporations may be formed for the purpose of dealing in agricultural commodities, poultry, dairy products and live stock produced in the United States, and shall have power and authority to buy and sell such agricultural commodities, poultry, dairy products and live stock; to prepare the same for market; to operate cold storage plants and warehouses; and to finance the carrying and orderly marketing of such agricultural commodities, poultry, dairy products and live stock; and the transaction of all business heretofore set out. [Acts 1933, 43rd Leg., p. 529, ch. 172, § 1.]

[95b]. No corporation authorized under the provisions of this Act shall be permitted to own or operate more than one establishment or place of business under the same charter. [Acts 1933, 43rd Leg., p. 529, ch. 172, § 2.]

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[96]. Private corporations may be created under the General Laws of this State by the voluntary association of three (3) or more persons for the purpose of authorizing, creating, and operating a general detective agency to furnish detectives to make investigations and reports of same to the proper persons, to guard, watch and protect property of industrial plants, business institutions and residential properties in this State; providing, however, no such corporation shall be created with less than Ten Thousand Dollars (\$10,000.00) capital stock, and providing further that no such corporation shall be incorporated as herein provided, nor [in] event any such detective agency fails to execute any surety bond or insurance policy in the first instance, or to execute any renewal surety bond or insurance policy, or to file the same with the Secretary of State as provided herein, it shall constitute grounds for the forfeiture of the charter of a domestic corporation and the permit of a foreign corporation in a suit to be instituted at the instance of the Attorney General. Nothing herein shall be construed to authorize the agents, servants, officers or employees of such corporation to have the power of peace officers in this State unless such power be conferred thereon under the provisions of some other law of this State. [Acts 1933, 43rd Leg., p. 418, ch. 163.]

[97]. Corporations may be created for the purpose of constructing, maintaining, and operating pneumatic tubes for the purpose of conveying mail, newspapers, and packages under, over, or on the ground. [Acts 1933, 43rd Leg., p. 543, ch. 174.]

[Art. 1302a. Corporations for owning abstract plants, insuring titles, lending money and dealing in securities, and acting as trustees, etc.; regulation by Insurance Commissioners]

Sec. 2. All corporations created and/or operating under the provisions of this law must have a paid up capital of not less than One Hundred Thousand (\$100,000.00) Dollars. Any corporation organized hereunder having the right to do a title insurance business may invest as much as fifty (50%) per cent, of its capital stock in an abstract plant or plants, provided the valuation to be placed upon such plant or plants shall be approved by the Board of Insurance Commissioners of this State; provided, however, that if such corporation is not doing a trust business as provided in Section 1, Article 4 of the Act hereby amended, and maintains with the Commissioner of Insurance the deposit of One Hundred Thousand (\$100,000.00) Dollars, in securities as provided in Section 6 of the Act hereby amended, such of its capital in excess of fifty (50%) per cent, as deemed necessary to its business by its Board of Directors may be invested in abstract plants; and provided further that no such corporation may hereafter acquire more than one abstract plant in any one county and shall not hereafter acquire any plant in any county in this State having a population of less than ninety thousand (90,000) according to the last preceding Federal census. [Acts 1929, 41st Leg., p. 77, ch. 40, as amended Acts 1931, 42nd Leg., p. 449, ch. 269; Acts 1933, 43rd Leg., p. 750, ch. 222.]

[Art. 1303b. Corporations to deal in securities without banking privileges]

Act authorizing investment of funds in stock of Federal Home Loan Bank, see art. 881a—69.

[Art. 1434a. Water supply corporations]

Sec. 1. That on and after the passage of this Act three or more persons who are citizens of the State of Texas may form a corporation for the purpose of furnishing a water supply to towns, cities, and private corporations and individuals and may provide in the charter of such cor-

poration that no dividends shall ever be paid upon the stock and that all profits arising from the operation of such business shall be annually paid out to cities, towns, corporations and other persons who have during the past year transacted business with such corporation, in direct proportion to the amount of business so transacted provided that no such dividends shall ever be paid while any indebtedness of the corporation remains unpaid; and provided also that the directors of such corporation may allocate to a sinking fund such amount of the annual profits as they deem necessary for maintenance, upkeep, operation and replacements.

Sec. 2. The said corporation is hereby vested with power to negotiate and contract with any and all Federal Government agencies including, without exclusion because of enumeration, the Emergency Conservation Acts, Public Works Acts, Self-liquidating Acts, Housing Unit Acts, Colonization Acts, Conservation Acts, Emergency Relief and Reconstruction Acts, and the Reconstruction Finance Corporation as credited under the terms of Reconstruction Finance Corporation Act of January 22nd, 1932, Acts of the 72nd Congress of the United States of America, First Session, for the acquisition, construction, and/or maintenance of such project and improvements; to obtain money from such Federal Government agency for the purpose of financing said acquisition, and encumber the properties so acquired or constructed and the income, fees, rents, and other charges thereafter accruing to the said corporation in the operation of said properties; and to evidence the transaction by the issuance of bonds, notes, or warrants to secure the funds so obtained. But it is hereby expressly provided that the bonds, notes, and/or warrants so issued shall not constitute general obligation or indebtedness of the said corporation, but shall represent solely a charge upon specifically encumbered properties and the revenue therefrom, as herein provided.

Sec. 3. The persons applying for a charter for such corporation shall make application to the Secretary of State in the manner now provided by law for private corporations and in the name designated for such corporation shall use the words "Water Supply Corporation". Each holder of stock in such corporation shall be given a certificate which shall entitle him to one vote in the conduct of the affairs of the corporation and each incorporator shall be a member of the Board of Directors which shall be a permanent body. Upon the death or resignation of a member of the Board of Directors his stock in such corporation shall be cancelled and a successor elected by a majority vote of the directors remaining. The application for charter shall name all the members of the Board of Directors. The number of directors may be increased from time to time by charter amendment but there shall never be more than twenty one members of said Board.

Sec. 4. Such Water Supply Corporations shall have the right to purchase, own, hold and lease and otherwise acquire water wells, springs and other sources of water supply, to build, operate and maintain pipe lines for the transportation of water, to build and operate plants and equipment necessary for the distribution of water and to sell water to towns, cities and other political subdivisions of the State of Texas, to private corporations and to individuals. Such corporations shall have the right of eminent domain to acquire rights-of-way and shall have the right to use the rights-of-way of the public highways of the State for the laying of pipe lines under supervision of the State Highway Commission.

Sec. 5. Upon the issuance of a charter and annually thereafter on the First Tuesday in January the Board of Directors shall elect a President, a Vice-President, and a Secretary-Treasurer and shall require of such officers bonds for the faithful performance of their duties. The salaries of all the officers of said corporation except that of the Secretary-Treasurer and of the Manager whose salary is hereinafter referred to, shall not exceed Five Thousand (\$5,000.00) Dollars per year. The salary

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of the Secretary-Treasurer shall be fixed by the Board of Directors at a sum commensurate with the duties required of him.

Sec. 6. The business of the corporation shall be handled under the direction of the Board of Directors, by a manager to be elected by a majority vote of the Board and he shall be employed at a salary to be fixed by the Board of Directors.

Sec. 7. The Board of Directors may employ counsel to represent said corporation and may by agreement with him fix an annual retainer and the fees to be paid for his services and said Board of Directors may if they deem it necessary employ additional counsel from time to time.

Sec. 8. The Board of Directors shall select as depository for the funds of said corporation, a National Bank within the State of Texas and shall require of said depository such bond as the Board deems necessary for the protection of said corporation; and such funds as the Board of Directors may from time to time allocate to a sinking fund for replacement, amortization of debts and the payment of interest which shall not be required to be expended within the year in which the same is deposited, shall be invested in bonds or other evidence of indebtedness of the United States of America or deposited at interest in such National Bank in a Savings account. [Acts 1933, 43rd Leg., 1st C. S., p. 202, ch. 76.]

[Art. 1524b. Housing corporations authorized]

Corporations may be formed wholly for the purpose of providing housing for families of low income and/or for reconstruction of slum areas, provided such corporations are regulated by state or municipal law, as hereinafter provided as to rents, charges, capital structure, rate of return and areas and method of operation. [Acts 1932, 42nd Leg., 3rd C. S., p. 107, ch. 42, § 1.]

[Art. 1524c. Application for incorporation]

Applications for charters for corporations, the creation of which are authorized under the provisions of this Act, in addition to requirements now prescribed by law, must be accompanied by a certificate executed by the officials of the governing body of the municipality in which said corporation contemplate owning or operating any properties certifying that the capital structure thereof and the plans and specifications of the proposed building has the approval of such governing body, provided, that where said corporation contemplates the owning or operating of properties situated outside the corporate limits of any organized town, city or village, then the certification herein referred to shall be executed by the Commissioners' Court of any county in which it is contemplated to own and/or operate properties within the scope of this Act. Such certificate shall not be binding upon the Secretary of State who shall proceed to file or refuse to file the charter in accordance with the provisions of existing laws. [Acts 1932, 42nd Leg., 3rd C. S., p. 107, ch. 42, § 2.]

[Art. 1524d. Powers; fees and taxes]

Any corporation organized under the provisions of this Act shall have, except as herein provided, all the powers of private domestic corporations which have been heretofore organized under the provisions of the laws of the State of Texas, and shall pay all fees and taxes which are required to be paid by private domestic corporations organized and/or existing under the laws of the State of Texas. [Acts 1932, 42nd Leg., 3rd C. S., p. 107, ch. 42, § 3.]

[Art. 1524e. Regulation by municipalities or counties]

The rents, charges, capital structure, rate of return and areas and method of operation of any corporation organized under the provisions of Section 1 hereof shall be regulated, as hereinafter provided, by the gov-

erning body of any municipality or county where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village in which said corporation owns and operates any property. Should any such corporation own and operate properties in more than one municipality, the governing body of each municipality or county, where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village in which property of the corporation is situated, shall regulate in the manner prescribed by this Act the rents, charges, rate of return and area and method of operation of the property located within the territorial limits of such municipality or county, where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village, provided the governing body of a county shall not have the jurisdiction of regulation of property of such corporation situated within the corporate limits of a town, village, or city. [Acts 1932, 42nd Leg., 3rd C. S., p. 107, ch. 42, § 4.]

[Art. 1524f. Rate of return restricted]

The governing body fixing the rate of return for a corporation organized under the provisions of Section 1 of this Act shall not fix such rates of return to yield a net amount in excess of eight (8%) per cent upon the invested capital of such corporation. [Acts 1932, 42nd Leg., 3rd C. S., p. 107, ch. 42, § 5.]

[Art. 1524g. Rules and regulations to be prescribed and plans approved]

Such governing body may establish rules and regulations governing its procedure for hearings in fixing or amending orders or ordinances fixing the rents, charges, rate of return and areas and methods of corporations organized under the provisions of Section 1 hereof, and before any building is erected by such corporation, the detailed plans and specifications thereof, must be approved by the governing body of the municipality or county, where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village in which such building is to be erected. [Acts 1932, 42nd Leg., 3rd C. S., p. 107, ch. 42, § 6.]

[Art. 1524h. Appeal from order fixing rate of return]

Any corporation organized and existing under and by virtue of provisions of Section 1 hereof, which shall be dissatisfied with any rents, charges, rate of return and area and method of operation which is fixed or may be fixed or may be changed by any governing body, may, by giving to such governing body ten (10) days notice by registered mail of its intention thereof, appeal to any district court of the county wherein the property which is affected is situated. The appeal shall be perfected by filing suit in the district court of the county in which the property is situated within ten (10) days after the giving of such notice, and the filing of such suit shall suspend the order, rule, regulation, or ordinance from which the appeal is perfected. The municipality or county, where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village shall be defendant in said suit. The trial shall be de novo, and Court, upon a hearing, shall, by its judgment, regulate the rents, charges, rate of return, areas and method of operation of the corporation. [Acts 1932, 42nd Leg., 3rd C. S., p. 107, ch. 42, § 7.]

[Art. 1524i. Loans from Reconstruction Finance Corporation]

Any corporation created under the provisions of this Act, in addition to the powers herein granted, shall have full power and authority to do

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all things necessary to secure loans from the Reconstruction Finance Corporation under the rules and regulations prescribed by said Reconstruction Finance Corporation. [Acts 1932, 42nd Leg., 3rd C. S., p. 107, ch. 42, § 8.]

[Art. 1524j. Anti-trust laws not affected]

Provided that nothing in this Act shall in anywise affect or nullify the Anti-trust laws of this State. [Acts 1932, 42nd Leg., 3rd C. S., p. 107, ch. 42, § 9.]

[Art. 1524k. Restraining violation of orders, rules or regulations; punishment for violation of injunction]

If any agent, servant, officer or employee of any corporation created under the provisions of this Act shall wilfully violate any order, rule, regulation or ordinance fixing rents, charges, rate of return, areas and method of operation, the District Court of the County in which the property of such corporation is situated, upon application of the governing body of the municipality or county, where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village wherein the corporation owns property or upon application of any Labor Inspector employed by the State of Texas when authorized to so act by the Commissioner of Labor Statistics of the State of Texas, may issue during its term or in vacation a temporary writ of injunction restraining such agents, servants, officers or employees from any violation of such order, rule, regulation or ordinance and which temporary writ of injunction may be made permanent upon notice and hearing in the manner now provided by law. No bond shall be required before issuing any such temporary or permanent injunction and if any such injunction is violated by the agents, servants, officers or employees of said corporation, the Court, in addition to its power to punish for contempt, may order that the building of such corporation shall not be used or occupied for any period not to exceed one year but the Court shall permit said building to be occupied or used if the owner, lessee, tenant or occupant thereof shall give bond with sufficient surety to be provided by the Court in the sum of not less than Five Hundred (\$500.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, payable to the Judge of said Court, conditioned that said corporation, its agents, servants, officers or employees will thereafter comply with the orders, rules, regulations or ordinances which have been or may be promulgated, fixing the rents, charges, or rate of return, areas and methods of operation of said corporation and that it will pay all fines and costs that may be assessed in contempt proceedings against its agents, servants, officers and employees for the violation of any writ of injunction existing, or which may thereafter be issued. [Acts 1932, 42nd Leg., 3rd C. S., p. 107, ch. 42, § 10.]

[Art. 1528a. State Housing Law.]

Sec. 1. This Act shall be known as the "State Housing Law."

[State agencies and instrumentalities.]

Sec. 2. It is hereby declared that it is necessary in the public interest to make provision for housing for families of low income, and that, the providing of such housing being now otherwise impossible, it is essential that provision be made for the investment of private and public funds at low interest rates, the acquisition at fair prices of adequate parcels of land and the construction of new housing facilities under public supervision in accord with proper standards of sanitation and safety, at a cost which will permit their rental or sale at prices which families of low income can afford to pay. Therefore, there are created and established the agencies and instrumentalities hereinafter prescribed which are

declared to be the agencies and instrumentalities of the state for the purpose of attaining the ends herein recited, and their necessity in the public interest is hereby declared a matter of legislative determination.

[State Housing Board.]

Sec. 3. There is hereby created a State Board of Housing of the State of Texas. The Texas Rehabilitation and Relief Commission is hereby designated as the State Housing Board of the State of Texas, and shall perform all duties imposed by the Legislature as hereinafter provided: and insofar as its responsibilities and duties have to do with the State Housing Law the Texas Rehabilitation and Relief Commission shall continue to exist as the State Housing Board until its duties and obligations shall have ceased to exist.

[Definition.]

Sec. 4. Definition: The term board as used in this Act shall mean the Texas Rehabilitation and Relief Commission.

[Conditions of approval of housing projects by Board.]

Sec. 5. No housing project proposed by a limited dividend housing corporation incorporated under this Act shall be undertaken, and no building or other construction shall be placed under contract or started without the approval of the board. No housing project shall be approved by the board unless:

(a) It shall appear practicable to rent or sell the housing accommodations to be created at prices not exceeding those prescribed by the board. No such project shall be approved in contravention of any zoning or building ordinance in effect in the locality in which designated areas are located.

(b) There shall be submitted to the board a financial plan in such form and with such assurances as the board may prescribe to raise the actual cost of the lands and projected improvements by subscriptions to or the sale of the stock, income debentures and mortgage bonds of such corporation. Whenever reference is made in this Act to cost of projects or of buildings and improvements in projects, such cost shall include charges for financing and supervision approved by the board and carrying charges during construction required in the project including interest on borrowed, and, where approved by the board, on invested capital.

(c) There shall be such plans of site development and buildings as show conformity to reasonable standards of health, sanitation, safety and provisions for light and air, accompanied by proper specifications and estimates of cost. Such plans and specifications shall not in any case fall below the requirements of the health, sanitation, safety and housing laws of the state and shall meet superior requirements if prescribed by local laws and ordinances.

(d) The corporation agrees to accept a designee of the board of housing as a member of the board of directors of said corporation.

(e) If required by the board, the corporation shall deposit all monies received by it as proceeds of its mortgage bonds, notes, income debentures, or stock, with a trustee which shall be a banking corporation authorized to do business in the State of Texas and to perform trust functions, and such trustee shall receive such monies and make payment therefrom for the acquisition of land, the construction of improvements and other items entering into cost of land improvements upon presentation of draft, check or order signed by a proper officer of the corporation and, if required by the board, countersigned by the said board or a person designated by it for said purpose. Any funds remaining in the custody of said trustee after the completion of the said project and payment or arrange-

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ment in a manner satisfactory to the board for payment in full thereof shall be paid to the corporation.

[Investigation of housing companies.]

Sec. 6. The board shall have power to investigate into the affairs of limited dividend housing companies, incorporated under this Act, and into the dealings, transactions or relationships of such companies with other persons. Any of the investigations provided for in this Act may be conducted by the board or by a committee to be appointed by the board consisting of one or more members of the board. Each member of the board or a committee thereof shall have power to administer oaths, take affidavits and to make personal inspections of all places to which their duties relate. The board or a committee thereof shall have power to subpoena and require the attendance of witnesses and the production of books and papers relating to the investigations and inquiries authorized in this Act, and to examine them in relation to any matter it has power to investigate, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before the board or excused from attendance

[Powers of Board.]

Sec. 7. The board is hereby empowered to (a) study housing conditions and needs throughout the state to determine in what areas congested and unsanitary housing conditions constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the state, (b) prepare programs for correcting such conditions, (c) collect and distribute information relating to housing, (d) investigate all matters affecting the cost of construction or production of dwellings, (e) study means of securing economy in the construction and arrangement of buildings, (f) recommend and approve the areas within which or adjacent to which the construction of housing projects by limited dividend housing companies may be undertaken, and (g) cooperate with local housing officials and planning commissions or similar bodies in cities and other localities in developments of projects they at any time may have under consideration.

[Consolidation of projects.]

Sec. 8. The board may permit the consolidation of two or more approved projects or the extension or amendment of any approved project or the consolidation of any approved project with a proposed project. In any of these events, the consolidation project shall be treated as an original project, and an application shall be submitted as in the case of an original project and rents may be averaged throughout the consolidated or extended project. The board may likewise permit or decline to permit any limited dividend corporation to organize and operate more than one project or to take over any project heretofore approved by the board and to operate it independently of other projects of the corporation.

[Supervision and regulation of operation of housing companies.]

Sec. 9. In pursuance of its power and authority to supervise and regulate the operations of limited dividend housing companies incorporated under this Act the board may:

(a) Order any such corporation to make, at its expense, such repairs and improvements as will preserve or promote the health and safety of the occupants of buildings and structures owned or operated by such corporations.

(b) Order all such corporations to do such acts as may be necessary to comply with the provisions of the law, the rules and regulations adopt-

ed by the board or by the terms of any project approved by the board, or to refrain from doing any acts in violation thereof.

(c) Examine all such corporations and keep informed as to their general condition, their capitalization and the manner in which their property is constructed, leased, operated or managed.

(d) Either through its members or agents duly authorized by it, enter in or upon and inspect the property, equipment, buildings, plants, offices, apparatus and devices of any such corporation, examine all books, contracts, records, documents and papers of any such corporation and by subpoena duces tecum compel the production thereof.

(e) In its discretion prescribe uniform methods and forms of keeping accounts, records and books to be observed by such companies and to prescribe by order accounts in which particular outlays and receipts shall be entered, charged or credited.

(f) Require every such corporation to file with the board an annual report setting forth such information as the board may require verified by the oath of the President and General Manager or Receiver if any thereof or by the person required to file the same. Such report shall be in the form, cover the period and be filed at the time prescribed by the board. The board may further require specific answers to questions upon which the board may desire information and may also require such corporation to file periodic reports in the form covering the period and at the time prescribed by the board.

(g) From time to time make, amend and repeal rules and regulations for carrying into effect the provisions of this Act.

[Maximum rentals or purchase price.]

Sec. 10. The board shall fix the maximum rental or purchase price to be charged for the housing accommodations furnished by such corporation. Such maximum rental or purchase price shall be determined upon the basis of the actual final cost of the project so as to secure, together with all other income of the corporation, a sufficient income to meet all necessary payments to be made by said corporations, as hereinafter prescribed, and such rental or purchase price shall be subject to revision by the board from time to time. The payments to be made by such corporation shall be (a) all fixed charges, and all operating and maintenance charges and expenses which shall include taxes, assessments, insurance, amortization charges in amounts approved by the board to amortize the mortgage indebtedness in whole or in part, depreciation charges if, when and to the extent deemed necessary by the board; reserves, sinking funds and corporate expenses essential to operation and management of the project in amounts approved by the board. (b) A dividend not exceeding the maximum fixed by this act upon the stock of the corporation allotted to the project by the board. (c) Where feasible in the discretion of the board, a sinking fund in an amount to be fixed by the board for the gradual retirement of the stock, and income debentures of the corporation to the extent permitted by this act.

Letting, subletting or assignment of leases of apartments in such buildings or structures at greater rentals than prescribed by the order of the board are prohibited and all such leases will be void for all purposes.

[Reorganization of companies.]

Sec. 11. (1) Reorganization of limited dividend housing companies shall be subject to the supervision and control of the board and no such reorganization shall be had without the authorization of such board.

(2) Upon all such reorganizations the amount of capitalization, including therein all stocks, income debentures and bonds and other evidence of indebtedness shall be such as is authorized by the board which, in mak-

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ing its determination, shall not exceed the fair value of the property involved.

[Actions by Board against housing companies.]

Sec. 12. Whenever the board shall be of the opinion that any such limited dividend housing company is failing or omitting, or about to fail or omit to do anything required of it by law or by order of the board and is doing * about to do anything, or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order of the board, or which is improvident or prejudicial to the interests of the public, the lienholders or the stockholders, it may commence an action or proceeding in the District Court of the county in which the said company is located, in the name of the board for the purpose of having such violations or threatened violations stopped and prevented by mandatory injunction. The board shall begin such action or proceeding by a petition and complaint to the said District Court, alleging the violation complained of and praying for appropriate relief by way of mandatory injunction. It shall thereupon be the duty of the court to specify the time, not exceeding twenty days after service of a copy of the petition and complaint, within which the corporation complained of must answer the petition and complaint.

In case of default in answer or after answer the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order or judgment effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a mandatory injunction be issued as prayed for in the petition and complaint or in such modified or other form as the court may determine will afford appropriate relief.

[Acquisition of property for projects.]

Sec. 13. When the board shall have approved a project for the construction of housing accommodations presented to it by a limited dividend housing company, such company may undertake the acquisition of the property needed for said project. Such property may be acquired by gift, bequest or purchase or, in the case of limited dividend housing companies,

The board may expressly except from its certificate hereunder any part of the property proposed to be acquired as unnecessary to the plan. The approval by the board of the project shall be deemed in any proceeding to acquire land by appropriation as sufficient evidence of the necessity of the appropriation and a duly certified copy of the certificate of the board shall be conclusive evidence as to the matters lawfully certified therein in any appropriation proceeding.

[Incorporation.]

Sec. 14. Any number of natural persons, not less than three, a majority of whom are citizens of the United States, may become a corporation by subscribing, acknowledging and filing in the office of the Secretary of State, articles of incorporation, hereinafter called "articles," setting forth the information required by the general corporation act of the state, except as herein modified or changed.

(a) The purposes for which a limited dividend housing company is to be formed shall be as follows: To acquire, construct, maintain and operate housing projects when authorized by and subject to the supervision of the board of housing.

* The word "doing" should probably be omitted.

(b) The shares of which the capital shall consist shall have a par value.

(c) Articles of incorporation shall contain a declaration that the corporation has been organized to serve a public purpose and that it shall remain at all times subject to the supervision and control of the board or of other appropriate state authority; that all real estate acquired by it and all structures erected by it, shall be deemed to be acquired for the purpose of promoting the public health and safety and subject to the provisions of the state housing law and that the stockholders of this corporation shall be deemed, when they subscribe to and receive the stock thereof, to have agreed that they shall at no time receive or accept from the company, in repayment of their investment in its stock, any sums in excess of the par value of the stock, together with cumulative dividends at the rate of six (6%) per centum per annum, and that any surplus in excess of such amount if said company shall be dissolved, shall revert to the State of Texas.

(d) The provisions of the general corporation act, as hereafter from time to time amended, shall apply to limited dividend housing companies, except where such provisions are in conflict therewith.

[Dividend rate.]

Sec. 15. No stockholder in any company formed hereunder shall receive any dividend, or other distribution based on stock ownership, in any one year in excess of six (6%) per centum per annum except that when in any preceding year dividends in the amount prescribed in the articles of incorporation shall not have been paid on the said stock, the stockholders may be paid such deficiency without interest out of any surplus earned in any succeeding years.

[Stock and bond issues for property or money actually received.]

Sec. 16. No limited dividend housing company incorporated under this act shall issue stock, bonds or income debentures, except for money, services or property actually received for the use and lawful purpose of the corporation. No stock, bonds or income debentures shall be issued for property or services except upon a valuation approved by the board of housing and such valuation shall be used in computing actual or estimated cost.

[Income debenture certificates.]

Sec. 17. The articles of incorporation may authorize the issuance of income debenture certificates bearing no greater interest than six per centum per annum. After the incorporation of a limited dividend housing company, the directors thereof may, with the consent of two-thirds of the holders of any preferred stock that may be issued and outstanding, offer to the stockholders of the company the privilege of exchanging their preferred and common stock in such quantities and at such times as may be approved by the board of housing for such income debenture certificates, whose face value shall not exceed the par value of the stock exchanged therefor.

[Limitation of powers.]

Sec. 18. No limited dividend housing company incorporated shall under this Act:

(1) Acquire any real property or interest therein unless it shall first have obtained from the board a certificate that such acquisition is necessary or convenient for the public purpose defined in this act.

(2) Sell, transfer, assign or lease any real property without first having obtained the consent of the board, provided, however, that leases con-

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forming to the regulations and rules of the board and for actual occupancy by the lessees may be made without the consent of the board. Any conveyance, incumbrance, lease or sublease made in violation of the provisions of this section and any transfer or assignment thereof shall be void.

(3) Pay interest returns on its mortgage indebtedness and its income debenture certificates at a higher rate than six per centum per annum.

(4) Issue its stock, debentures and bonds covering any project undertaken by it in an amount greater in the aggregate than the total actual final cost of such project, including the lands, improvements, charges for financing and supervision approved by the board and interest and other carrying charges during construction.

(5) Mortgage any real property without first having obtained the consent of the board.

(6) Issue any securities or evidences of indebtedness without first having obtained the approval of the board.

(7) Use any building erected or acquired by it for other than housing purposes, except that when permitted by law the story of the building above the cellar or basement and the space below such story may be used for stores, commercial, cooperative or community purposes, and when permitted by law the roof may be used for cooperative or community purposes.

(8) Charge or accept any rental, purchase price or other charge in excess of the amounts prescribed by the board.

(9) Enter into contracts for the construction of housing projects, or for the payments of salaries to officers or employees except subject to the inspection and revision of the board and under such regulations as the board from time to time may prescribe.

(10) Voluntarily dissolve without first having obtained the consent of the board.

(11) Make any guaranty without the approval of the board.

[Bonds and mortgages subject to Board's approval.]

Sec. 19. Any company formed under this act may, subject to the approval of the board, borrow funds and secure the repayment thereof by bonds and mortgage or by an issue of bonds under trust indenture. The bonds so issued and secured and the mortgage or trust indentures relating thereto, may create a first or senior lien and a second or junior lien upon the real property embraced in any project. Such bonds and mortgages may contain such other clauses and provisions as shall be approved by the board, including the right to assignment of rents and entry into possession in case of default; but the operation of the housing projects in the event of such entry by mortgagee or receiver shall be subject to the regulations of the board under this act. Provisions for the amortization of the bonded indebtedness of companies formed under this act shall be subject to the approval of the board.

[Surplus earnings.]

Sec. 20. The amount of net earnings transferable to surplus in any year after making or providing for the payments specified in subdivisions (a), (b) and (c) of Section 10 of this act shall be subject to the approval of the board. The amount of such surplus shall not exceed fifteen per centum of the outstanding capital stock and income debentures of the corporation, but the surplus so limited shall not be deemed to include any increase in assets due to the reduction of mortgage or amortization or similar payments. On dissolution of any limited dividend housing company, the stockholders and income debenture certificate holders shall in no event receive more than the par value of their stock and debentures plus accumulated, accrued and unpaid dividends of interest, less any payment

or distributions theretofore made other than by dividends provided in Section 15, and any remaining surplus or other undistributed earnings shall be paid into the general fund of the State of Texas, or shall be disposed of in such other manner as the board may direct and the then Governor may approve.

[Rentals reduced after payments of charges.]

Sec. 21. If in any calendar or fiscal year the gross receipts of any company formed hereunder should exceed the payments or charges specified in Section 10, the sums necessary to pay dividends, interest accrued or unpaid on any stock or income debentures, and the authorized transfer to surplus, the balance shall, unless the board of directors with the approval of the board of housing shall deem such balance too small for the purposes, be applied to the reduction of rentals.

[Board as party in foreclosures.]

Sec. 22. (1) In any foreclosure action the board shall be made a party defendant; and such board shall take all steps in such action necessary to protect the interest of the public therein, and no costs shall be awarded against the board. Foreclosure shall not be decreed unless the court to which application therefor is made shall be satisfied that the interests of the lienholder or holders cannot be adequately secured or safeguarded except by the sale of the property. In any such proceeding, the court shall be authorized to make an order increasing the rental to be charged for the housing accommodations in the project involved in such foreclosure, or appoint a receiver of the property or grant such other and further relief as may be reasonable and proper. In the event of a foreclosure sale or other judicial sale, the property shall, except as provided in the next succeeding paragraph of this section, be sold to a limited dividend housing corporation organized under this act, provided such corporation shall bid and pay a price for the property sufficient to pay court costs and all liens on the property with interest. Otherwise the property shall be sold free of all restrictions imposed by this act.

(2) Notwithstanding the foregoing provision of this section, wherever it shall appear that a corporation, subject to the supervision either of the state insurance department or state banking department, or the federal government or any agency or department of the federal government, shall have loaned on a mortgage which is a lien upon any such property such corporation shall have all the remedies available to a mortgagee under the laws of the State of Texas, free from any restrictions contained in this section, except that the board shall be made a party defendant and that such board shall take all steps necessary to protect the interests of the public and no costs shall be awarded against it.

[Purchase of property of other housing corporations.]

Sec. 23. Before any limited dividend housing corporation incorporated under this act shall purchase the property of any other limited dividend housing corporation, it shall file an application with the board in the manner hereinbefore provided as for a new project and shall obtain the consent of the board to the purchase and agree to be bound by the provisions of this act, and the board shall not give its consent unless it is shown to the satisfaction of the board that the project is one that can be successfully operated according to the provisions of this act.

[Notice to Board of sales under judgments.]

Sec. 24. In the event of a judgment against a limited dividend housing corporation in any action not pertaining to the collection of a mortgage indebtedness, there shall be no sale of any of the real property of

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such corporation except upon sixty days' written notice to the board. Upon receipt of such notice the board shall take such steps as in its judgment may be necessary to protect the rights of all parties.

[Fees of Board.]

Sec. 25. The board may charge and collect for a limited dividend housing corporation, incorporated under this act, reasonable fees in accordance with rates to be established by the rules of the board for the examination of plans and specifications and the supervision of construction in an amount not to exceed one-half of one per cent of the cost of the project; for the holding of a public hearing upon application of a housing corporation an amount sufficient to meet the reasonable cost of advertising the notice thereof and of the transcript of testimony taken thereat; for any examination or investigation made upon application of a housing corporation and for any act done by the board, or any of its employees, in performance of their duties under this act an amount reasonably calculated to meet the expense of the board incurred in connection therewith. In no event shall any part of the expenses of the board ever be paid out of the state treasury. The board may authorize a housing corporation to include such fees as part of the cost of a project, or as part of the charges specified in section 10 of this act pursuant to rules to be established by the board.

[Partial invalidity.]

Sec. 26. The provisions of this act shall be severable and if any of its provisions shall be held to be unconstitutional the decision so holding shall not be construed to affect the validity of any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provision not been included therein.

[Corporate existence.]

Sec. 27. The corporate existence of any corporation authorized hereunder shall not extend beyond twenty-five years from the date of incorporation, and promptly upon such termination the corporation shall be liquidated and its assets distributed as provided herein, unless the Incorporation Board, by approval of the State Board of Housing, shall grant an extension for an additional period of time. [Acts 1933, 43rd Leg., p. 751, ch. 223.]

TITLE 33—COUNTIES AND COUNTY SEATS

Art. 1580. [1373] [797] [684]. Agents to contract for county

Acts 1933, 43rd Leg., p. 11, ch. 9, relates to the appointment of a purchasing agent in counties having a population of more than 100,000 inhabitants, and less than 150,000 and having a city of population in excess of 100,000, and being applicable only to Tarrant County is a special law.

Acts 1933, 43rd Leg., p. 110, ch. 55, a special law, authorizes the appointment of a

purchasing agent in all counties in the State having a population of more than one hundred thousand (100,000) inhabitants and less than one hundred fifty thousand (150,000) inhabitants, as shown by the latest United States Census, and containing two (2) cities of fifty thousand (50,000) inhabitants, or more.

[Art. 1581a. County Home Rule Charters; Adoption.]

Sec. 1. This Act anticipates the adoption of an amendment to the Constitution of Texas as proposed by an act of this Legislature, designated as Senate Joint Resolution No. 3, relating to Home Rule Charters for counties and is enacted to create in the minds of the people certainty as to adequate safeguards to control the writing and adoption of such char-

ters and to avoid delay in making effective the will of the people in case said amendment be adopted, as Section 3 of Article IX of the Constitution. In case of the rejection of said proposed amendment, this Act instantly shall be without force or effect. At the instant of the adoption of said proposed amendment, all provisions of this Act shall be in full force and have controlling effect.

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 countywide 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 provisions of said amendment and under the procedural safeguards by this Act provided.

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, 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 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.

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 (5000) population or under, one hundred (100); counties of five thousand and one (5001) 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)

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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.

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 a 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.

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

State of Texas. }
County of _____, } Notice.

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 vote 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 Number
(Here designate)

Place of Convention
(Here designate)

Commissioners' Court of _____ County, Texas,

Attest:

Clerk

By _____
County Judge

(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.

Sec. 7. The precinct conventions shall be held, organized and shall proceed to a conclusion as specified in the convention call written in Section 6 hereof.

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

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convention only in the absence or nonparticipation of the delegate for whom such alternate was chosen. All votes 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.

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), eleven (11), thirteen (13) or fifteen (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 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.

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.

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 (1) 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 the 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

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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.

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 of 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 resident electors of this county for adoption or rejection, as their votes may determine, under the provisions of said Section 3 of 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.

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 en-

dorse 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 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 times 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 those 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 thereon 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.

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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 re-declaration of the result of the election. Thereupon the ballots shall be appropriately resealed in the boxes from which they were taken and 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.

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, any home rule charter adopted hereunder may be amended at any time.

Sec. 16. In case there be adoption of a county home rule charter providing for an administrative body styled other than as "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.

Sec. 17. In case there be not available to a given county funds to liquidate the expenses incurred because of the exercise of powers 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.

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.

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.

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. [Acts 1933, 43rd Leg., p. 784, ch. 232.]

Art. 1601. [1395] [817] 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. [As amended Acts 1927, 40th Leg., p. 264, ch. 185; Acts 1933, 43rd Leg., p. 328, ch. 128.]

[Art. 1605a. Branch office buildings in counties having city of 20,000 outside county seat]

Sec. 1. In all counties having a city or cities other than the county seat within their boundaries, of a population of twenty thousand (20,000) and over, according to the last Federal Census, the Commissioners Court of each said county shall have the power and authority to provide, main-

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tain, and repair an office building and/or jail in the same manner as such 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, or to provide, maintain, and 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 no such office building and/or jail shall cost more than One Hundred Fifty Thousand Dollars (\$150,000.00). [Acts 1931, 42nd Leg., p. 810, ch. 333, as amended Acts 1933, 43rd Leg., p. 101, ch. 49.]

Sec. 3. All acts of the Commissioners Court in any such county ordering an election or elections on the question of the issuance of bonds for the purpose of purchasing a site and erecting and equipping an office building for county officers and a jail in any city other than the county seat of such county, declaring the result of such election or elections, in levying taxes therefor, and all bonds issued and now outstanding, and all bonds heretofore voted for such purpose but not yet issued, are in all things confirmed, approved and validated. The fact that by inadvertence or oversight any act of the Commissioners Court or other county official was omitted in ordering an election or elections, or in declaring the result thereof, or in levying the tax for such bonds, shall in no way invalidate any of such proceedings or any bonds heretofore issued or that have heretofore been voted but not yet issued, but the same shall in all things and respects be deemed valid. [Acts 1933, 43rd Leg., p. 101, ch. 49.]

[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 a 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 a 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 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.
Countersigned:

Secretary.

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 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 specified 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 dur-

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ing 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 non-participation 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 fifteen (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 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 certificates and the signatures of at least a majority of the Drafting Commission: Substantial compliance as to the form of the certificate shall be deemed sufficient.

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(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 thereon 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 pro-

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gressive 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; 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 town 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

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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) 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.]

See article 1581a.

TITLE 34—COUNTY FINANCES

[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 coun-

ty 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.]

Acts 1931, 42nd Leg., 2nd C. S. p. 40, ch. 22, effective September 30, 1931, formerly classified as this article is similar in all respects to the act cited to the text, but expires by its own limitation within two years from its enactment.

[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 share holders 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 States 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 con-

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ditions 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. 237, ch. 118.]

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 all persons in the collection and disbursement of county revenues, funds, fees, and all other moneys, 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 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 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 safe-keeping. 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 said officer may have made collections, or for whose use or benefit he may have received or may hold such funds. Should the County Auditor deem it to be to the best interest of the county or deem it necessary in order that the provisions of this law may be better enforced or in order that the legislative intent to conserve the funds be carried out, he shall have the right to prescribe that all of the fees 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 the payment of accounts of the individuals to whom said funds may belong. The Treasurer and the depository shall make no payment unless such check is countersigned by the County Auditor. This provision 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 set-

tle the accounts of such officer. In the event the County Auditor shall be unable to obtain proper reports or an adequate accounting from any 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 as are necessary 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.]

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 countersignature 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. 1665. [1491] Reports to commissioners

He shall make quarterly and annual reports to the Commissioners Court, and District Judge, or 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 amount of bonded and other indebtedness of the county, together with such other information and suggestions as he may deem proper or said Commissioners Court 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 February, and a copy of all of such reports shall be filed with the District Judge, or Judges, of said county. [As amended Acts 1933, 43rd Leg., p. 378, ch. 149.]

Art. 1667. Improvement district finances

In all counties which have or may have a county auditor and containing a population of one hundred and ten thousand (110,000), or more, as shown by the preceding Federal Census, in which there exists or in which there may be created any improvement, navigation, drainage, 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 districts as hereinafter provided. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 62, ch. 38; Acts 1933, 43rd Leg., p. 364, ch. 140.]

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. [As amended Acts 1933, 43rd Leg., p. 544, ch. 175, § 1.]

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. [As amended Acts 1933, 43rd Leg., p. 544, ch. 175, § 2.]

[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 Oc-

tober 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.]

TITLE 37—COURT—SUPREME

Art. 1738. [1587] Transfer of causes

The Supreme Court shall, as early as practicable after the first day of January and the first day of June of each year, equalize, as nearly as practicable, the amount of business upon the dockets of the several courts of civil appeals as of the close of business on the 31st day of December and the 31st day of May of each year by directing the transfer of cases from such of said courts as may have the greater amount of business upon their docket to those having a less amount of business. And the courts of civil 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. Provided further that there shall be but one sitting for oral argument at the place from which cases are transferred for each equalization, and all cases so transferred at any one equalization must be orally argued at such sitting, or at the regular place of sitting of the court to which said cases are 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 traveling and living expenses of the Justices of said courts in hearing oral argument at the place from which such cases are transferred shall be borne by the State, and for payment thereof the Legislature shall make appropriation. [As amended Acts 1927, 40th Leg., p. 115, ch. 76; Acts 1927, 40th Leg., 1st C. S., p. 148, ch. 51; Acts 1933, 43rd Leg., p. 380, ch. 151.]

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

Art. 1778. [1569] [985] [1059] Execution returnable

All executions for costs of the Supreme Court shall be returned by the officer to whom they are directed within thirty (30), sixty (60), or ninety (90) days from the date thereof, as the Court or Clerk thereof may direct. [As amended Acts 1933, 43rd Leg., p. 323, ch. 123.]

TITLE 39—COURTS OF CIVIL APPEALS

Art. 1839. [1608] [1015] Time to file transcript

In appeal or Writ of Error the Appellant or plaintiff in error shall file the transcript with the Clerk of the Court of Civil Appeals within sixty days from the final judgment or order overruling motion for new trial, or service of the writ of error; provided, by motion filed before, at, or within a reasonable time, not exceeding fifteen days, after the expiration of such sixty day period, showing good cause to have existed within such sixty day period, why said transcript could not be so filed, the Court of Civil Appeals may permit the same to be thereafter filed upon such terms as it shall prescribe. [As amended Acts 1931, 42nd Leg., p. 100, ch. 66; Acts 1933, 43rd Leg., p. 142, ch. 67.]

[Art. 1851a. Trial judge may certify question of constitutionality of law to Court of Civil Appeals; procedure]

Sec. 1. In any case now or hereafter pending in any District or County Court in this State, wherein the constitutionality of any law or any order, rule or regulation of any officer, board, or other State Commission is attacked as being violative of either the State or Federal Constitution, and wherein a decision on the same is material to the deciding of said case finally on its merits, the Judge of said Court shall have the power and authority to certify any such question or questions of law involved in said case directly to the Court of Civil Appeals in said District before trial on the merits for its decision.

Sec. 2. The trial court, in certifying such question or questions, may incorporate in such certificate any or all of the pleadings of the parties therein, and in the event all of the pleadings are not set forth therein, then upon the certification of such question either party may have the right to file in the Court of Civil Appeals or the Supreme Court a certified copy of any such pleadings for the consideration of the Court.

Sec. 3. In order to expedite the final determination of such question with dispatch, the Court of Civil Appeals may forthwith certify said question or questions immediately to the Supreme Court, as provided by Article 1758 of the Revised Civil Statutes of 1925, and other Articles relating to certifying questions to the Supreme Court. When the Supreme Court, on receiving such record, shall render an opinion thereon, such opinion shall be final and shall be the law on the question involved until overruled by it, or otherwise abrogated by law. After the questions are decided the Supreme Court and the Court of Civil Appeals shall notify the Court of Civil Appeals and the trial court respectively. Either of said Appellate Courts shall give such time as it may deem advisable for the filing of briefs.

Sec. 4. The trial court may hold the trial of said case in abeyance until its questions have been certified and answered. Provided, however, that such trial court, if it so desires, may hold hearing on general and special demurrers involving questions of the constitutionality of any such law, order, rule or regulation and an appeal be perfected in the same manner and time as provided by law for appealing from the granting or denying of a temporary injunction, and upon perfecting such appeal to the Court of Civil Appeals, such Court may immediately certify such questions to the Supreme Court, as hereinbefore provided, and the trial court may hold such trial in abeyance pending the determination of such ques-

tions, and if the Court of Civil Appeals shall fail to certify any such question to the Supreme Court, then such case may be carried to the Supreme Court by writ of error or appeal, as in cases where temporary injunctions are denied or granted.

Sec. 5. All such appeals and certified questions shall be given precedence over all other cases as now provided by law. The law and the rules of the Various Courts in reference to certifying questions by the Court of Civil Appeals to the Supreme Court and taking appeals from orders granting or denying temporary injunctions shall govern and control where not in conflict with the provisions hereof.

Sec. 5a. This Act shall not apply to any cause pending on the effective date hereof unless the parties each and all agree in writing to the certification to the Appellate Court and the agreement approved by the trial judge. [Acts 1933, 43rd Leg., p. 147, ch. 71.]

Art. 1871. [1649] [1037] Return of execution, when

All executions for costs of the Courts of Civil Appeals, as authorized by law, shall be returned by the sheriff or constable to whom they are directed within thirty (30), sixty (60) or ninety (90) days from the date thereof, as the Court or Clerk thereof may direct. [As amended Acts 1933, 43rd Leg., p. 323, ch. 123.]

TITLE 41—COURTS—COUNTY

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

[Art. 1970—94b. Court reporter; salary]

That said Judge of the County Court at Law, 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 1929, 41st Leg., p. 144, ch. 16, § 6 as amended Acts 1933, 43rd Leg., 1st C. S., p. 152, ch. 52, § 1.]

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 of One Hundred Twenty-five Dollars (\$125.00) per month, and 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,

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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 (\$125.00) per month, which salary shall be paid monthly out of the County Treasury of said County, upon order of the Commissioners Court. [As amended Acts 1931, 42nd Leg., p. 750, ch. 295; Acts 1933, 43rd Leg., Spec. L., p. 49, ch. 42.]

The title to the amending act cites ch. 27 of Acts 1931, 42nd Leg., for amendment instead of ch. 295. Section 3 contains the provision that if any portion of the act is held invalid, such holding shall not invalidate the remainder.

Art. 1970—122. Salary of judge; fees collected and accounted for

The Judge of the County Court of Jefferson County at Law, shall receive a salary of Thirty-eight Hundred Dollars (\$3,800.00) per annum, to be paid out of the County Treasury of Jefferson County, Texas, on order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments. The Judge of the County Court of Jefferson County at Law, shall assess the same fees as are now prescribed by law relating to County Judges' fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection. No part of which shall be paid to the said Judge, but he shall draw a salary as above specified in this Section. [As amended Acts 1931, 42nd Leg., p. 750, ch. 295; Acts 1933, 43rd Leg., Spec. L., p. 49, ch. 42.]

The title to the amending act cites ch. 27 of Acts 1931, 42nd Leg., for amendment instead of ch. 295. Section 3 contains the provision that if any portion of the act is held invalid, such holding shall not invalidate the remainder.

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. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 3, ch. 3, § 1.]

Art. 1970—152. Fees and salary of Judge.

Act 1929, 41st Leg., p. 181, ch. 79, §§ 1-4, validates all orders, judgments and proceedings of the county court at law for Eastland County and provides that if any section thereof is held invalid, such decision shall not affect the remaining sections.

[Arts. 1970—153 to 1970—166. Repealed by Acts 1933, 43rd Leg., Spec. L., p. 86, ch. 65]

See art. 1970—166a.

[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, 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 exist-

ing 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. L., p. 86, ch. 65, § 1—A.]

Art. 1970—298. [Repealed by Acts 1933, 43rd Leg., Spec. L., p. 110, ch. 83, § 1]

Prior to its repeal this art. was Acts 1927, 40th Leg., p. 118, ch. 78, as amended Acts 1927, 40th Leg., 1st C. S., p. 225, ch. 82.

[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. L., p. 110, ch. 83.]

[Art. 1970—301. County courts at Law Nos. 1 and 2 Bexar County]

Sec. 11. The Judge of said County Court at Law No. 1, of Bexar County, Texas, and the Judge of County Court at Law No. 2, Bexar County, Texas, shall each take the oath of office prescribed by the law relating to County Judges, but no bond shall be required of either of them. Each of the said Judges shall be enabled to collect the same fee provided by law for County Judges in similar cases, all of which shall be collected by the Clerk of said Courts and paid by him monthly into the County Treasury of Bexar County, in accordance with orders of the Commissioners Court of said County. Each of said Judges shall receive a salary of Four Thousand Dollars (\$4,000.00) annually, to be paid in equal monthly installments by said County by warrants drawn from the General Fund thereof out of

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the County Treasury by the orders of the Commissioners Court. [Acts 1927, 40th Leg., p. 26, ch. 22, as amended Acts 1933, 43rd Leg., Spec. L., p. 61, ch. 50, § 1.]

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. [Acts 1927, 40th Leg., p. 26, ch. 22, as amended Acts 1933, 43rd Leg., Spec. L., p. 61, ch. 50, § 2.]

[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 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 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.

Sec. 5. That all laws and parts of laws in conflict herewith be and the same are hereby repealed. [Acts 1933, 43rd Leg., Spec. L., p. 63, ch. 52.]

[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. L., p. 65, ch. 54.]

[Art. 1970—312. Jurisdiction of County Court 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

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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 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 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 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.

Sec. 9. All laws and parts of laws in conflict with this Act are hereby repealed, in so far as they relate to Gillespie County, Texas. [Acts 1933, 43rd Leg., Spec. L., p. 84, ch. 64.]

[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 jurisdiction 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.

Sec. 6. That all laws and parts of laws be and the same are hereby repealed. [Acts 1933, 43rd Leg., 1st C. S., p. 163, ch. 60.]

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY

Art. 2020. [1833] Record transmitted

When a plea of privilege is sustained, the Court shall order the venue to be changed to the proper Court of the county having jurisdiction of the parties and the cause. The Clerk shall make up a transcript of all the orders made in said cause, certifying thereto officially under the seal of the Court, and send it with the original papers in the cause to the Clerk of the Court to which the venue has been changed.

Provided, however, if the cause be severable as to parties defendant, the Clerk, instead of sending the original papers, shall make certified copies of such filed papers as directed by the Court and forward the same to the Clerk of the Court to which the venue has been changed. [As amended Acts 1933, 43rd Leg., p. 546, ch. 177.]

Art. 2029. [1860] [1222] [1223] 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. [As amended Acts 1933, 43rd Leg., p. 327, ch. 127.]

[Art. 2031a. Power of attorney designating resident for service of process; penalty for failure to file]

Sec. 1. From and after the effective date of this Act, each and every foreign corporation seeking a permit to do business in this State, and as a prerequisite to its right to secure a permit to do business in Texas, and each and every foreign corporation already having a permit to do business in this State on the effective date hereof, shall file in the office of the Secretary of State a power of attorney designating some individual who is a resident citizen of this State as its service agent, upon whom process may be served in all suits, proceedings and causes of actions pending or hereafter filed in this State, in which said foreign corporation is a party or is to be made a party, which power of attorney shall be in effect so long as said foreign corporation is authorized to do business in Texas, and for a period of four years from and after the date any such foreign corporation shall have surrendered its charter or has ceased to do business in Texas; provided, however, that each foreign corporation having a permit and doing business in Texas on the effective date hereof, shall have ninety days after the effective date hereof within which to comply with the requirements of this Act.

Sec. 2. The power of attorney required by this Act shall, in addition to stating the name and address of the agent, also stipulate that said agent is appointed as the corporation's service agent in Texas, and that said foreign corporation consents to the service of process upon said agent and that he shall be deemed as the service agent of said corporation for all intents and purposes as contemplated by the Statutes requiring such designation and appointment; said power of attorney shall be acknowledged by the President or Vice-President, attested by the Secretary and acknowledged in manner and in form as is required in the acknowledgment of deeds in the State of Texas; said power of attorney shall, when executed, be filed in the office of the Secretary of State and shall become a part of the records in said office.

Sec. 3. In the event of the death, resignation or removal of said agent so appointed, or the revocation of said power of attorney by said corporation, said foreign corporation shall immediately substitute the name of some other individual by similar power of attorney as is required by this Act, so that at all times an agent shall be available upon whom service of process may be had as provided herein.

Sec. 4. Nothing herein contained shall be construed as repealing any statute in force in this State in reference to service of process on foreign corporations, but this Act shall be construed and held cumulative of all existing statutes, and service of process in all suits against foreign corporations may be had as is now provided by law, or as provided in this Act, or by all of such methods.

Sec. 5. If any corporation which is required by the terms of this Act to file the power of attorney and designate a service agent as provided by this Act, shall fail to do so at or within the time as required by this Act, then in such event:

(a) Each of its acts in this State shall, as to it, be unlawful and void and none of such acts shall, as to it, be valid; and it shall be incapable in this State of receiving the benefit of, exercising in its behalf or enjoying any right, power, privilege or immunity that shall not already have accrued, provided that none of its acts done subsequently to the filing of such a power of attorney, though such filing be late, shall be affected by the foregoing provisions, nor in case of such late filing shall the incapacity affected by the foregoing provisions apply to any right, power, privilege or immunity that shall have wholly arisen and accrued after such filing.

(b) Such corporation shall be incapacitated to maintain any suit or legal proceedings in any court in this State upon any demand whether arising out of contract or tort.

(c) Such corporation shall be liable to the State of Texas in the penal sum of Fifty (\$50.00) Dollars, per week for each and every week in which it shall have so failed to file any such power of attorney, same to be recoverable by the Attorney General in the name of the State of Texas, in any court of competent jurisdiction in Travis County, Texas.

(d) Such corporation, by doing any act within this State, shall be deemed to have appointed the Secretary of State and his successors in office, to all intents, effects and purposes as if it had duly executed such power of attorney.

Sec. 6. If any paragraph, section or subsection of this Act shall be held or deemed invalid or unconstitutional, such invalid or unconstitutional part or parts shall not in any manner affect the remaining paragraph, section or subsection, but all such remaining parts shall be held to be expressive of the wish of the Legislature, regardless of the invalidity of any paragraph, section or subsection hereof. [Acts 1933, 43rd Leg., p. 606, ch. 202.]

[Art. 2039a. Citation of nonresident motor vehicle owner by serving Highway Commissioner]

Sec. 1. The acceptance by a non-resident of this State or the acceptance by his agent, servant or employee, of the rights, privileges and benefits of the public highways or public streets of this State as evidenced by him or his agent, servant or employee operating a motor vehicle or motorcycle on any such public highway or public street, shall be deemed equivalent to an appointment by such non-resident and of his agent, servant or employee, of the Chairman of the State Highway Commission of this State, or his successor in office, to be his true and lawful attorney and agent upon whom may be served all lawful process in any civil action or proceeding now pending or hereafter instituted against said non-resident, his agent, servant or employee, growing out of any accident or collision in which said non-resident, his agent, servant or employee may be involved while operating a motor vehicle or motorcycle on such public highway or public street either in person or by his agent, servant or employee, and said acceptance or operation shall be a signification of the agreement of said non-resident, or his agent, servant or employee that any such process against him or against his agent, servant or employee, served upon said Chairman of the State Highway Commission, or his successor in office, shall be of the same legal force and validity as if served personally:

Service of such process shall be made by leaving a certified copy of the process issued in the hands of the Chairman of the State Highway Commission in Texas at least twenty days prior to the return date thereof, to be stated in said process, and such service shall be sufficient upon said non-resident, his agent, servant or employee, provided, however, that notice of such service and a copy of the process be forthwith sent by registered mail by the Chairman of the State Highway Commission to the non-resident defendant, his agent, servant or employee.

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 or employee, 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

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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 affidavits under the hand and official seal of such officer.

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.

Sec. 4. The Chairman of the State Highway Commission shall upon request of a party and upon the payment of a fee of One (\$1.00) Dollar, certify to the court out of which said process is issued or in which any suit or action may be pending against such non-resident, its agent, servant or employée, 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.

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.

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, as amended Acts 1933, 43rd Leg., p. 145, ch. 70.]

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

9. In cities and towns having a population of one thousand (1,000) or more inhabitants, according to the last preceding United States Census, the active members of organized fire companies, not to exceed twenty (20) to each one thousand (1,000) of such inhabitants; provided that this exemption shall apply to volunteer members of fire companies, whether there are paid firemen or not. [As amended Acts 1931, 42nd Leg., p. 375, ch. 221; Acts 1933, 43rd Leg., 1st C. S., p. 291, ch. 106, § 1.]

Art. 2218. [2000] [1340] Of foreclosure [procedure as to deficiency judgment]

Judgments for the foreclosure of mortgages and other liens shall be that the plaintiff recover his debt, damages and costs, with a foreclosure of the plaintiff's lien on the property subject thereto, and, except in judgments against executors, administrators and guardians, that an order of sale shall issue to the sheriff or any constable of the county where such property may be, directing him to seize and sell the same as under execution, in satisfaction of the judgment; and, if the property cannot be found, or if the proceeds of such sale be insufficient to satisfy the judgment, then to make the money, or any balance thereof remaining unpaid, out of any other property of the defendant, as in case of ordinary executions; pro-

viding that if the property be real property, and if the proceeds of such sale be insufficient to satisfy the judgment, and providing that if the mortgagee or lien holder has elected to foreclose his mortgage or lien to satisfy his debt, or if the property be real property, and if sold under deed of trust or other contract and the proceeds of such sale be insufficient to satisfy the debt, and the mortgagee or lien holder shall thereafter bring suit against the maker of the debt or any person who has assumed the payment thereof, or who is obligated thereon, or if a deficiency judgment exists after sale under execution or order of sale, the defendant or defendants in such suit may plead as a defense or partial defense to such suit or against such deficiency judgment that said property at such foreclosure was sold for less than its actual value, exclusive of superior liens including tax liens, at the time and place of such sale; and may by proper pleading and evidence show the actual value, exclusive of superior liens including tax liens, of such property at the time and place of such foreclosure sale; and if such actual value, exclusive of superior liens including tax liens, be shown to be more than the amount for which such property was sold at such foreclosure, the defendant or defendants shall be entitled to a credit upon such deficiency indebtedness of the difference between the amount of such foreclosure price and the actual value, exclusive of superior liens including tax liens, of such property at the time and place of such foreclosure sale. The burden of proof shall be upon the defendant to establish by clear and satisfactory evidence the facts necessary to establish his defense or offset or credit, and the court shall so instruct the jury. [As amended Acts 1933, 43rd Leg., p. 198, ch. 92.]

[Art. 2218a. Limitations of action on note after sale of real estate security and process to enforce deficiency judgment]

Sec. 2. All actions for the recovery of any judgment on any note or notes secured by a lien on real estate shall be brought within six months after the date of any sale of the real estate security and no court shall have any jurisdiction to maintain any such action brought after such date.

Sec. 3. No writ of execution, attachment, garnishment, or other writ or order seeking to enforce any money or deficiency judgment had on any note or other obligation secured by any lien on real estate shall ever be issued by any court of this State unless the application for said writ or order shall have been made within six (6) months after any sale shall have been had of any real estate securing the note or other obligation.

Sec. 4. In no case where the lien is given or obtained to secure the payment of a debt for money or property procured by false representation, fraud or defalcation, shall the defendant be allowed to plead that the property sold at less than its actual value, but any sale fairly made under such lien shall be conclusively presumed to have been made for the actual value of such property sold. [Acts 1933, 43rd Leg., p. 198, ch. 92.]

[Art. 2218b. Continuance of lien foreclosures; procedure]

Sec. 1. From and after the effective date of this Act and during the period of time this Act is made effective as provided herein, in all suits or causes of action which are pending in any trial court exercising jurisdiction in this State on the effective date of this Act, and in all suits or causes of actions which may be filed within one hundred and eighty (180) days from and after the effective date of this Act and in which a judgment for the recovery of real property sought to be recovered, or wherein a recovery of real property is sought for a failure or omission to pay any indebtedness due thereon, or to foreclose any lien or liens thereon, the defendant shall have the right to a postponement or continuance thereof as herein provided and a stay of orders of sales or executions by complying with the conditions as hereinafter set forth, to-wit:

- (1) That the defendant file therein a sworn statement showing:

(a) That the defendant is unable to pay said indebtedness and that the property of the defendant, if sold under an order of sale, or any other property of the defendant, if sold under execution, would probably sell for less than its reasonable market value, and/or less than its intrinsic value.

(1a) That the lien sought to be foreclosed was not procured or obtained for the purpose of securing in part or whole any indebtedness for money or property procured by misrepresentation, fraud, defalcation or embezzlement.

(b) That the rendition of a judgment as prayed for by plaintiff and the sale of the defendant's property under deed of trust or execution or order of sale would result in an unfair, unjust and inequitable financial injury to the defendant.

(c) That the property upon which the lien is sought to be foreclosed is not being wasted, illtreated, mismanaged or destroyed and is in substantially as good condition as when the lien was first executed, and that the defendant has not, with the intent to defeat or delay the collection of the indebtedness or the enforcement of the lien, dissipated the property or the rents and revenue theretofore derived therefrom.

(d) That the defendant is not in arrears in the payment of taxes for more than four (4) years since February 1, 1922, on the property involved in the suit.

(e) That the defendant consent either to the appointment by the Judge or the Court of a disinterested party to collect all rents and revenues, derived from the property upon which the lien exists, during the period of postponement or continuance or stay of orders of sales or executions and to apply the same as a credit on the indebtedness, or deposit the same in the registry of the Court to await the final disposition of the case or to use, apply or dispose of the rents as the Judge may direct without the appointment of a disinterested party to collect the same.

Upon the filing of such motion the Judge or Court before whom said suit or cause of action is pending, shall, before proceeding to trial on its merits, hear evidence in support of or against the facts alleged in said motion, and if it be made to appear to the Court that said allegations are probably true, the Court shall defer rendering judgment in said cause for as long a period or one hundred and eighty (180) days, nor shall any order of sale or execution issue until after the expiration of the time fixed by the Court; provided, however, that the Judge or Court shall have authority, upon further application at the end of the time to which cause has been postponed, but not after the expiration of two hundred (200) days from the effective date of this Act, if it reasonably appears that the same condition exists as in the first instance, to grant further extensions from time to time, but in no event beyond May 1, 1934.

It shall be the duty of the Court in determining whether or not said allegations are true, and whether a postponement or continuance shall be granted, to take into consideration the financial condition of the parties, both plaintiffs and defendants, and the nature and character of the property, and the disposition likely to be made of the property if taken possession of by the plaintiff or retained by the defendant and the general economic conditions existing at the time of the hearing of the application.

Sec. 2. Nothing herein shall be held to prevent or limit the right of any Court to enter any judgment by agreement of the parties.

Sec. 3. The Judge or Court having jurisdiction of the subject matter, is hereby authorized to grant temporary injunctions at the instance of the debtor to prevent a sale of real property under execution, orders of sale of real property or under deeds of trust conveying lands as security for debt upon the same terms and conditions as is authorized by Section 1 of this Act and during the life of this Act.

Sec. 4. Nothing contained in this Act shall prevent the Court or the Judge thereof, upon good cause shown, from granting such preliminary and ancillary remedies by injunction or otherwise, including receivership,

in accordance with the provisions of the law and the usages of equity which may, in the discretion of such Court or Judge, appear to be necessary for the preservation and protection of the rights of parties and of property during the pendency of any litigation concerning the subjects herein mentioned.

Sec. 5. During the existence of this Act and as long as it is operative, nothing herein contained shall prevent parties from litigating and contesting cases pending in Court and appealing from judgments rendered therein without filing the motion mentioned in Section 1 hereof, or after such motion is overruled, and in cases where judgments are rendered and an appeal is taken, the appealing party shall be entitled to have execution or order of sale stayed and postponed pending such appeal without filing a supersedeas bond, if from the facts proven upon application for such stay order, it reasonably appears to the Court that the appealing party is unable to execute a good and sufficient supersedeas bond or that it would be inequitable, unjust and unfair to permit his property (whether secured by lien or not) to become subjected to sale during the pendency of such appeal.

Sec. 6. If and in the event any defendant does not elect to file the motion and make proof in support thereof, as authorized by Section 1 of this Act, and proceeds to trial, as provided by Section 5 of this Act, and is relieved of the necessity of filing a supersedeas bond and having executions or orders of sales stayed and postponed pending his appeal, then in such event if the judgment is one foreclosing a lien upon real property, the defendant in judgment so appealing, as a prerequisite to his right to have executions and orders of sale stayed or postponed and as a prerequisite to his right to appeal without the filing of a supersedeas bond, shall consent to the appointment by the Judge of the Court of some disinterested party to collect all rents and revenues derived from the property upon which the lien exists during the period of the appeal and that the person so appointed by the Court shall apply the same as a credit on the indebtedness or deposit the same in the registry of the Court, to await the final disposition of the case as the Judge may direct.

Sec. 7. If any defendant in any cause pending during the life of this Act shall represent to the Court in writing that he is unable to employ attorneys to present the motion as herein authorized and to present the facts to the Court, the Court shall appoint reputable counsel to represent said defendant and in all cases it shall be the duty of the Court to aid in the development of all facts necessary to enable the Court to intelligently and fairly act upon the issues presented by the application filed by the defendant who is unable to employ counsel.

Sec. 8. No act of any person, corporation, partnership or association invoking the benefits of this Act shall be construed to be a confession or admission, directly or indirectly, of insolvency, so as to force involuntary receivership, and no testimony heard or evidence adduced in or by any trial Court under the terms of this Act, either in support of or in opposition to the application of any such person, corporation, partnership or association shall be admitted in evidence in any Court in any action of receivership or in any action involving the solvency or insolvency of the defendant.

Sec. 9. This Act shall have no effect upon any suit or cause of action based upon or seeking to enforce a contract or contracts entered into or obligations executed or assumed subsequent to the effective date of this Act, even though such contracts or obligations be in renewal or extension of, or otherwise relate to contracts or obligations executed or assumed prior to the effective date of this Act.

Sec. 10. If any section, subsection, subdivision, paragraph, sentence, clause or words of this Act be held to be unconstitutional, the remaining portions shall nevertheless be valid and it is declared that such remaining

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portions would have been included in this Act, though the unconstitutional portions had been omitted therefrom.

Sec. 11. All laws or parts of laws in conflict with any of the provisions of this Act, are hereby suspended for the period of one hundred and eighty (180) days from and after the effective date hereof, and to May 1, 1934, in all cases where extensions have been granted to that date as provided by this Act, but no Statute is intended to be repealed and upon the expiration of two hundred (200) days from and after the effective date of this Act, it shall be of no further force and effect and any and all laws suspended during the effective period of this Act, shall immediately become operative and in full force and effect as effectively as if this Act had not been passed. [Acts 1933, 43rd Leg., p. 225, ch. 102.]

[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.]

Art. 2283. [2115] [1417] Briefs

Article superseded as to time for filing briefs in Court of Civil Appeals, see art. 1848 as amended.

Art. 2317. [2153] [1491] Receivership of corporation limited

No corporation shall be administered in any court for more than three years from the date of such appointment; and within three years such court shall wind up the affairs of such corporation, unless prevented by appeal of 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 on the minutes after hearing held after due notice to all attorneys of record; Provided no continuance of a receivership shall be for more than two years additional to the original three years, 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. [As amended Acts 1933, 43rd Leg., p. 58, ch. 29.]

[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.]

TITLE 44—COURTS—COMMISSIONERS

Art. 2350. County commissioners salaries

Except in all counties having an assessed valuation of more than Sixty-five Million Dollars (\$65,000,000.00) and less than Seventy-six Million Dollars (\$76,000,000.00) according to the last preceding tax roll, each Commissioner shall receive a salary not to exceed Three Thousand Dollars (\$3,000.00) per year.

Except in all counties having an assessed valuation of more than Eighteen Million Dollars (\$18,000,000.00) and less than Eighteen Million, Five Hundred Thousand Dollars (\$18,500,000.00), according to the last preceding tax roll, each Commissioner shall receive a salary not to exceed One Thousand, Eight Hundred Dollars (\$1,800.00) per year.

Except in all counties having an assessed valuation of more than Six Million Dollars (\$6,000,000.00) and less than Six Million, Five Hundred Thousand Dollars (\$6,500,000.00), according to the last preceding tax roll, each Commissioner shall receive an annual salary not to exceed One Thousand, Three Hundred Fifty Dollars (\$1,350.00).

Except in all counties having an assessed valuation of more than Five Million Dollars (\$5,000,000.00) and less than Six Million Dollars (\$6,000,000.00), according to the last preceding tax roll, and having a population of less than twenty-four thousand, one hundred (24,100) inhabitants and more than twenty-four thousand (24,000) inhabitants according to the last preceding Federal Census, each Commissioner shall receive a salary not to exceed Twelve Hundred Dollars (\$1,200.00) per year.

Except in all counties having an assessed valuation of more than Five Million Dollars (\$5,000,000.00) and less than Five Million, Five Hundred Thousand Dollars (\$5,500,000.00), according to the last preceding tax roll, each Commissioner shall receive an annual salary not to exceed Twelve Hundred Dollars (\$1,200.00).

Except in all counties having an assessed valuation of more than Twenty-eight Million Dollars (\$28,000,000.00) and less than Twenty-nine Million Dollars (\$29,000,000.00) according to the last preceding tax roll, and having a population of more than thirty-four thousand (34,000) inhabitants and less than thirty-seven thousand (37,000) inhabitants according

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to the last preceding Federal Census, each Commissioner shall receive a salary not to exceed Two Thousand, One Hundred Dollars (\$2,100.00) per year.

Except in all counties having an assessed valuation of more than Seven Million, Two Hundred Thousand Dollars (\$7,200,000.00) and less than Seven Million, Four Hundred Thousand Dollars (\$7,400,000.00) according to the last preceding tax roll, each Commissioner shall receive an annual salary not to exceed One Thousand Two Hundred and Sixty Dollars (\$1,260.00).

Except in all counties having an assessed valuation in excess of Thirty Million Dollars (\$30,000,000.00) according to the last preceding tax roll, and having a population of more than sixty thousand (60,000) inhabitants and less than seventy thousand (70,000) inhabitants according to the last preceding Federal Census, and having as many as two (2) cities with a population in excess of thirteen thousand, five hundred (13,500) inhabitants according to the last preceding Federal Census, each Commissioner shall receive a salary not to exceed Two Thousand, One Hundred Dollars (\$2,100.00) per year. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 220, ch. 83, § 1.]

This article was also amended by Acts 1933, 43rd Leg., p. 727, ch. 216.

[Art. 2350d. Salary in certain counties]

In every county in this State, having a population of not less than seventeen thousand (17,000) and not more than seventeen thousand, one hundred (17,100), according to the last available United States Census, the compensation of each County Commissioner, so long as the taxable values in said county shall exceed the sum of Seven Million, Two Hundred Fifty Thousand Dollars (\$7,250,000.00) for the next preceding year shall be Fifteen Hundred Dollars (\$1500.00) per year, to be paid in equal monthly installments, sixty per cent (60%) of which amount shall be paid out of the General Fund of the County, and forty per cent (40%) out of the Road and Bridge Fund of the County. Provided that when such taxable values for the next preceding year shall fall below said sum the salary of each County Commissioner shall be as provided in Article 2350 of the Revised Statutes of 1925. [Acts 1929, 41st Leg., p. 685, ch. 306, § 1, as amended Acts 1931, 42nd Leg., Spec. L. p. 428, ch. 213; Acts 1933, 43rd Leg., p. 50, ch. 24.]

[Art. 2350h. Funds for payment of salaries of county commissioners and county judges]

The salary of each County Commissioner and each County Judge may be paid wholly out of the County General Fund or, at the option of the Commissioners Court, may be paid out of the County General Fund and out of the Road and Bridge Fund in the following proportions: County Judge not to exceed seventy-five per cent (75%) of such salaries may be paid out of Road and Bridge Fund, and the remainder out of the General Fund of the county, and each County Commissioner's salary may, at the discretion of the Commissioners Court, all be paid out of the Road and Bridge Fund; provided this Act shall not apply except in counties where the constitutional limit of twenty-five (25) cents on the One Hundred Dollars (\$100.00) is levied for general purposes. [Acts 1930, 41st Leg., 4th C. S., p. 27, ch. 16, as amended Acts 1930, 41st Leg., 5th C. S., p. 199, ch. 56, Acts 1933, 43rd Leg., p. 396, ch. 154.]

[Art. 2350m. Salaries in other counties]

Counties having population of 77,777 to 78,000, and counties having population of 64,000 to 65,000: \$2,400. [Acts 1933, 43rd Leg., 1st C. S., p. 181, ch. 64.]

Acts 1933, 43rd Leg., 1st C. S., p. 313, ch. 113, reads as follows: "Sec. 1. In every county in this State having a population of not less than twenty-four thousand, two hundred thirty-three (24,233) nor more than twenty-four thousand, three hundred thirty-three (24,333) according to the last preceding United States Census the compensation of each County Commissioner so long as the taxable value in said county shall exceed the sum of Ten Million Dollars (\$10,000,000.00) for the next preceding year shall not exceed Eighteen Hundred Dollars (\$1,800.00) per year, to be paid in equal monthly installments out of the funds belonging to said county, as follows: The salary of each County Commissioner shall be paid at least one-half out of the Road and Bridge Fund, but not to exceed seventy-five per cent. (75%) of said salary shall be paid out of such fund, and the remainder out of the General Fund of the county; provided that when such taxable values for the next preceding year shall fall below said sum of Ten Million Dollars (\$10,000,000.00), the salary of each County Commissioner shall be as provided in Article 2350 of the Revised Civil Statutes of Texas, of 1925, as amended by Act of the Thirty-ninth Legislature, Regular Session, Chapter 135, Section 1; and as amended by Act of the Fortieth Legislature, Page 435, Chapter 490, Section 1; and as amended by Act of the Fortieth Legislature, First Called Session, Page 138, Chapter 46, Section 1; and as amended by act of the Forty-third Legislature, Regular Session, Page 727, Chapter 216, Section 1.

"In every County in this State having a population of not less than forty-six thousand, one hundred eighty (46,180), nor more than forty-six thousand, one hundred eighty-one (46,181), according to the last preceding Federal Census, the Compensation of each County Commissioner, so long as the taxable value in said County shall not be less than Twenty-two Million Dollars (\$22,000,000.00) for the next preceding year, shall be Two Thousand Two Hundred and Fifty Dollars (\$2,250.00) per year, to be paid in twelve (12) equal monthly installments; and in every County in this State having a population of not less than forty-nine thousand, sixteen (49,016) and not more than forty-nine thousand, seventeen (49,017), according to the last preceding Federal Census, and the taxable value in said County shall not be less than Twenty Million Dollars (\$20,000,000.00) for the next preceding year, shall receive an annual salary of Eighteen Hundred Dollars (\$1,800.00), to be paid in twelve (12) equal monthly installments, and in every County in this State having a population of not less than twelve thousand, seven hundred fifty (12,750) and not more than twelve thousand, eight hundred (12,800), according to

the last preceding Federal Census, and the taxable values in said County shall not be less than Seven Million Two Hundred Thousand Dollars (\$7,200,000.00) or more than Seven Million Two Hundred Twenty-five Thousand Dollars (\$7,225,000.00) for the next preceding year, shall receive an annual salary of not to exceed Twelve Hundred Dollars (\$1,200.00) to be paid in twelve (12) equal monthly installments, which said salaries shall be paid as provided in Article 2350, of the Revised Civil Statutes of Texas, 1925; as amended by the Act of the 39th Legislature, Regular Session, Chapter 135, Section 1, as amended by Act of the 40th Legislature, Page 435, Chapter 490, Section 1; as amended by Act of the 40th Legislature, 1st Called Session, Page 138, Chapter 46, Section 1; and as amended by Act of the 43rd Legislature, Regular Session, Page 727, Chapter 216, Section 1.

"Except in all counties having an assessed valuation of more than Twenty-three Million Seven Hundred Thousand Dollars (\$23,700,000.00), and less than Twenty-three Million Nine Hundred Thousand Dollars (\$23,900,000.00), according to the last preceding tax roll, each Commissioner shall receive an annual salary not to exceed Two Thousand Two Hundred and Fifty Dollars (\$2,250.00), and a population not less than 17,000 and not more than 19,000 according to the last Federal Census.

"Sec. 1A. In all counties having a population of not less than 14,588, and not more than 14,800, according to the last Available Federal Census and each Available Federal Census thereafter, all county officers shall be entitled to receive the fees earned by their respective officers 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, including all excess fees, shall be Six Thousand Dollars (\$6,000.00) for each officer, whose office earns sufficient fees to pay this amount. Each county officer earning fees, in excess of Six Thousand Dollars (\$6,000.00) shall make disposition of such excess in accordance with the provisions of the maximum fee bill. Each precinct Commissioner shall be entitled to receive a salary not in excess of Three Thousand Dollars (\$3,000.00) per annum. All county officers in counties hereby affected shall be entitled to deputies and assistants in the manner authorized in the Maximum Fee Bill.

"In all counties in this State having an assessed valuation of more than Five Million Dollars (\$5,000,000.00) and less than Five Million Five Hundred Thousand Dollars (\$5,500,000.00) according to the last preceding tax roll, each County Commissioner shall receive an annual salary not to exceed Twelve Hundred Dollars (\$1,200.00) per annum.

"In all counties in this State having an assessed valuation in excess of Thirty Million Dollars (\$30,000,000.00) according to the last preceding tax roll and having a population of more than 60,000 and less than 70,000 according to the last preceding Federal

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Census and having as many as two (2) cities with a population in excess of 13,500 inhabitants according to the last preceding Federal Census, each County Commissioner shall receive a salary not to exceed Two Thousand Dollars (\$2,000.00) per annum.

"In all counties in this State having an assessed valuation in excess of Forty-five Million Dollars (\$45,000,000.00) according to the last preceding tax roll and having a population of more than 77,700 inhabitants and less than 78,000 according to the last preceding Federal Census, each County Commissioner shall receive an annual salary of Twenty-four Hundred Dollars (\$2,400.00) per annum payable Two Hundred Dollars (\$200.00) per month and all counties having a tax valuation of not less than Twenty-three Million Two Hundred Eighty-four Thousand and One Hundred Dollars (\$23,284,100.00), and not more than Twenty-three Million Two Hundred Eighty-four Thousand and Three Hundred Dollars (\$23,284,300.00), and fixing the salary of each County Commissioner at One Thousand Nine Hundred and Twenty Dollars (\$1,920.00) per year.

"Except in counties having assessed valuation of more than Ten Million Two Hundred Fifty-five Thousand Dollars (\$10,255,000.00) and less than Ten Million Two Hundred Fifty-seven Thousand Dollars (\$10,257,000.00); according to the tax rolls of

the year 1933, in which Counties' Commissioners' salaries shall be Fifteen Hundred Dollars (\$1,500.00) per year.

"Sec. 2. It is hereby expressly provided that if any section or portion of this bill should be declared invalid for any reason, it shall not affect any other part of the bill.

"Sec. 3. In counties having a population of not less than 160,000 nor more than 200,000, according to the preceding Federal Census, each County Commissioner shall be entitled to an allowance not to exceed the sum of Fifty Dollars (\$50.00) per month for each Commissioner in payment of his traveling expenses and other legitimate and necessary expenses incident to the discharge of his official duties. All such claims shall be verified by such Commissioner and approved by the County Auditor and the Commissioner Court."

Counties having population of 22,296 to 22,580, \$1,800. Counties having population of 9,962 to 10,000, \$5.00 per day for each day served as Commissioner and when acting as Ex-Officio Road Superintendent in his precinct, the total salary not to exceed \$1,000 in any one year for each commissioner. From one-half to three-fourths of such salaries to be paid out of Road and Bridge Fund of County and remainder out of County General Fund. [Acts 1933, 43rd Leg., 1st C. S., p. 267, ch. 95.]

Art. 2372. Interpreters

Laws 1933, 43rd Leg., p. 805, ch. 236, is a special law defining and providing the powers and duties of the Commissioners' Court

in counties having a population of more than 300,000 and less than 350,000 with regard to public roads, bridges and viaducts.

TITLE 45—COURTS—JUSTICE

Art. 2450. [Repealed by Acts 1931, 42nd Leg., p. 392, ch. 238, § 1]

TITLE 47—DEPOSITORIES

Article 2525. [2417] Depository Board

The State Treasurer, as Secretary, together with the Attorney General and the Banking Commissioner, shall constitute the Depository Board. Said Board shall have the right to make and enforce such rules and regulations governing the establishment and conduct of State Depositories and the handling of funds therein as the public interest may require, not inconsistent with the provisions of this Chapter, which rules and regulations shall be in writing and entered upon the minutes of the Board. Said Board shall, after the designation and qualification of State Depositories and Reserve Depositories, as now provided by this Chapter, from time to time, but not oftener than once each calendar month, meet and inquire into the reasonableness of the rate of interest being currently paid the State upon its funds held by such State Depositories and Reserve Depositories; and if the prevailing rate be found by the Board not to be reasonable, such prevailing rate shall be adjusted by the Board so as to permit and require payment thereafter and until further action of the Board a rate that will be fair and reasonable both to the State and to such State Depositories and Reserve Depositories. All such adjustments of interest rates by the Board shall be by order in writing and spread upon its min-

utes. When any such adjustment of the interest rate is made, the Board shall, through its Secretary, immediately notify each State Depository and Reserve Depository in writing of its action in the premises; and such adjusted rate of interest shall be in effect from and after the expiration of ten (10) days following the day on which such order of adjustment is entered. Whenever in this Chapter the word Treasurer is used it shall mean the State Treasurer, and the word Board shall mean the State Depository Board. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 231, ch. 89, § 1.]

Art. 2528. [2420] Acceptance

When the Treasurer receives such application, he shall endorse thereupon the date of its receipt, and shall on the first Monday 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. Said Board shall meet promptly 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. 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. State depositories shall pay interest to the State on funds deposited with them on average daily net balances, payable to the Treasurer monthly, at a reasonable rate, such rate to be ascertained and established by the State Depository Board from time to time, but not oftener than once each calendar month, as is provided by Article 2525 as amended by this Act. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 231, ch. 89, § 1.]

Art. 2529. [2423] Qualifications of depositories

As soon as practicable after the board shall have passed upon all applications, the Treasurer shall notify all banks whose applications have been accepted of their designation as State depositories. The Treasurer shall require each bank so designated to qualify as a State depository on or before the twenty-fifth 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 the 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 in an amount at par value one-fifth greater than the amount of State funds allotted; bonds and certificates of indebtedness of the United States, bonds of this State, obligations of the Board of Regents of the University of Texas issued under authority of Article 2529, Revised Civil Statutes of Texas, 1925, bonds issued by banks organized under the Federal Farm Loan Act located in Texas, bonds of counties, independent School districts and common school districts located in Texas, and bonds issued by municipal corporations in Texas; warrants drawn on the State Treasury against the general revenue of the State, in an amount not less than five per cent greater than the amount of State funds they secure. No state, county, independent school districts, common school districts, or municipal bonds, or obligations of the Board of Regents of the University of Texas issued under authority of Article 2529, Revised Civil Statutes of Texas, 1925, shall be accepted as collateral security unless they shall be approved by the Attorney General. No warrant drawn on the State Treasury 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 payees by loaning money thereon at a rate of interest greater than eight (8%) per cent per annum. The Board shall have the power to reject without assigning any reason therefor, any or all collateral or any surety bond tendered by a State depository, and its action in so doing shall be final and not subject to review.

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 Chapter, 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 chapter shall be deposited and maintained by such depository bank. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 215, ch. 80, § 1.]

This article was also amended by Acts 1933, 43rd Leg., p. 840, ch. 240; Acts 1933, 43rd Leg., p. 854, ch. 244.

Art. 2530. [2426] Deposit of securities

The securities above mentioned shall be delivered to the Treasurer and receipted for by him, and retained by him either in the vaults of the State Treasury and/or in some safety deposit box or boxes in some bank located in the City of Austin, and 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 chapter, 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/or in a safety deposit box or boxes in some bank located in the City of Austin. The Board is hereby authorized to rent from one or more banks located in the City of Austin suitable safety deposit boxes for the purpose of depositing the securities herein mentioned which deposit boxes so rented shall at all times be controlled exclusively by the State Treasurer. 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 are secured. Any bank making deposits of bonds or other securities with the Treasurer under the provisions of this chapter 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. 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 Board.

Upon request of the owner or owners, the Treasurer may surrender interest coupons or other evidence of interest when due on securities deposited with him by depository banks, provided said securities are ample to meet the requirements of the State. [Id.; as amended Acts 1933, 43rd Leg., p. 63, ch. 33.]

Article 2533. [2428] Reserve Depositories

The Board shall designate one or more banks in centrally located cities to be known as Reserve Depositories, to be used for clearing checks and other obligations due the State, and the Treasurer shall keep sufficient funds on deposit in said depositories to meet all current demands upon the State. All items received by the Treasurer for collection shall be deposited with such depositories for credit to the account of the Treasurer and all checks drawn by the Treasurer for the payment of obligations due

by the State may be drawn on a reserve depository or on a State depository, so that the checks of the State may at all times pass current as cash. Reserve Depositories shall pay interest to the State on funds deposited with them on average daily net balances, payable to the Treasurer monthly, at a reasonable rate, such rate to be ascertained and established by the State Depository Board from time to time, but not oftener than once each calendar month, as is provided by Article 2525, as amended by this Act; provided, however, the Treasurer is hereby authorized to waive the collection of such interest from any reserve depository on funds in like amount and for a like period of time such depository may be holding, at the request of the Treasurer, Treasury Warrants drawn against the General Revenue Fund, to assist him in preventing the State from going on deficiency. All funds deposited with Reserve Depositories shall be subject to demand. The Board shall fix the amount of security to be required of any Reserve Depository and when so fixed, the Reserve Depository shall execute or give security of the kind or kinds provided for other State Depositories. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 231, ch. 89, § 1.]

Art. 2536. [Repealed by Acts 1933, 43rd Leg., 1st C. S., p. 231, ch. 89, § 2]

Art. 2537. [2432] Cancellation of contracts

Each State Depository and Reserve Depository shall have the right to cancel its depository contract upon accounting to the Treasurer for all funds deposited with it, (a) at the end of any year by giving thirty (30) days notice in advance, or (b) when the interest rate is increased by the Board.

The Board shall have the right to terminate a contract with a depository at any time they deem it to the interest of the State to do so, upon giving the depository fifteen (15) days notice of such termination. The Treasurer may 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. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 231, ch. 89, § 1.]

Art. 2539. [2437] Interest

Any State Depository or Reserve Depository receiving State funds under the provisions of this Chapter shall pay to the Treasurer at the end of each month in the manner prescribed by him, interest on the average daily net balance for said month, at the rate fixed by the Board. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 231, ch. 89, § 1.]

Arts. 2540-2543. [Repealed by Acts 1933, 43rd Leg., 1st C. S., p. 231, ch. 89, § 2]

Art. 2547. [2443] Bonds

Within five (5) 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 both the Commissioners' Court and the Comptroller, and immediately thereafter filed in the office of the County Clerk of said county, said bond to be signed by not less than five 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

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daily balance to be in no event less than seventy-five 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 statements 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 both the Commissioners' Court and the Comptroller, 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 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 expiration date of such bond or bonds; 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 the Comptroller 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 the county depository may pledge, and said depository bank is hereby 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: United States Bonds, Certificates of Indebtedness of the United States, 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 or obligations of market value equal to said bond and pledges of the University of Texas; bank acceptances of banks having a capital stock of not less than Five Hundred Thousand (\$500,000) Dollars, Water Improvement District, and Water Control and Improvement District Bonds, and the legally issued warrants of any of said municipalities so named, and bonds issued by municipal corporations in Texas; bonds, pledges or other securities issued by the Board of Regents of the University of Texas; an amount of the following described securities not to exceed 25% 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 mortgages 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 50% of the reasonable market value of the real property covered by such mortgages; 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 said 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 said depository by the County Treasurer of the county, 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

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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 amount 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 of 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 1905, p. 393, as amended Acts 1909, p. 165, Acts 1917, p. 17, 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 1933, 43rd Leg., p. 223, ch. 101 referring to certain counties only and therefore in the nature of a special law is set out following for purpose of convenience. It reads as follows:

"Sec. 1. That when the county depository of any county having a population of not less than 43,100 and not more than 43,200 according to the next preceding Federal census, has pledged securities in lieu of a personal or surety bond to secure the coun-

ty funds of such county, as authorized by paragraph (d) of Article 2547, Revised Civil Statutes 1925, as amended, and it becomes necessary for the county to take over such pledged securities by reason of the inability of the depository bank to pay in cash warrants of the county when presented for payment, it shall be lawful for such counties to accept such securities so pledged and to credit the depository bank with the amount thereof, and to charge said deposi-

tory bank with the total amount of county funds then on deposit in said depository.

"Sec. 2. That the Commissioners' Court of any such county accepting or taking over such pledged securities shall have authority to sell same for the best price obtainable with or without a repurchase agreement and it shall be lawful for such Commissioners' Court to enter into and execute such repurchase agreement. In the event said securities cannot be sold for their face value, the Commissioners' Court of such counties may pledge said securities in order to obtain funds with which to meet the obligations of such counties.

"Sec. 3. That whenever any such county has sufficient funds to its credit in the

county depository, and such depository is unable to pay county warrants when presented, and the Commissioners' Court finds that it is to be* the best interest of the county to select another depository, such court shall have authority to select such other depository in the same manner and upon the same terms as is provided in Article 2550, Revised Civil Statutes 1925.

"Sec. 4. That the provisions of this Act shall not affect the status of any such county as a creditor of such depository bank, and the taking over such pledged securities shall not affect the claim of the county to funds in excess of the amount of securities pledged, and taken over by the county."

Art. 2549. [2444] Designating depository

As soon as said bond be given and approved by the Commissioners' Court, and the Comptroller, 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 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; and, for each and every failure to make such deposit, the county treasurer shall be liable to said depository for ten per cent upon the amount not so deposited, to be recovered by civil action against such treasurer and the sureties on his official bond in any court of competent jurisdiction in the county. 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 collections and settlement thereon, which shall bear interest on daily balances at the rate, if any, fixed for such deposits of the tax collector by the Commissioners' Court in its order designating such depository or depositories, and the interest accruing thereon shall be apportioned by the tax collector to the various funds earning the same. The bond of such county depository or depositories shall stand as security for all such funds. If the tax collector of such county shall fail or refuse to deposit tax money collected as herein required, he shall be liable to such depository or depositories for ten per cent upon the amount not so deposited and shall in addition be liable to the State and county and its various districts and other municipal subdivisions for all sums which would have been earned had this provision been complied with, which interest may be recovered in a suit by the State. Upon such funds being deposited as herein required, the tax collector and sureties on his bonds shall thereafter be relieved of responsibility for its safe-keeping. All money subject to the control of the county treasurer or payable on his order, belonging to districts or other municipal subdivisions selecting no depository, are hereby declared to be "county funds" within the meaning of this chapter and shall be deposited in accordance with its requirements and shall be considered in fixing the amount of the bond of such depository. [Acts 1905, p. 393, as amended Acts 1917, p. 19; Acts 1933, 43rd Leg., p. 604, ch. 201.]

* The word "be" is superfluous.

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Art. 2558. [2458] Bids from adjoining county [or other counties]

If there be no bank 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 bids in the adjoining counties or any other counties in this State in the manner provided by the laws of this State with reference to advertising in the county desiring such depository. When a depository has been selected by the Commissioners' Court in the manner as provided herein, said depository shall, within five days after notice of such designation and selection, 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, provided the County Court shall have the authority to determine the rate of interest charged of their county depository, and where and by whom all checks will be paid. [Id., sec. 33; as amended Acts 1933, 43rd Leg., p. 194, ch. 89.]

TITLE 49—EDUCATION—PUBLIC

[Art. 2589b. Bonds authorized to pay for completion of main building of University; contracts with federal government authorized]

Sec. I. The Board of Regents of the University of Texas is hereby authorized to issue bonds in a sum not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00) to secure funds to be used, in connection with any other fund which may be available therefor, to complete the main building of the University of Texas, the library part thereof being already under construction; these bonds may be in amounts and of maturities to be determined by the Board, except that no bond may be payable more than fifteen years after date thereof; the bonds may draw interest at a rate to be determined by the Board; available University funds arising from grazing and other surface leases of University lands may be pledged to secure payment of the bonds.

Sec. II. The said Board is authorized to make contracts with the United States Government or its agencies for the construction of dormitories to be paid for from rents and other receipts of operation. [Acts 1933, 43rd Leg., 1st C. S., p. 190, ch. 70.]

The title to this act reads as follows: "An Act to authorize the Board of Regents of the University of Texas to execute Bond in a sum in excess of one million two hundred thousand dollars (\$1,200,000.00) to obtain funds with which to complete the Main Building of the Uni-

versity of Texas; to pledge that part of the available University fund arising from grazing and other surface leases of University lands to secure same; and to authorize said Board to make contracts for the construction of dormitories, and declaring an emergency."

[Art. 2613a—1. Permanent improvements authorized]

Sec. I. The Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized to contract with persons, firms or corporations for the purchase of, or the acquisition of, or the erection of permanent improvements on or conveniently located in reference to the campus of said College, or to the campuses of any or all of its branch institutions, and to purchase, sell or lease lands and other appurtenances for the construction of such permanent improvements provided that the State of Texas incurs no indebtedness under the contracts. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 195, ch. 73, § 1.]

Sec. 4. Said Board of Directors is further authorized to sell, encumber or contract with reference to the divesting or encumbering of the title to any part of the campus or other property of said College or of its branch institutions as may be necessary in the construction or acquisition of dormitories except that no debt shall be created against said institution or the State of Texas. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 195, ch. 73, § 1.]

Sec. 6. On the acquisition of said dormitory or dormitories by the College or its branch institutions, the Board of Directors is hereby expressly authorized and empowered to make requisition for all furniture, furnishings, equipment and appointments that may be necessary for the proper use and enjoyment of said building or buildings, which in no event, however, will become permanent fixtures. The Board of Control of the State of Texas is hereby authorized to purchase and pay for the furnishings and the equipment authorized to be purchased in this Section but only after said building or buildings are accepted by the Board of Directors. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 195, ch. 73, § 1.]

Section 2 of Acts 1933, 43rd Leg., 1st C. S., p. 195, ch. 73, repeals all conflicting laws and parts of laws and provides that if any part is declared invalid the remaining portions shall be effective.

[Art. 2613b. State Forester; cooperation with Federal Agencies]

The State forester may, under the general supervision of the Board of Directors of the A. & M. College of Texas, cooperate on forestry projects with the Federal Forest Service and other Federal Agencies and he may, subject to the authorization of said Board, execute agreements relating to forest protection projects in cooperation with Federal agencies and timberland owners and also agreements with timberland owners involving supervision of forest protection and forest development projects when such projects are developed with the aid of loans from a Federal agency and when such supervision by the State is required by Federal Statute or is deemed necessary by the Federal Agency. [Acts 1933, 43rd Leg., p. 175, ch. 81.]

[Art. 2654b—1. Exemption of war veterans from fees]

Sec. 1. The governing boards of the several institutions of collegiate rank, supported in whole or in part by public funds appropriated from the State Treasury, are hereby authorized and directed to except and exempt all citizens of Texas, who have resided in Texas for a period of not less than twelve (12) months prior to the date of registration, and who served during the Spanish-American and/or during the World War as nurses or in the armed forces of the United States during the World War, and who are honorably discharged therefrom, from the payment of all dues, fees and charges whatsoever, including fees for correspondence courses; provided, however, that the foregoing exemption shall not be construed to apply to deposits, such as library, or laboratory deposits, which may be required in the nature of a security for the return of or proper care of property loaned for the use of students, nor to any fees or charges for lodging, board or clothing. The governing boards of said institutions may and it shall be their duty to require every applicant claiming the benefit of the above exemption to submit satisfactory evidence that the applicant is a citizen of Texas and is otherwise entitled to said exemption. The provisions of this Section shall apply to those students who are herein exempted that have already registered and paid their fees or tuition for the 1933-34 school term, and the governing boards of such institutions are hereby authorized and directed to refund such fees to any student who has already paid such fees or tuition for the 1933-34 school term.

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Sec. 2. The governing boards of said institutions of collegiate rank are hereby authorized to issue scholarships each year to the highest ranking graduate of accredited high schools of this State, exempting said graduates from the payment of all dues, fees and charges whatsoever; provided, however, that said exemptions shall not apply to library or laboratory or similar deposits, nor to fees or charges for lodging, board or clothing. Such exemptions shall be granted subject to such limitations and restrictions as may be prescribed by the governing board of each of said institutions. Promises heretofore made by State educational institutions with reference to scholarships shall not be invalidated by H. B. 322, Chapter 196, General Laws of the Regular Session of the Forty-third Legislature and providing that those students who as holders of scholarships granted prior to the passage of H. B. 322, Chapter 196, General Laws of the Regular Session of the Forty-third Legislature who upon entering any of the State educational institutions are required to pay fees in accordance with the above mentioned Act shall be refunded those fees paid and that those scholarships affected shall continue to be valid so long as the students may desire to use them for the purposes for which they were granted or until such students shall have completed a four-year course in such institution. [Acts 1933, 43rd Leg., 1st C. S., p. 10, ch. 6.]

[Art. 2654c. Tuition rates in State institutions of collegiate rank]

Sec. 1. The governing boards of the several institutions of collegiate rank supported in whole or in part by public funds appropriated from the State Treasury shall cause to be collected from students registering in the said schools after September 1, 1933, tuition at the following rates:

1. From each resident student, who registers for twelve (12) or more semester hours of work per semester of four and one-half (4½) months, Twenty-five Dollars (\$25.00) per semester; or, who registers for twelve (12) or more term hours of work per term of three (3) months, Sixteen Dollars and Sixty-seven Cents (\$16.67) per term.

2. From each non-resident student, who registers for twelve (12) or more semester or term hours of work an amount equivalent to the amount charged students from Texas by similar schools in the State of which the said non-resident student shall be a resident, said amount to be determined and fixed by the governing boards of the several institutions in which said students may register, but in no event shall such amount be less than that charged to students resident in Texas. Provided, however, that if this paragraph shall be held to be unconstitutional or void from any cause, there shall be collected from each non-resident student the sum of One Hundred Dollars (\$100.00) for each semester or Sixty-six Dollars and Sixty-seven Cents (\$66.67) for each term. A non-resident student is hereby defined to be a student of less than twenty-one (21) years of age, living away from his family and whose family resides in another State, or whose family has resided within this State for a period of time less than twelve (12) months prior to the date of registration, or a student of twenty-one (21) years of age or over who resides out of the State or who has resided within the State for a period of less than twelve (12) months prior to the date of registration.

3. From each resident or non-resident student who registers for less than twelve (12) semester or term hours of work, a sum proportionately less than that hereinabove prescribed therefor, provided each student registered shall pay no less than Seven Dollars and Fifty Cents (\$7.50) per semester nor less than Five Dollars (\$5.00) per term.

4. From each student registering for a summer session, such amount as shall be fixed by the governing board of such institution, but in no event less than Twenty Dollars (\$20.00) for a twelve (12) weeks term nor more than Thirty-five Dollars (\$35.00) for a twelve (12) weeks term.

5. The foregoing provisions, requiring the governing boards to col-

lect tuition, shall not be interpreted as depriving the said boards of the right to collect such library, laboratory, and other fees as they are now permitted by law to collect.

Sec. 2. All tuition, local funds and fees collected by such institutions shall be retained and expended by such institutions and accounted for annually as provided in the General Appropriation Bill. Provided that laboratory fees or charges shall only cover actual materials and supplies used by a student. [Acts 1933, 43rd Leg., p. 596, ch. 196.]

[Art. 2654d. Control of funds by governing boards]

Sec. 1. The governing boards of the Agricultural and Mechanical College of Texas, including the State Agricultural Experiment Station System and the Extension Service and Rodent Control Service, the Texas Forest Service, North Texas Agricultural College, John Tarleton Agricultural College, Prairie View State Normal and Industrial College, University of Texas, including all branches of the University and the College of Mines and Metallurgy at El Paso, College of Industrial Arts, Texas College of Arts and Industries, Texas Technological College, East Texas State Teachers College at Commerce, North Texas State Teachers College at Denton, Sam Houston State Teachers College at Huntsville, Stephen F. Austin State Teachers College at Nacogdoches, Southwest Texas State Teachers College at San Marcos, Sul Ross State Teachers College at Alpine, and the West Texas State Teachers College at Canyon, may retain control respectively of the following sums of money collected at each of said several institutions in carrying out the functions of an educational institution, such as funds collected from student fees of all kinds; charges for use of rooms and dormitories; receipts from meals, cafes and cafeterias; fees on deposit refundable to students under certain conditions; receipts from school athletic activities; income from student publications or other student activities; receipts from sale of publication products and miscellaneous supplies and equipment; students' voluntary deposits of money with said schools for safe keeping; all other fees and local institutional income of a strictly local nature arising out of and by virtue of the educational activities, or research or demonstration carried on by each and all of said several schools.

Sec. 2. The governing boards of the respective institutions named in Section One above are authorized to select depository banks as places of deposit of all funds of the kind and character named in Section One, which are collected by said institutions, and said boards shall require adequate surety bonds or securities to be posted to secure said deposits, and may require additional security at any time any of said boards deem any said deposit inadequately secured. All funds of the character named in Section One hereof, which are so collected shall be deposited in said depository bank or banks within five days from the date of collection. Depository banks so selected are hereby authorized to pledge their securities to protect such funds. All depositories so designated shall pay interest on said deposits at a rate to be agreed upon by said depositories and said governing boards. Any surety ^{board} ~~board~~ furnished under the provisions of this Act shall be payable to the Governor of the State and his successors in office, and venue of suit to recover any amount claimed by the State to be due on any of said bonds is hereby fixed in Travis County, Texas.

Sec. 3. Separate accounts shall be kept on the books of the respective institutions showing the sources of all sums collected, and the purposes for which expended. All trust funds handled by the governing bodies of such institutions shall be deposited in separate accounts and shall not be commingled with the general income from student fees or other local institutional income, and all such trust funds shall be secured by separate bonds or securities.

Sec. 4. True and full accounts shall be kept by the governing boards and by the employees of the said several institutions hereinabove men-

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tioned of all funds collected from all sources by said institutions, and all the sums paid out by said several institutions and the persons to whom and the purposes for which said sums are paid, and the governing board of each of said institutions named shall biennially, and more often, if the governing board of any of said institutions shall so order, print a complete report of all sums collected, all expenditures, and of the sums remaining on hand; said report to be printed in even numbered years after the first day of September and before the first day of the following January, and shall show the true condition of all of said funds as of the 31st day of August preceding, and shall show all collections and expenditures for the preceding two years. The governing board of each of said several institutions, shall, upon the printing of said report, furnish copies thereof to the Governor, State Treasurer, State Comptroller of Public Accounts, State Auditor, Attorney General, not less than three copies to the Board of Control, and shall, within a week after the selection of said committee, furnish a copy of each of said reports for the preceding biennium to each member of the House Appropriations Committee, the Senate Finance Committee, and the House and Senate Committees on Education of each Regular Biennial Session of the Legislature of Texas.

Sec. 5. The provisions of this Act shall not apply to any income derived from the Permanent Fund of the University of Texas, but all income derived from the Permanent Fund of the University of Texas and all income from the two million acres of land set apart to the University of Texas by the constitution and by the Act of 1883, shall be deposited in the State Treasury and paid out on Comptroller's warrants as is now provided by law. All income to the Available University Fund shall be deposited with the State Treasurer within five days after receipt thereof by any State officer, agent or employee and shall be expended in accordance with Chapter 42, General Laws, Regular Session, Forty-second Legislature, 1931.

Sec. 6. The provisions of this Act shall apply only to the funds hereinabove specifically enumerated and other local institutional income or donations or gifts to said schools.

Sec. 8. If any section, part or sentence of this Act shall be held unconstitutional, such holding shall not affect the remaining portions of this Act, and it is hereby declared that the Legislature would have enacted that part which is constitutional without having enacted the unconstitutional part, if any; and provided that all laws, or parts of laws, in conflict herewith, or contrary to this Act, be and they are hereby repealed.

Sec. 8a. No part of any of these funds shall ever be used to increase any salary beyond the sum fixed by the Legislature in the appropriations bill, and this law shall be subordinate and subservient to the biennial appropriation bills for the support of the several institutions herein mentioned. [Acts 1933, 43rd Leg., p. 746, ch. 221.]

Section 7 of Laws 1933, 43rd Leg., p. 746, ch. 221, being a penal provision is published as Penal Code, art. 419b.

[Art. 2675—1. Acceptance of funds from Congress for vocational rehabilitation]

Sec. 2-a. The Vocational Rehabilitation Division, through the Supervisor of Rehabilitation, is authorized to receive gifts and donations for rehabilitation work, said gifts and donations to be deposited by the Supervisor of Rehabilitation in the State Treasury, subject to the matching of same with Federal Funds up to such amount as the Federal Government may allocate per biennium to the State for said work, and which has not already been met with state appropriations for said biennium.

Sec. 2-b. Provided no person shall ever receive any commission in

whole or in part for solicitation of any funds as provided in this Act. [Acts 1933, 43rd Leg., 1st C. S., p. 274, ch. 99, § 1.]

[Art. 2675j. Rehabilitation Division of State Department of Education created]

Sec. 1. That there is hereby created in the Rehabilitation Division of the State Department of Education, a physical restoration service for crippled children under twenty-one years of age. This service shall make provision for locating, examining, and physically restoring crippled children of the State as hereinafter provided.

[Children eligible]

Sec. 2. A crippled child is defined as any person of normal mentality, under twenty-one years of age, whose physical functions or movements are impaired by reason of a joint, bone, or muscle defect or deformity, to the extent that the child is or may be expected to be totally or partially incapacitated for education or remunerative occupation. To be eligible for service under this Act, the child's disability must be such that it is reasonable to expect that such child can be improved through hospitalization, medical or surgical care, artificial appliances, or through a combination of these services.

[Powers of Rehabilitation Division; compensation for treatment; artificial appliances]

Sec. 3. The Rehabilitation Division of the State Department of Education, is empowered to take censuses, make surveys and establish permanent records of crippled children; to organize and supervise public diagnostic clinics; to select and designate hospitals for the care of crippled children contemplated in this Act, providing that such hospitals must be approved by the State Board of Control, and to take such other steps as may be necessary in order to accomplish the purposes of this Act. The Rehabilitation Division may not pay in excess of Eighteen Dollars (\$18.00) per week per child for hospital service. No compensation shall be paid out of State appropriations to any physician, surgeon, or nurse who shall treat or examine such patient. At the discretion of the State Department of Education, transportation and prosthetic and artificial appliances may be furnished.

[Certification by county judge]

Sec. 4. That no child shall be entitled to the care and treatment provided in this Act unless the county judge of the county in which the child resides shall certify to the Rehabilitation Division of the State Department of Education upon sworn petition of the parents of said child, or persons standing in loco parentis, proven to the satisfaction of said judge, that the parents of said child, or persons standing in loco parentis, are financially unable to provide for said care and treatment.

That children whose parents, or those in loco parentis are financially able to pay in part for such treatment and care may be provided for by the Rehabilitation Division under such rules and regulations as may be prescribed by the Department of Education.

Provided further that said county judge must also certify that one or more physicians, regularly practicing under the laws of the State of Texas, have examined said child and have recommended said child as coming under the provisions and intent of this Act. Provided further that no

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judge or official agent shall, by virtue of this Act, have any right to enter any home over the objection of the parents, or either of them, or the person standing in loco parentis of such child, and nothing in this Act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis over such child.

[Special supervisor; additional powers of Department of Education]

Sec. 5. The State Department of Education is authorized to employ a special supervisor who shall carry out the provisions of this Act under the direction of the State Supervisor of Vocational Rehabilitation. The State Department of Education is further authorized to make such rules, regulations, and policies as are necessary to carry out the provisions of this Act, and to secure such clerical assistance, equipment and supplies as are needed.

[Appropriation]

Sec. 6. There is hereby appropriated Twenty Thousand (\$20,000.00) Dollars from the General Revenue Fund for the biennium ending August 31st, 1935, for carrying out the provisions of this Act; provided that not more than five per cent of the total appropriation may be spent for office supplies and equipment.

[Donations; payments of funds; reports]

Sec. 7. The State Department of Education is authorized to receive gifts and donations for this work. All gifts and donations for crippled children's work shall be paid into the State Treasury and the same are hereby re-appropriated for the purposes of this Act. The Treasurer of the State of Texas shall pay out all money and funds provided for this Act upon proper warrant issued by the Comptroller of the State of Texas drawn upon vouchers approved by the State Department of Education and the Department of Education shall report annually to the Governor amounts received and expended and work accomplished.

[Other powers of Vocational Rehabilitation Division]

Sec. 8. The Vocational Rehabilitation Division of the State Department of Education is empowered and directed to take all action necessary to accomplish the purposes provided or implied by this Act, and to cooperate with public agencies, state, county and local, and with private agencies and individuals interested in the welfare of crippled children. The Vocational Rehabilitation Division, through the State Department of Education is further empowered and directed to work in co-operation with all acts relating to rehabilitation of crippled persons now in effect or enacted in the future. [Acts 1933, 43rd Leg., p. 400, ch. 158.]

Art. 2676. Election

The general management and control of the public free schools and high schools in each county, unless otherwise provided by law shall be vested in five (5) county school trustees elected from the county, one of whom shall be elected from the county at large by the qualified voters of the common and consolidated independent school districts of the county, and one from each Commissioners' Precinct by the qualified voters of each Commissioners' Precinct, who shall hold office for a term of two (2) years.

The time for such election shall be the first Saturday in April of each year; the order for the election of county school trustees to be made by the County Judge at least thirty (30) days prior to the date of said election, and such order shall designate one voting place for each common school district. The election officers appointed to hold the election for trustees in each common school district shall hold the election at the same place therein for the county school trustees. Each year there shall be elected alternately two (2) county school trustees and three (3) county school trustees in each county. The State Superintendent shall prepare a proper form of the ballot to be used in such election and such other explanation of the laws as he deems necessary, and transmit the same to the County Judge of each county at least sixty (60) days prior to the date of such election. All vacancies shall be filled by the remaining trustees.

Sec. 2. Provided, however, the provision of this Act shall apply to all counties of the State having not less than ten thousand, two hundred and sixty-two (10,262), and not more than ten thousand, three hundred and forty-nine (10,349), inhabitants by the last preceding Federal Census. [Acts 1915, p. 69, as amended Acts 1932, 42nd Leg., 3rd C. S., p. 98, ch. 34.]

Acts 1933, 43rd Leg., Spec. L., p. 39, ch. 32, being a local act passed as a general law, is herein set out for convenient reference. It reads as follows: "Sec. 1. The Board of Trustees of the Public Free Schools of the City of Galveston are hereby authorized and required to set aside and appropriate the fund of fifty thousand dollars (\$50,000) represented by Guaranty Building and Loan Company Certificates heretofore donated to said Board of Trustees by Mrs. I. Lovenberg, on the 13th day of October, 1931, for the purpose of providing, establishing and maintaining a retirement fund, as well as any other fund or property hereafter specifically given or donated to said Board of Trustees therefor, the income from which shall be used for the payment of pensions or retirement benefits to the present and future Superintendents, Principals, Supervisors, Teachers, and other regularly salaried employees of said schools, under such rules and regulations as may be prescribed therefor, provided, that no funds or other property derived by way of taxation shall ever be set aside or appropriated for such purpose and when said funds or property have once been set aside or appropriated for said purpose they can be used for no other purpose.

"Sec. 2. The Board of Trustees of the Public Free Schools of the City of Galveston, shall have full power and authority to make compulsory deductions from the salaries of the superintendents, principals, supervisors, teachers and other regularly salaried employees of said schools, for the pur-

pose of maintaining the retirement fund provided for in the preceding section hereof, not to exceed three (3%) per centum thereof; and the said Board of Trustees shall prescribe rules and regulations under which said funds or other property shall be paid to the present and future superintendents, principals, supervisors, teachers and other regularly salaried employees of said schools, or, the said Board of Trustees may pay and convey said funds or other property to a corporation or association lawfully organized for the purpose of receiving and administering said funds or other property, provided, that in such case two or more members of the said Board of Trustees shall be directors of said corporation or trustees of said association, in which case the directors of said corporation or trustees of said association shall prescribe the rules and regulations under which said funds or other property shall be payable to said superintendents, principals, supervisors, teachers and other regularly salaried employees in said schools.

"Sec. 3. If any section, subsection, clause, sentence, or phrase of this act is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional."

Art. 2688. [2750] Office established

The Commissioners' Court of every county having three thousand (3,000) scholastic population or more as shown by the preceding scholastic census, shall at a General Election provide for the election of a County Superintendent to serve for a term of four (4) years, who shall be a person of educational attainments, good moral character, and executive ability, and who shall be provided by the Commissioners' Court with an office in the courthouse, and with necessary office furniture and fixtures. He shall be the holder of a teacher's first grade certificate or teacher's permanent certificate. In every county that shall attain three thousand (3,-

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000) scholastic population or more the Commissioners' Court shall appoint such Superintendent who shall perform the duties of such office until the election and qualification of his successor. In counties having less than three thousand (3,000) scholastic population whenever more than twenty-five per cent (25%) of the qualified voters of said county as shown by the vote for Governor at the preceding General Election shall petition the Commissioners' Court therefor, said Court shall order an election for said county to determine whether or not the office of County Superintendent shall be created in said county; and, if a majority of the qualified property taxpaying voters voting at said election shall vote for the creation of the office of County Superintendent in said county, the Commissioners' Court, at its next regular term after the holding of said election, shall create the office of County Superintendent, and name a County Superintendent who shall qualify under this Chapter and hold such office until the next General Election. Provided, that in all counties having a population in excess of three hundred and fifty thousand (350,000) inhabitants according to the last available Federal Census the County Superintendent shall be appointed by the County Board of Education and shall hold office for two (2) years, provided further, that this provision shall not operate so as to deprive any elected Superintendent of his office prior to the expiration of the term for which he has been elected; provided further that in counties having a scholastic population of between three thousand (3,000) and five thousand (5,000) scholastics, wherein the office of County Superintendent has not been created and a Superintendent elected, then in such counties the question of whether or not such office is established shall be determined by the qualified voters of said county in a special election called therefor by the Commissioners' Court of said county, upon petition therefor as hereinabove specified. [Acts 1905, p. 263, as amended Acts 1907, p. 210; Acts 1931, 42nd Leg., p. 849, ch. 357; Acts 1932, 42nd Leg., 3rd C. S., p. 47, ch. 21, § 1.]

Art. 2691. [2753] Teachers' institutes

The County Superintendent or ex-officio County Superintendent in each county may call the white teachers of the county together for one or more meetings, not exceeding three such meetings in any one school year, the number to be determined by the County Board and the County Superintendent, such meetings to be held on Saturday for one or more hours, not to exceed three on any one day, as the program arranged may demand. Similar meetings may be held by the County Superintendent for the colored teachers of the county, should there be any. The County Superintendent may require the attendance of the white teachers upon the meetings for white teachers and the attendance of colored teachers upon the meetings for colored teachers, and teachers shall not receive pay for such attendance. The Board of Trustees of any independent district having five hundred (500) or more scholastic population may authorize the Superintendent of Schools in such district to hold meetings of the teachers of the district in lieu of the county meetings. Provided further that the Superintendent must call any such meetings to be held at a time when the schools of the county are all in session. [Id.; as amended Acts 1927, 40th Leg., p. 282, ch. 197; Acts 1933, 43rd Leg., p. 72, ch. 41.]

[Art. 2691a. Rural school supervisors]

Sec. 1. That the County Board of School Trustees in counties having a population of twenty-nine thousand, three hundred (29,300) to twenty-nine thousand, five hundred (29,500), according to the last available Federal Census, may employ a rural school supervisor to plan, outline and supervise the work of the primary and intermediate grades of the rural schools of the county, and shall meet with and advise with the County Board at all regular meetings.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them, suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 3. The supervisor may call the meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor whenever possible.

Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed One Thousand, Five Hundred Dollars (\$1,500.00). Said salary shall be paid out of the available funds of the districts in proportion to the weekly salary, or salaries of the teachers of the district. [Acts 1927, 40th Leg., 1st C. S., p. 249, ch. 91, as amended Acts 1929, 41st Leg., 1st C. S., p. 194, ch. 77; Acts 1930, 41st Leg., 4th C. S., p. 74, ch. 36; Acts 1931, 42nd Leg., Spec. L., p. 343, ch. 164; Acts 1933, 43rd Leg., p. 73, ch. 42.]

Sec. 5. The employment of a rural school supervisor under the terms of this Act shall exempt the County Superintendent from holding a teachers' institute for rural teachers and teachers of independent districts with a scholastic population of less than five hundred (500) and exempt the teachers of such schools of the county from attendance upon a teachers' institute as provided for in Article 2691, Revised Statutes of 1925, and as amended by the 40th Legislature. [Acts 1927, 40th Leg., 1st C. S., p. 249, ch. 91, as amended Acts 1929, 41st Leg., 1st C. S., p. 194, ch. 77; Acts 1931, 42nd Leg., Spec. L., p. 343, ch. 164; Acts 1933, 43rd Leg., p. 73, ch. 42.]

Art. 2700. [2758] Salary

Acts 1933, 43rd Leg., p. 33, ch. 13, inserted here as a local law, reads as follows: "Sec. 1. That the salary of the Ex-officio Superintendent of Public Instruction in all counties in Texas having not less than seven thousand, one hundred

(7,100) and not more than seven thousand, two hundred (7,200) population, according to the last preceding Federal Census, shall be, from and after the passage of this Act, paid from the Available School Fund of such county."

Art. 2701. [2763-4] Ex-officio superintendent

Acts 1933, 43rd Leg., 1st C. S., p. 46, ch. 13 reads as follows: "Sec. 1. That the salary of the Ex-officio Superintendent of Public Instruction in all counties in Texas having not less than three thousand (3,000) and not more than three thousand, one hundred (3,100) population, according to the last preceding Federal Census, shall be, from and after the passage of this Act, paid from the Available School Fund of such county."

Acts 1933, 43rd Leg., 1st C. S., p. 141, ch.

46 reads as follows: "Sec. 1. That the salary of the Ex-officio Superintendent of Public Instruction in all counties in Texas having not less than seven thousand, six hundred and forty-five (7,645) and not more than seven thousand, six hundred and ninety (7,690) population, according to the last preceding Federal Census, shall be, from and after the passage of this Act, paid from the Available School Fund of such county."

[Art. 2701d-4. Supervisor, salary and duties in counties having population of 49,100 to 51,500]

Sec. 1. That the County Board of County Trustees in cooperation with the County Superintendent in counties having a population of forty-nine thousand, one hundred (49,100) to fifty-one thousand, five hundred (51,500) according to the last Federal Census and scholastic population of at least twelve thousand, seven hundred and seventy-seven (12,777) as shown by the scholastic reports for the preceding school year, may employ one or two rural school supervisors to plan, outline and supervise the work of the primary and intermediate grades of the rural schools of the county. Such supervisors to have appropriate evidence of proficiency in rural supervision.

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Sec. 2. It shall be the duty of such supervisor or supervisors to visit the schools of the county and help the teachers with their class work, by teaching demonstration lessons for them, suggesting methods of presenting the work and aiding them in any way possible.

Sec. 3. The supervisors in cooperation with the County Superintendent, may call meetings of the teachers when deemed necessary for the purpose of discussing their work with them, and it shall be the duty of such teachers to attend all such meetings, whenever possible.

Sec. 4. The salary of such rural school supervisor shall be determined by the County Board of County Trustees and the County Superintendent, provided that the total salary paid each such supervisor shall not exceed two thousand, four hundred dollars (\$2400.00) for any one year, including traveling expenses. The said salary shall be paid out of the State available funds apportioned to the said county each scholastic year.

Sec. 5. The employment of a rural supervisor under the terms of this Act shall exempt the County Superintendent from holding Teacher's Institutes for rural teachers and teachers of independent districts of the county and shall exempt the teachers from attendance upon a Teacher's Institute as provided in Article 2691, Revised Civil Statutes of 1925, and as amended by the 40th Legislature. [Acts 1933, 43rd Leg., p. 557, ch. 181.]

[Art. 2740f. County wide Maintenance Tax]

Sec. 1. This Act is applicable to counties with a population of not less than Seven Thousand Eight Hundred (7,800) and not more than Eight Thousand (8,000), according to the latest Federal Census. Any county coming within the terms of this Act shall have a County Unit System of education to the extent specified in this Act. For the purpose of levying, assessing and collecting a School Maintenance Tax and for such further administrative functions as are set forth herein, the territory of each of such counties is hereby created into a school district, hereinafter described as the countywide district, the taxing power to be exercised as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act prescribed, the taxing power conferred on school districts by Article 7, section 3 of the Constitution, but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided. Whenever a petition is presented to the County Judge of any such county, signed by at least one hundred qualified property taxpaying voters residing therein, asking that an election be ordered for the purpose of determining whether or not a Maintenance Tax shall be levied, assessed and collected on all taxable property within said county for the maintenance of public schools therein, not exceeding Ten (10c) Cents on the One Hundred Dollars of assessed valuation of taxable property, it shall be the duty of the County Judge, immediately, to order an election to be held within said county to determine said question. Notice of said election shall be given by publishing a copy of the election order in a newspaper of general circulation in said county once each week for at least two weeks, the date of the first publication to be not less than twenty days prior to the date fixed for holding said election. Further notice shall be given by the posting of a copy of said election notice within the boundaries of each Independent and each Common School District, and one copy of said notice shall be posted at the court house door. Said notice shall be posted at least twenty days prior to the date fixed for said election. Except as otherwise provided herein, the manner of holding said election shall be controlled by the general election laws of the State, and only resident, qualified property taxpaying voters shall be permitted to vote at said election. Said

election shall be held at the usual voting places in the several election precincts of such county. Said election returns shall be made and delivered to the County Judge and shall be canvassed by the Commissioners' Court of such county at its next regular or special meeting following said election. A majority vote of those voting at said election shall be sufficient to carry said election. The result of said election shall be recorded in the minutes of the Commissioners' Court and certified by the County Clerk and Ex-Officio Clerk of the Commissioners' Court to the County Superintendent or Ex-Officio Superintendent of said county.

Sec. 2. In event said Maintenance Tax is authorized at such election, after the result of the election has been certified to the County Superintendent, he shall make a permanent record of such certificate and shall send a certified copy of same to the State Department of Education at Austin, Texas, for its information and guidance.

Sec. 3. As soon as the Commissioners' Court of such county has determined the total of the assessed value of taxable property according to the values fixed by the Board of Equalization, subject thereafter to ordinary corrections, it shall then perform the following duties; (a) determine the estimated total receipts from the levying and collecting of said Ten (10c) Cents tax on the property in the countywide district according to such valuation; (b) to determine the estimated amount of money apportionable to each scholastic on the basis of equal per capita distribution according to the then current census of scholastics for the several districts; (c) to determine the estimated amount of such money available for each common and independent school district according to such per capita distribution, with the special provision that no district shall receive less than Seven Hundred Fifty (\$750.00) Dollars of such money and that the provision for equal per capita distribution shall yield to this special provision; (d) to cause the Ex-Officio Clerk of such court to communicate a copy of the order fixing the estimated amount for each Independent School District to the president thereof and for each Common School District to the County Superintendent or Ex-Officio County Superintendent of such county.

Sec. 4. It shall be the duty of the Commissioners' Court at the time other taxes are levied in the County to levy a tax under this law of Ten (10c) Cents on the One Hundred Dollars valuation in said county for any year. Such taxes shall be assessed by the Tax Assessor and collected by the Tax Collector as other taxes are assessed and collected. The money collected from said Ten (10c) Cents tax, shall be distributed to the various school districts in such county as follows:

All districts in the county shall receive the same amount of money for each scholastic, with the exception that no district shall receive less than Seven Hundred Fifty (\$750.00) Dollars, which shall be used for the maintenance of schools in such district. If any portion of said Seven Hundred Fifty (\$750.00) Dollars is not used for any year, the balance shall be retained in the treasury and used for the said district for the next year, such balance to be deducted the following year from the Seven Hundred Fifty (\$750.00) Dollars to be apportioned to such district. No part of the moneys realized from said countywide Maintenance Tax shall be used to pay any present or future bond issues or interest thereon. The Tax Collector shall each month apportion to each district the pro rata part of the taxes collected and dispose of same as hereinafter provided. The valuations fixed by the County Board of Equalization shall be used in computing said taxes and in levying and collecting the same. The budget officer of each school district in said county as provided by statute, and the trustees of each of said districts, after receiving the notice of the estimate of the Commissioners' Court as herein provided for, and the notice of the State apportionment of public school funds to said district, shall proceed to make and approve the budget for their respective districts

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as provided by Acts 1931, Forty-second Legislature, Regular Session, page 339, Chapter 206.

Sec. 5. As and when said taxes are collected by the Tax Collector of the county, he shall make monthly settlements with the independent school districts situated in such county, said moneys to be received and held by said independent school districts and protected in accordance with the existing depository laws. And the Tax Collector shall place to the credit of the common school districts in such county such moneys as are apportioned to them, which shall be protected as provided by the existing depository laws.

Sec. 6. The several independent school districts and common school districts in such county shall continue to have authority to levy, assess and collect the maintenance taxes theretofore authorized by the property taxpayers in said respective districts, subject to the restriction that after said countywide Maintenance Tax election has been carried and while said tax is in full force and operation, said respective independent school districts and common school districts shall not thereafter levy, assess and collect any special tax for maintenance of schools, except in instances wherein the apportionment made by the Commissioners' Court, together with the apportionment made by the State of Texas, produces an amount inadequate to meet the approved budget of such district, and in that event, such tax shall be levied in an amount to meet such deficit, due allowance to be made for delinquencies and for costs of collection. This law shall not affect the right and duty of said respective school districts to levy, assess and collect taxes within their respective districts for the payment of principal and interest on bonded indebtedness of such districts. The respective districts shall continue to levy, assess and collect taxes sufficient to pay principal of, and interest on their bonds. Provided, however, that nothing in this Act shall prevent the proper authorities from collecting and enforcing for the benefit of the respective districts, any maintenance taxes levied before this law becomes effective.

Sec. 7. Until and unless said countywide Maintenance Tax has been authorized at an election held in such county, the duties and powers of the Commissioners' Court shall not be considered as having been changed, altered or enlarged by this Act.

Sec. 8. This Act shall not have the effect of changing any duties imposed on or powers conferred on the Trustees of School Districts situated in the counties covered by this Act, unless and except as expressly provided herein, it being the intention of this law that said respective Board of Trustees shall continue to administer their lawful duties and powers except as to the levying, assessing and collecting of Maintenance Taxes, and the powers and duties as to levying, assessing and collecting Maintenance Taxes shall remain unaffected except as modified as provided herein.

Sec. 9. This Act shall be considered as cumulative of other laws applicable to the counties affected, but in event any provision of this law is inconsistent with any other applicable law, the provisions of this Act shall prevail as to the counties affected. All laws and parts of laws in conflict with the provisions of this Act insofar as they apply to the counties affected, are hereby repealed.

Sec. 10. The Commissioners' Court shall have advisory supervision over the schools in the county to the extent that it shall be the duty of the court to render its advice on all administrative matters submitted by the several Boards of Trustees.

Sec. 11. In event the county-wide Maintenance Tax is adopted in any county affected by this Act, the Commissioners' Court shall thereafter have the power to levy such Tax for each year, including taxes for the year 1937, which, under present laws, will be due October 1, 1937, and delinquent after January 31, 1938. Powers acquired under this Act shall remain effective until all taxes levied during such period of time shall have been collected; but no further countywide Maintenance Tax shall

be levied thereafter. On and after January 31, 1938, each common and independent school district in such county shall revert to its original status for taxing, administrative, and all other purposes. [Acts 1933, 43rd Leg., 1st C. S., p. 12, ch. 7.]

Section 12 provides that if any section, paragraph, sentence, clause or phrase of this Act shall be held to be unconstitution-

al, such holding shall not affect the other provisions of the Act not so invalidated.

Art. 2741. [2815-6] Establishment of districts

The title of Acts 1933, 43rd Leg., Spec. L., p. 122, ch. 94, a special law applicable to Kinney County only, reads as follows: "An act providing for the formation of a county-wide common school district in Kinney County on majority vote of the qualified voters of said county; for the abolition of

existing school districts therein; for the election of trustees of said county-wide district; authorizing the levy, assessment and collection of taxes, and elections therefor; prescribing powers and duties of such trustees; enacting other incidental provisions; and declaring an emergency."

[Art. 2742c. Rearranging and consolidating districts in certain counties]

Acts 1933, 43rd Leg., 1st C. S., p. 293, ch. 108 reads as follows: "Sec. 1. It shall be the duty of the County Board of Trustees of the public schools in every county in this State, having an area of not more than three thousand eight hundred (3,800) square miles and not less than three thousand six hundred (3,600) square miles and a population of not less than nine thousand and not more than twelve thousand, according to the last preceding Federal Census, as soon as may be after this Act shall take effect, to rearrange and re-subdivide all the territory of their respective counties into such number of convenient school districts as it shall deem advisable and designate them by number.

"Such re-arrangement and re-subdivision shall be accomplished by constituting such existing independent school districts as the Board shall deem advisable, together with such territory adjacent to such independent school district as it may deem advisable to add thereto, the new districts into which such county shall be subdivided; and such existing independent school districts, so enlarged shall continue to have and exercise all the powers and duties now provided by law and shall continue to be governed by existing law and by this Act. The districts thereby created shall be allowed to establish a central high school in each consolidated district under the general laws of the State of Texas, except that the location of the high school shall be determined by a majority vote of the qualified voters in the district which majority shall be ascertained by the County School Board under such regulations as they may prescribe.

"The words, 'School District,' as herein used, shall refer to common districts or to independent school districts; however created.

"The County Board of Trustees shall have the power, from time to time, to alter or amend the re-arrangement and the re-subdivision of school districts herein provided for, and making such original re-arrangement and re-subdivision, and in amending or altering same may increase or reduce the area of any school district; cre-

ate additional school districts; consolidate two or more adjacent districts; revise or re-arrange the boundaries of any school district; attach territory thereto or detach territory therefrom, if necessary for the best interest of the school children, provided that the territory of no independent school district, having more than five hundred (500) scholastics shall be changed without the consent of its Board of Trustees and provided further that said Board shall not subtract from the territory of any school district in such a way as to leave any property thereof remaining in such district with insufficient taxable wealth to raise revenue sufficient to pay interest and create a sinking fund for outstanding bonds; and provided that no portion of the territory of the county shall be left in a school district after such subdivision shall have been made, with insufficient taxable wealth to raise revenue sufficient to provide all the scholastics residing within such district with proper and convenient school facilities both in the elementary and high school grades.

"It shall be the further duty of the county board of school trustees at their first meeting after the State apportionment of available school funds has been made or as soon thereafter as practicable to apportion the available school funds of the county to the respective school districts within their jurisdiction on a per capita basis as shown by the last scholastic census, provided that the county Board of school Trustees shall be first required to set aside the entire available funds arising for the county permanent school funds, and to set aside not less than five per cent, or not more than ten per cent of all other available school funds of the county derived from all other sources including the state per capita apportionment, except that the State per capita apportionment of Independent School Districts having more than two thousand scholastics shall not be set aside for the equalization fund but shall remain in their respective districts, the said sums so set aside to constitute a county equalization fund that shall not be apportioned on a per

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capita basis, but shall be expended by the said county Board of School Trustees as a fund for equalizing as far as possible educational opportunities in the county and giving special aid to small and weak schools and to extend the school privileges of such children as have no other adequate provision for schooling in the districts in which they live, and to defray the costs of the county school administration. Provided that no part of such county equalization fund shall be expended in any school district in which there is not levied and collected taxes for school purposes amounting to one dollar (\$1.00) on the one hundred (\$100.00) dollars of taxable property.

"Sec. 2. Before undertaking to create, revise or re-arrange the boundaries or to change the territory in any school district, the County Board of Trustees shall cause a plan and a map to be made showing the boundaries of all districts affected and of the new district, if any to be created, with the area, taxable wealth and scholastic population of such district so affected or to be created; and notice shall be given for ten days by posting advertisements thereof in three public places within the territory embraced in such new district, before such action is taken. All interested persons shall be given full opportunity to be heard.

"Sec. 3. When the boundaries of any school district having an outstanding bonded indebtedness have been changed or its territory divided or two or more such districts consolidated, it shall be the duty of the County Board of Trustees to make such an adjustment of such indebtedness and district properties between the districts affected and between the territory divided, detached or added, as may be just and equitable, taking into consideration the value of the school properties and the taxable wealth of the districts affected and the territory so divided, detached or added as the case may be. And when said Board has arrived at a satisfactory basis of such an adjustment, it shall have the power to make such orders in relation thereto as shall be conclusive and binding upon the districts and the territory thereby affected.

"Sec. 4. To carry into effect orders adjusting bonded indebtedness when changes are made in school districts, the County Board of Trustees shall have the power to order the trustees of the districts affected, to order an election for the issuing of such refunding bonds as may be necessary to carry out the purpose of such order; and, in such case, it shall be the duty of the district trustees to order such election, cause the same to be held, and if the proposition is carried, to issue the bonds voted.

"Sec. 5. In cases where changes are made in districts having outstanding bonded indebtedness and where the necessary refunding bonds are voted down or where the County Board of Trustees are otherwise unable to arrange an adjustment or settlement of such bonded indebtedness, it shall be the duty of the trustees to certify the fact and the territories affected by such changes, to the Commissioners' Court

and thereupon it shall become the duty of the Commissioners' Court to thereafter annually levy and cause to be assessed and collected from the tax payers of such districts as they existed before the changes were made, the tax necessary to pay the interest, the sinking fund and discharge the principal of such indebtedness as it matures. And it shall be the duty of each independent school district so affected, to cause all funds in its hands, whether sinking funds or otherwise, which have been collected on account of such bonded indebtedness, to be transferred to the County Treasurer of the county in which such district is situated and such district shall thereafter cease to levy and collect any tax on account of such bonds; and it shall be the duty of the County Treasurer to keep the funds so transferred and those arising from taxation, in separate accounts and apply the same only to the discharge of such bonded indebtedness and the interest thereon, as the same matures.

"Sec. 6. Nothing in the provisions of this Act shall prevent the County Board of Trustees from arranging any other method of the adjustment and settlement of outstanding bonded indebtedness of school districts in which changes are made, but they shall have full power and authority to make any legal and equitable adjustment and settlement in such cases that can be effected.

"Sec. 7. Said trustees shall have the power to condemn land for free school purposes and may institute, maintain and prosecute suits for that purpose following the procedure applicable to condemnation of lands by railways or any other method authorized by law.

"Sec. 8. It shall be the duty of any school district into which the county shall be subdivided under this Act to provide adequate and convenient means of transportation to and from the schools of such school children in any district as it may be reasonably necessary to make such provision for, and to establish such routes for that purpose as the Board of Trustees of such district may deem advisable and to alter and change the same from time to time and the expense of such transportation shall be paid by the district in which such children may reside.

"Sec. 9. In all cases where changes have been made in the territory of existing school districts, any party aggrieved shall have the right to appeal to a district court of the county in which such school district is located and the decision of such court on such appeal shall be final; provided notice of such appeal is given to the County Board of Trustees within ten (10) days after the passage of any such order making such changes; and provided further that such appeal to the district court shall be perfected within thirty (30) days from the date of such order.

"Sec. 10. For each county subject to the provisions of this Act the Board of County School Trustees shall consist of five members, one (1) of whom shall be elected from the county at large by the qualified voters

of the county, and one from each commissioner's precinct by the qualified voters in such precinct, all of whom shall be elected on the first Saturday in April after this Act shall take effect and every two years thereafter for a term of two years. All vacancies on such Board shall be filled by the remaining Trustees. Such Board of County School Trustees shall have the powers and duties and possess the qualifications provided by law with respect to County School Trustees generally in this State, in addition to those provided by this Act.

"The members of the County Board of Trustees of the Public Schools of any County Affected by this Act shall receive five (\$5.00) dollars per day for their services in complying with the duties imposed upon them by this Act, to be allowed by the Commissioners' Court and paid out of the General Fund of the County upon accounts to

be approved by the Chairman of said County Board of Trustees; and the expense of making maps and plats provided for by this Act and all other expenses incident to carrying out its provisions shall be similarly allowed and paid.

"Sec. 11. If any section or provision of this Act shall contravene the terms of the Constitution of this State, or be otherwise held invalid for any reason, the same shall not affect the validity of the remainder of this Act.

"Sec. 12. Nothing in this Act shall be construed as depriving any district or part thereof for receiving state aid and bonuses as though consolidation had not been effected.

"Sec. 13. All laws and parts of laws, general and special, in conflict with this Act are hereby repealed."

[Art. 2756a. School districts at military reservations]

Sec. 1. The State Board of Education is hereby authorized and empowered to create and establish school districts at any military reservation located within the State of Texas, upon such terms and conditions as may be agreed upon by and between the State Board of Education and the War Department of the United States government relative to the establishment, maintenance and conduct of public free schools on said reservation, provided that the number of children within the scholastic age who live on such reservation be sufficient in each instance to justify such action. The territorial limits of such districts shall be co-extensive with the property lines of the military reservation. Nothing in this Act shall be construed as authorizing the State Board of Education to expend or to agree to expend any moneys of the State to erect, equip or maintain school buildings upon any property ceded or belonging to the United States; and it is further provided that in the event any military reservation at which a school district has been created under the provisions of this law shall be abandoned and ceased to be used for military purposes by the United States government or in the event the scholastic population of any such district become so diminished that in the opinion of the State Board of Education the further maintenance of such district for school purposes is not justifiable, then in either event such district may be abolished by order of the State Board of Education, and notice of such order shall be given in writing to the War Department of the United States government.

Sec. 2. Upon the establishment of a school district at any military reservation as hereinabove provided, the State Superintendent of Public Instruction shall appoint a board of three (3) trustees for each district so created, two (2) of whom shall be qualified voters of this State and the third shall be the commanding officer of the military reservation at which the school district is created; and it shall be the duty of the State Superintendent to certify the facts relative to the creation of such district to local authorities for information and observance. Each year the trustees of said districts shall take and certify the census of the children within the scholastic age who live within said district; the scholastics so enumerated shall be entitled to participate in the annual apportionment of the State Available School Fund, and the amount of the available school fund to which the said district is entitled according to its scholastic population each year shall be apportioned and paid directly to the said district. The laws pertaining to independent school districts shall govern said districts so far as the same may be applicable, but the State Board of Education may make such special regulations and orders for the government of such districts as they may deem expedient. [Acts 1933, 43rd Leg., 1st C. S., p. 136, ch. 41.]

[Art. 2774a. Appointment or election and terms of school trustees in certain districts]

Sec. 5. The first election under the provision of this Act shall be held on the first Saturday in April, 1931. In all independent districts not having included within their boundaries a city or town whose population exceeded seventy-five thousand as shown by the Federal census of 1920 and in all consolidated and rural high school districts in which the term of office of three elective trustees expire in 1931, their successors shall be elected for a term of three years. (That in all Counties of the State having a city with a population of not less than 44,000 and not more than 45,000, according to the 1920 Federal Census, the people residing in the School Districts referred to in this Section shall have and retain the right of referendum, so as to determine whether or not said district or districts shall come within or be affected by the provisions of this law; said referendum to be initiated by petition of 25% of the voters residing in the district or districts affected.) In all such districts in which the term of office of four elective trustees expire in 1932, after their successors are elected, they shall determine by lot which two members shall serve for one year and which two members shall serve for three years. Those members drawing numbers one and two shall serve for one year; those members drawing numbers three and four shall serve for three years, and annually thereafter either three trustees or two trustees, as the case may be, shall be elected to serve for a term of three years.

In all such independent, consolidated and rural high school districts in which the terms of office of four elective trustees expire in 1931 their successors shall determine by lot which two shall serve for two years and which two shall serve for three years. Those members drawing numbers one and two shall serve for two years and those members drawing the numbers three and four shall serve for three years, and annually thereafter either three trustees or two trustees shall be elected to serve for a term of three years. [Acts 1930, 41st Leg., 5th C. S., p. 212, ch. 66.]

Provided, that in towns and cities of this State having a population of not more than twenty-five thousand (25,000) and not less than twenty-two thousand (22,000) according to the last preceding Federal Census, and constituting an independent school district and having control of the public schools therein by virtue of the provisions of any special charter granted by the Legislature of this State, the people residing in such cities and towns shall have and retain the right of referendum, so as to determine whether or not said cities and towns shall come within or be affected by the provisions of this law; said referendum to be initiated by petition of at least 25 per cent. of the qualified voters residing in the cities or towns affected. [Acts 1933, 43rd Leg., p. 100, ch. 48.]

Section 2 of Acts 1933, 43rd Leg., p. 100, ch. 48 repeals all conflicting laws and parts of laws, and provides that cities may continue under present charter as to control of schools until the election under referendum provided has been carried.

[Art. 2777b. Trustees; terms in certain independent school districts; election; vacancies]

Sec. 1. That in all independent school districts heretofore created by special Act of the Legislature and having a board of seven (7) trustees, and having included within their boundaries a city whose population was in excess of Two Hundred Twenty Thousand and less than Two Hundred Forty Thousand as shown by the last preceding Federal census, the terms of office of such school trustees shall be and the same are hereby fixed as follows: Where the term of office of four (4) such elective trustees expired prior to April 16, 1931, and their successors were elected, during the year 1931, the term of such successor is here fixed at two years so that the term of office of such four (4) elective trustees shall expire on the first Saturday in April, 1933, on which date an election shall be held

in such independent school districts in conformity with the special Acts creating such independent school districts, and at such election four (4) school trustees shall be elected in each such district; and the four school trustees so elected shall determine by lot which two (2) shall serve three (3) years and which two shall serve the six (6) years. The trustees drawing number one and two shall serve for a term of three (3) years, expiring the first Saturday in April, 1936, and those trustees drawing numbers three and four shall serve for a term of six years, expiring the first Saturday in April, 1939. The three trustees who were elected in such districts in April, 1932 shall serve for a term of six years, expiring the first Saturday in April, 1938. In the election of school trustees to be held in such districts in the year 1936, and at all subsequent elections in such districts, the term of office of each trustee elected shall be for a period of six years. Except as modified by this Act all such elections in such independent school districts shall be held in the manner and in conformity with the provision of the special Acts of the Legislature creating such independent school districts. The date of such elections to be held on the first Saturday in April of the year in which the term of any such school trustee expires.

Sec. 2. If any vacancy or vacancies shall occur in the membership of any such board of school trustees, such vacancy or vacancies shall be filled by the majority vote of the remaining trustees of such district, but any trustee so elected to fill a vacancy shall serve only for the unexpired term of his or her predecessor. [Acts 1933, 43rd Leg., p. 67, ch. 36.]

[Art. 2786a. Election for cancellation or revocation of school bonds authorized to be issued]

Sec. 1. In the event any school bonds voted or issued, or any portion of such bonds voted or authorized by any common school district, independent school district, common consolidated school district, consolidated independent school district, county line school district, consolidated county line school district or rural high school district remain unsold, then the Commissioners Court in the case of any common school district, or the board of trustees in the case of a rural high school district or independent school district, may, upon its own motion, or upon petition of not less than twenty, or a majority of the qualifying property taxpaying voters thereof as shown by the records of the County Tax Collector, shall order an election to determine whether or not such school bonds shall be revoked and cancelled. Such election shall be ordered, held and conducted in the same form and manner as that at which such bonds were originally authorized.

Sec. 2. The result of such election, whether favorable to the cancellation of such bonds or not, shall in the case of common school districts be duly recorded by the Commissioners Court, and in the case of rural high school districts or independent school districts shall be duly recorded by the board of trustees thereof, and the returns thereof and the result, duly entered of record in the minutes of said Court or board of trustees, and in the event the result of such election for the cancellation and revocation of such unsold bonds shall show that a majority of the qualified resident property taxpaying voters of such school district, voting at such election, have voted for the cancellation and revocation of such unsold bonds, then in the case of common school districts the Commissioners Court, and in the case of rural high school districts and independent school districts, the board of trustees thereof shall cancel and burn all such bonds and forward to the State Comptroller a certified copy of the minutes of such destruction and cancellation. The State Comptroller shall thereupon cancel the registration of said bonds on the records of his office.

Sec. 3. When said bonds have been destroyed the Commissioners Court, or the board of trustees of such district, as the case may be, shall readjust the existing tax levies in such school district by an amount equal

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

to that levied, or proposed to be levied, for the interest and sinking fund accounts of the bonds to be cancelled.

Sec. 4. After deducting the compensation of the Tax Assessor and Tax Collector of the County or School District as the case may be, and the County Treasurer and any other claims properly chargeable against such taxes, the unexpended part of all taxes that have been collected with a view to the sale of such bonds so destroyed, shall be refunded to the taxpayers ratably upon the order of the Commissioners Court or the board of school trustees, and the County Treasurer, or treasurer of such school district, shall take and file proper receipts for all funds so refunded.

Sec. 5. The expense of holding any such election shall be paid as provided for the payment of expenses when the bonds were originally issued.

Sec. 6. Nothing in this Act shall be construed as invalidating any bond election or any bonds which have been sold by any school district within this State. [Acts 1933, 43rd Leg., p. 229, ch. 103.]

Art. 2789. [2864] Refunding bonds

Where bonds have been legally issued, or may be hereafter issued, by any town or village incorporated for free school purposes only, or any Common School District, Independent School District, Consolidated Common School District, Consolidated Independent School District, County Line School District, Consolidated County Line School District, or Rural High School District, new bonds, bearing the same or a less rate of interest, may when ordered by the Governing Board thereof be issued in conformity with this Subdivision in lieu thereof; provided further, that matured interest coupons of such Districts may be refunded in like manner; and provided further, that no election shall be necessary to authorize the issuance of such new bonds; and provided, further, that the State Treasurer shall, upon order of the State Board of Education, exchange bonds not matured held by him for the permanent school fund for the new refunding bonds issued by the same incorporation under the provisions of this Subdivision, in case the rate of interest on the new bonds is not less than the rate of interest on the bonds for which they are exchanged. [Acts 1905, p. 263, as amended Acts 1933, 43rd Leg., p. 62, ch. 32.]

Acts 1933, 43rd Leg., 1st C. S., p. 143, ch. 48 reads as follows:

"Sec. 1. From and after the effective date of this Act local school funds from district taxes, tuition fees and other local sources may be used to pay the interest and sinking fund on a loan or loans borrowed from the Federal Government for the purpose of buying, building, repairing or renting school houses. The Board of Trustees of any independent school district in this State, containing not less than four hundred and fifty-five (455) and not more than five hundred and sixty-five (565) scholastics, according to the last approved census roll on file in the State Department of Education, and being located in counties containing a population of not less than fifteen thousand six hundred and fifty (15,650) and not more than fifteen thousand seven hundred and twenty (15,720) inhabitants according to the last preceding Federal Census, shall be authorized to pledge the tax receipts to be collected from district taxes, tuition fees or other sources for a period of years not exceeding thirty (30), to retire a loan or loans borrowed from the Federal Government for the purpose of buying,

building, repairing or renting school houses. The Board of Trustees for any such independent school district, as enumerated herein, is hereby authorized to make a contract or contracts by the terms of which a sufficient amount of the local tax receipts or other local funds, collected from year to year within such districts, shall be used to pay the interest and sinking fund on the loan or loans hereinabove referred to. The Board of Trustees for such independent school districts, as provided in this Act, within this State, shall provide by contract that a sufficient amount of the tax receipts be set aside each year to be equivalent to at least two per cent (2%) of the money borrowed, as hereinabove referred to, into a fund to be known as a sinking fund. An amount greater than the two per cent (2%) of the loan or loans may be set aside out of the tax receipts to make up the sinking fund, if in the judgment of the Board of Trustees it is necessary to set aside such greater amount.

"Sec. 2. The Board of Trustees for any independent school district, as set out herein, of this State, is hereby authorized to execute a quit claim deed to any school

site or sites to the Federal Government upon said Federal Government contracting with said Board of Trustees to erect or repair a school building or buildings or to make additions thereto and, who will further contract to lease to the Board of Trustees for such independent school districts within this State, coming within the provisions of this Act, the building or buildings so erected to be used for school purposes and who will agree further that the amount of money paid as rent under the terms of such rental or lease, shall be applied as purchase money and when the amount of rent so paid is equivalent to the cost of building such building or buildings that such buildings or building shall automatically revert to the Board of Trustees of said school district within which the building or buildings are located without the necessity of any conveyance placing title into said school board, and to become the property of such independent school district. The Board of Trustees is hereby authorized to enter into such lease contract and to pledge the tax receipts derived from local taxes and other sources to pay the rent as herein above provided for, and in all cases that it pledges a sufficient amount of the local taxes as will equal that part of the entire cost of erecting such building or buildings as hereinabove provided for, as if the total cost of the building was divided by the number of years during which the lease shall by its terms be in effect and in no case shall the lease be for a longer term than thirty years.

"Sec. 3. That the Board of Trustees of such school district, as provided for in Section I, and are hereby authorized to perform any and every act in any wise suggested or demanded by the Reconstruction Corporation which may be necessary to obtain loans for the above named purposes."

Acts 1933, 43rd Leg., 1st C. S., p. 159, ch. 57 reads as follows:

"Sec. 1. From and after the effective date of this Act, the board of trustees of any common school district of this State containing not less than one hundred (100) and not more than one hundred and seventy-five (175) scholastics according to the last approved census roll on file in the office of the county superintendent of said county, and being located in counties containing a population of not less than thirteen thousand nine hundred twenty (13,920) and not more than thirteen thousand nine hundred seventy-five (13,975) inhabitants according to the last preceding Federal Census or with the consent and approval of the county school superintendent and the county board of education shall be authorized to levy and collect a special school tax, not to exceed One Dollar (\$1.00) on the One Hundred Dollars (\$100.00) property valuation, including the taxes now being levied and collected in said districts for maintenance and/or bond purposes, for the purpose of paying the in-

terest and sinking fund on a loan or loans to be obtained from the Federal Government, said loan or loans to be used for the purpose of buying, building, or repairing buildings to be used for school purposes only; said board of trustees with the consent of the county school superintendent and the county board of education is hereby authorized to pledge the tax receipts to be collected from the said special school tax levy for a period of years not to exceed thirty (30) to retire said loan or loans and to pay the interest thereon as it may accrue; and said board of trustees with the consent of the county school superintendent and the county board of education is hereby further authorized to execute a contract with the Federal Government to carry out the purposes of this Act.

"Sec. 2. The board of trustees of any common school district within this State containing not less than one hundred (100) and not more than one hundred and seventy-five (175) scholastics according to the last approved census roll on file in the office of the county superintendent of said county and being located in counties containing a population of not less than thirteen thousand nine hundred twenty (13,920) and not more than thirteen thousand nine hundred seventy-five (13,975) inhabitants according to the last preceding Federal Census together with the consent of the county school superintendent and the county board of education shall be authorized to contract with the Federal Government to erect a building or buildings to be used for school purposes only on sites owned by said school districts and to execute to the Federal Government a quitclaim deed to said school sites for the construction of said building or buildings providing a contract is made with the Federal Government to lease or rent to said board of trustees the building or buildings so constructed, and that the amount of money so paid as rent under the terms of said lease shall be applied as purchase money, and when the amount of rent so paid is equivalent to the cost of erecting such building or buildings, to convey fee simple title to such school site or sites to such building or buildings erected thereon, to the board of trustees of such common school districts. The board of trustees of said districts together with the county school superintendent and county board of education are hereby authorized to enter into such lease contract with the Federal Government and to pledge the tax receipts derived from the local taxes levied and collected for the purpose of paying the rent or lease on buildings hereinabove described in accordance with the terms of said contract and in no case shall the lease be for a longer term than thirty (30) years.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby specifically repealed."

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

[Art. 2790b. Tax levies and assessments validated in counties having population of 16,363 to 16,963]

That all levies and assessments of ad valorem taxes heretofore made by the governing body of any independent school district in this State, in counties having a population of not less than sixteen thousand, five hundred and sixty-three (16,563) and not more than sixteen thousand, nine hundred and sixty-three (16,963), according to the last preceding Federal Census, not in excess of the limit now provided by law, which are void or unenforceable because such levies were made and adopted by resolution, motion or other informal action, instead of having been made by order, as required by the Statutes of this State; and all assessments of taxes or assessments of property within the limits of any independent school district in this State, subject to taxation under the laws of this State, for taxation under such resolution, motion, or other informal action, which are insufficient because of the failure of such governing body to appoint the proper and statutory Board of Equalization, as required by law, and which are insufficient, and void, or unenforceable on account of technical irregularities in the manner of preparing the books and reports of the assessors assessing such property; and all equalizations of said valuations of such property for taxation purposes made by the Board of Equalization acting for any such independent school districts, which are irregular or insufficient because the reports of such equalization were adopted and accepted orally, or by other informal action; and the acts of making such equalization were made orally or informally or in incomplete form, are each and all hereby validated, ratified, approved, confirmed, and declared enforceable, the same as though such levies and assessments of taxes had been made and adopted originally by the proper order, motion or resolution, duly passed, entered of record, and signed by the proper officials of such governing body, and the same as though such assessments of property within such independent school districts for taxation purposes had been made in due and complete form, and the same as though said equalizations and the reports of each of the Boards of Equalization acting for said independent school districts had been made in due and regular form, and adopted and accepted in due and regular form. Provided, however, that this Act shall not affect any suits pending at the time same becomes effective, which have been filed for the collection of taxes by any independent school district in this State; and provided further, that this Act shall not validate any valuation placed upon property by any Board of Equalization or any Tax Assessor where such property has been valued in excess of its reasonable cash market value, or where such property has been discriminated against as to value or placed upon the rolls at a higher value than property of like kind and character, or at a greater percentage of its value than other property assessed for taxation. [Acts 1933, 43rd Leg., p. 558, ch. 182.]

[Art. 2790c. Refunding warrants authorized and validated in counties having 22,000 to 22,100 population; tax levy to pay warrants]

Sec. 1. This Act shall be applicable to Independent School Districts situated in counties having a population according to the latest Federal Census of more than twenty-two thousand (22,000) and less than twenty-two thousand, one hundred (22,100). The Board of Trustees of any such School District shall have the power to issue refunding warrants in lieu of and in extension of eligible vouchers as defined in this Act. Only such vouchers shall be eligible for refunding as meet the following conditions: They must have been originally authorized by the Board of Trustees for salaries or for current expenses, shall have been signed by the proper officials of the District and delivered for value to the original payee, shall

not have been previously paid by the District and shall have been issued prior to January 1, 1932.

Sec. 2. The Board of Trustees of any such District shall have authority to pass all orders necessary or convenient to effect the surrender of said original vouchers for cancellation and to deliver refunding warrants in lieu thereof to the holders of said vouchers. Said refunding warrants shall bear interest at a rate not exceeding six per cent (6%) per annum, payable semi-annually, shall be payable serially at such times and in such amounts as may be determined by the Board, the maximum maturity date being not more than twenty (20) years after the date of said refunding warrants. The Board of Trustees shall have authority to reserve the right to retire said warrants before their maturity date upon the giving of proper notice to the holders, the method of which notice shall be prescribed in the order authorizing said warrants.

Sec. 3. The actions of the Board of Trustees in authorizing, issuing and delivering said original vouchers are hereby expressly authorized and validated and such vouchers and accrued interest thereon are in all things validated, and said refunding warrants issued in lieu thereof shall be binding and enforceable obligations of such District.

Sec. 4. It shall be the duty of the Board of Trustees of any such District issuing said refunding warrants to levy a continuing tax within the total rate theretofore voted by the District for maintenance and other purposes, sufficient to pay the principal and interest of said refunding warrants as said interest and principal matures, and to have said tax assessed and collected. It shall be the duty of the Board of Trustees to take into consideration the tax necessary for said purpose from year to year in fixing the annual tax levied for maintenance and other purposes and to include within said general tax levy an amount sufficient to pay the principal and interest of said refunding warrants. [Acts 1933, 43rd Leg., p. 519, ch. 168.]

[Art. 2802d. Payment of one half school tax]

Sec. 1. In cases where common school district taxes and/or independent school district taxes are collectible from the same roll with any other tax, any taxpayer of any common school district or independent school district is authorized to pay one-half or all of said school taxes prior to the payment of any other tax during the time covered by this Act; and upon such payment or tender of payment of one-half or all of such common school district tax and/or any independent school district tax, together with penalty, interest and costs thereon, if any, such collector is authorized and directed to receive the same and execute in duplicate a memorandum receipt therefor and deliver one copy to the taxpayer and keep the other as part of the records of his office, and the tax collector shall enter the date and amount paid in same memorandum form on the tax roll; and thereafter on full payment of all of the remaining taxes together with interest, penalty and costs, if any, as may be shown to be due on such roll, he shall issue his official tax receipt or certificate of redemption as the case may be, in the manner provided by law and include therein the amount or amounts formerly paid.

Sec. 2. The Tax Collector may in his discretion prepare a separate roll showing the school taxes only, of any common school district or any independent school district as shown on the official tax roll delivered to him by the Assessor and in such event, issue his receipts therefrom of such school tax payments. In the event the Commissioners Court of the County and/or Board of Trustees of the Independent School District authorizes in writing prior thereto, the making of such special roll, then they are hereby empowered to contract for necessary expenses therefor not to exceed the actual cost of the stationery and extra additional labor occasioned thereby.

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Sec. 3. This Act shall be in force for a period of two years from its effective date and at the end of the period of two years from the date this Act becomes effective it shall automatically cease to be operative; during the time covered by this Act, all laws and parts of laws in conflict herewith are suspended and shall again become operative only upon the expiration of the two year period covered by this Act. [Acts 1933, 43rd Leg., p. 8, ch. 6.]

[Art. 2802e. Construction and mortgaging of gymnasia, stadia, etc., by independent districts authorized; self-liquidating]

Sec. 1. All independent school districts, including independent school districts which are now, or may hereafter be, controlled by any city or town within this State, shall have power to build or purchase buildings, and grounds for the purpose of constructing gymnasia, stadia, or other recreational facilities, and to mortgage and encumber the same, and the income, tolls, fees, rents, and other charges thereof, and everything pertaining thereto, acquired or to be acquired, and to evidence the obligation therefor by the issuance of bonds, notes or warrants to secure the payment of funds to purchase same, including the purchase of equipment and appliances for use therein, and as additional security therefor by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereof a franchise to operate said properties so purchased for a term of not more than ten (10) years after such purchase. No such obligation shall ever be a debt of any such school district and/or incorporated city or town, but solely a charge upon the property so encumbered, and shall never be reckoned in determining the power of any such school district to issue bonds for any other purpose authorized by law; providing that no election for the issuance of the evidence of indebtedness herein authorized shall be necessary, but may be authorized by a majority vote of the Board of Trustees of such school district.

Sec. 2. Projects financed in accordance with this law are hereby declared to be self-liquidating in character and supported by charges other than taxation.

Sec. 3. Whenever the income of any such property shall be encumbered under this law the expense for any repairs necessary to preserve such property shall always be a first lien and charge against such encumbrance. The tolls, fees, rents and other charges made and to be made for the use and in connection with such properties shall be at a rate sufficient to pay the necessary repairs to such building and all interest and sinking funds required to pay any evidence of indebtedness issued to purchase or construct such properties. No part of the income of such property shall ever be used to pay any other debt, expense or obligation of such school district until the indebtedness so secured shall have been finally paid.

Sec. 4. Every contract, bond or note, or other evidence of indebtedness issued or executed under this law shall contain the following clause:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

When bonds are executed hereunder they may be presented to the Attorney General for his approval as is provided for the approval of other school bonds and in such case the bond shall be registered by the State Comptroller as in the case of other school bonds.

Sec. 5. - No contract, bond or note, or other evidence of indebtedness authorized to be issued or executed under this Act, shall be issued or ex-

ecuted after the expiration of one (1) year from the effective date of this Act.

Sec. 6. No land upon which is situated any of the school improvements other than as described herein shall ever be subject to the payment of any indebtedness created hereunder, nor shall any encumbrance ever be executed thereon. [Acts 1933, 43rd Leg., p. 330, ch. 130.]

[Art. 2815g—3. Validation of school districts]

All School Districts, including Common School Districts, Independent School Districts, Consolidated Common School Districts, Consolidated Independent School Districts, County Line School Districts, Consolidated County Line School Districts, and Rural High School Districts, whether created by General or Special Law in this State, and heretofore laid out and established or attempted to be established by the proper officers of any County or by the Legislature of the State of Texas and heretofore recognized by either State or County Auditories as School Districts, are hereby validated in all respects as though they had been duly and legally established in the first instance; all acts of the Board or Boards of Trustees in such Districts ordering an election or elections, declaring the result of such elections, and levying taxes therefor, and all bonds issued and now outstanding, and all bonds heretofore voted but not yet issued, are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county in the creation of any District was omitted shall in nowise invalidate such District, and the fact that by inadvertence or oversight any act was omitted by any Board of Trustees of any such District in ordering an election or elections, or in declaring the result thereof, or in levying the taxes for such District, or in the issuance of the bonds of any such District shall in nowise invalidate any of such proceedings or any bonds so issued by such District. All acts of the County Boards of Trustees of any and all counties in re-arranging, changing or subdividing such School Districts or increasing or decreasing the area thereof, in any School District of any kind, or in creating new Districts out of parts of existing Districts or otherwise, are hereby in all things validated. Provided further that this Act shall not apply to any District which may have been established or consolidated and which has later returned to its original status and has been so recognized by the proper authorities in which case the original district and creation thereof is hereby validated. This Act shall not apply to any district, the organization, creation, rearranging or changing of which is now involved in litigation, nor shall this Act apply to, or affect, any litigation now pending which involves a change in the boundary line between two districts or which involves territory sought to be detached from one district and attached to another district. [Acts 1933, 43rd Leg., p. 60, ch. 31.]

[Art. 2815i. Donations for junior colleges; borrowing money from Federal Agencies]

Sec. 1. All independent school districts, whether created by General Law or by Special Acts, wherein there is situated a city having not less than two hundred twenty-five thousand (225,000) population according to the last preceding Federal Census, including independent school districts which are now or may hereafter be controlled by any city or town within this State having a population of not less than two hundred twenty-five thousand (225,000) inhabitants, according to the last preceding Federal Census, shall have the power and authority, in the name of any such school district, to receive donations of cash with which and donations of land upon which to build, erect and construct buildings in which its junior col-

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leges may be maintained and operated and wherein in addition to the junior college work two (2) years additional college or university work may be taught so that such junior college work and additional college work shall constitute a university.

Sec. 1a. The rights, powers and privileges created and authorized under the provisions of this law shall also apply to all independent school districts within this State which are entirely located within cities of a population of not less than seventeen thousand one hundred (17,100) nor greater than eighteen thousand two hundred (18,200), according to the 1930 Federal Census, and which said cities are located within counties in this State which had a population, according to the 1930 Federal Census, of not less than fifty-three thousand one hundred (53,100) nor greater than fifty-three thousand eight hundred (53,800).

Sec. 2. The board of education or board of trustees as the case may be of any such school district shall be and they are hereby authorized, in the name of any such school district, to borrow money from the Federal Emergency Administration of Public Works under the provisions of the National Industrial Recovery Act, or from any other source, for such periods of time as may be necessary or requisite for building, erecting and constructing on any such lands so received by way of donation or gift, the buildings authorized in the preceding section hereof, and for the purpose of purchasing any and all necessary equipment and appliances and the installation thereof in such building or buildings, and to mortgage and encumber such lands, buildings, equipment and appliances and the income, tolls, fees, rents and other charges to be derived from the operation thereof and everything pertaining thereto and to evidence the obligation therefor by the issuance of bonds, notes or warrants to secure the payment of such loans and indebtedness, providing no such obligations, maintenance, operation or expenses of any like character whatever shall ever be a debt of any such school district but solely a charge upon the property, income, tolls, fees, rents and charges so encumbered and pledged, and any such indebtedness shall never be reckoned in determining the power of any such school district to issue bonds for any other purpose and/or to levy taxes for any other purpose authorized by law and provided further that no election for the issuance of the evidence of the indebtedness herein authorized shall be necessary but the same may be authorized by a majority vote of the board of education or the board of trustees as the case may be of any such school district.

Sec. 3. Projects financed in accordance with this law are hereby declared to be self-liquidating in character and supported by charges other than taxation.

Sec. 4. The boards of education or boards of trustees of any such districts are hereby authorized to charge such fees and tuition for attendance as may be necessary to make the project self-liquidating as said term "self-liquidating" may be defined by the law creating the Federal Emergency Administration of Public Works or any other Federal Law authorizing loans of the character in this Act provided for.

Sec. 5. No part of the income which may be derived from the operation of any such schools herein provided for shall ever be used to pay any other debt, expenses or obligation of such school district other than the necessary costs for the operation thereof until the indebtedness so secured shall be finally paid.

Sec. 6. Such part of the income, toll, fees, rents, tuition and charges which may be pledged or mortgaged or in otherwise encumbered to secure

the payment of the indebtedness authorized by this Act, as, if and when received by any such school district, shall be placed in a special fund known as the "Self-Liquidating Fund" in the depository of such school district and may not be used for any purpose save the payment of interest and principal of the indebtedness which may be created by virtue of this Act.

Sec. 7. If bonds are issued by virtue of the terms of this Act they may but shall not be required to be presented to the Attorney General for his approval as is provided in the case of other school bonds and in such case the bonds shall be registered by the State Comptroller as in the case of other school bonds.

Sec. 8. This Act shall be deemed to be cumulative to Chapter 290 of the Acts of 1929, Forty-first Legislature, authorizing the establishment of junior colleges. [Acts 1933, 43rd Leg., 1st C. S., p. 110, ch. 34.]

[Art. 2824a. Releases validated]

All releases by each of the several counties of this State that have heretofore been executed by the proper officers of said counties and filed of record, releasing the lien or liens retained by said counties or any of them, to secure the payment of the purchase price of school lands purchased from such counties, which releases have been of record at least ten (10) years, are hereby validated and declared to have been executed in full compliance with the statute. [Acts 1933, 43rd Leg., p. 619, ch. 205, § 1.]

Art. 2832. [2771] Districts of more than 150 scholastics

In any independent district of more than one hundred fifty (150) scholastics, whether it be in a city which has assumed control of the schools within its limits, or a corporation for school purposes only, and whether organized under general law or created by special act, the treasurer of the school fund shall be that person or corporation who offers satisfactory bond and the best bid of interest on the average daily balances for the privilege of acting as such treasurer. The treasurer when thus selected shall serve for a term of two years and until his successor shall have been duly selected and qualified and he shall be required to give bond in an amount equal to the estimated amount of the total receipts coming annually into his hands, when such bond is a personal bond; provided, that when a bond is executed by a surety company or is a bond other than a personal bond, such bond shall be in an amount equal to the highest estimated daily balance for the current biennium, to be determined by the governing body of such school district; provided, further that such governing body may, in lieu of the bond herein authorized, accept a deposit of approved securities, which securities may include bonds of the United States, or of this State, or of any county, city, town or independent school district in the State, or Anticipation Tax Warrants and/or Anticipation Tax Notes legally issued by the governing body of such school district, which shall be deposited as such governing body may direct, in an amount sufficient to adequately protect the funds of such school district in the hands of the selected Treasurer.

Provided, however, that no premium on any bonds shall be paid out of the funds of any said district or corporation. Said bond shall be payable to the president of the board and his successors in office, conditioned for the faithful discharge of the treasurer's duties and the payment of the funds received by him upon the draft of the president of the school board drawn upon order, duly entered, of the board of trustees. Said bond shall be further conditioned that the treasurer shall safely keep and faithfully disburse all funds coming into his hands as treasurer, and shall faith-

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fully pay over to his successor all balances remaining in his hands. It shall be approved by the school board and the State Department of Education shall be notified of the treasurer by the president of the school board filing a copy of said bond in said department. If the custodian of the funds of any independent school district to which this Article applies has heretofore been designated as a depository, instead of a treasurer, the governing body of any such district may continue to use the name depository and this Article shall govern to the same extent as if the name treasurer were used. [Acts 1925, 39th Leg., p. 328, ch. 127, as amended Acts 1931, 42nd Leg., 1st C. S., p. 56, ch. 27; Acts 1933, 43rd Leg., p. 341, ch. 133.]

Section 2 of Laws 1933, cited to the text, repeals all conflicting laws and parts of laws.

[Art. 2832b. School fund depositories in certain counties]

In all independent school districts created by act of the Legislature prior to January 1, 1920, in counties that have a population of less than three thousand three hundred forty (3340), the Boards of Trustees of such independent school districts are authorized and directed to select the school fund depositories for such districts as directed by Article 2832 of the Revised Civil Statutes of the State of Texas, regardless of whether said districts contain a population of 150 scholastics. [Acts 1933, 43rd Leg., 1st C. S., p. 194, ch. 72, § 1.]

[Art. 2835a. Comptroller's warrants for school fund withheld on failure of district or municipality to pay interest on school fund bonds]

The Comptroller of Public Accounts shall not issue any warrant for the payment of the available school fund or any rural aid or vocational educational funds to or for the benefit of any school district in this State, or any city or town which has assumed the control of the public schools located therein, when the interest and/or principal on any bonds owed by such school district and/or city or town and owned by the Permanent School Fund of this State, remains unpaid for a period of two years, nor shall any such warrant be issued when any such district and/or city or town prefers the claims of any other bond holder to the claims of the State Permanent School Fund; provided that no such district and/or city or town shall be deemed to be in default if proper refunding bonds in lieu of such defaulted interest and/or principal are issued and approved by the State Board of Education. [Acts 1933, 43rd Leg., p. 625, ch. 209.]

[Art. 2899a. Inquiry respecting religion of persons seeking employment or official positions prohibited; penalty]

Sec. 1. That no person, agency, bureau, corporation or association employed or maintained to obtain or aid in obtaining positions for teachers, principals, superintendents, clerks or other employees in the public schools of Texas, and no individual or individuals conducting or employed by or interested directly or indirectly in such an agency, bureau, corporation or association, and no board of education, trustee of a school district, superintendent, principal, or teacher of a public school or other official or employee of a board of education, shall directly or indirectly ask, indicate, or transmit orally or in writing the religion or religious affiliation of any person seeking employment or official position in the public schools of the State of Texas, except to inquire of the applicant whether or not he or she believes in the existence of a Supreme Being.

Sec. 1-a. No department, agency or commission or any agent or employee of the State shall have the right to inquire, request, or in any manner directly or indirectly indicate, require or request the religious affiliation of any applicants for any position. The same penalty as provided for violation in Section 1 shall apply to this section.

Sec. 2. Any person who, or any agency, bureau, corporation or association which shall violate any of the provisions of Sections 1 or 1-a of this Act, or who or which shall aid or incite the violation of any of said provisions shall for each and every violation thereof be liable to a penalty of not less than One Hundred Dollars nor more than Five Hundred Dollars, to be recovered by the person aggrieved thereby or by any resident of this State, to whom such person shall assign his cause of action, in any court of competent jurisdiction in the county in which the plaintiff or the defendant shall reside; and such person and the manager or owner of, or each officer of, such agency, bureau, corporation or association, as the case may be shall, also, for every such offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than One Hundred Dollars nor more than Five Hundred Dollars, or shall be imprisoned not less than thirty days nor more than ninety days, or both such fine and imprisonment. [Acts 1933, 43rd Leg., 1st C. S., p. 48, ch. 15.]

[Art. 2905a. Trustees' warrants for salaries authorized]

Sec. 1. The Trustees of Independent School Districts and of Common School Districts are hereby authorized to issue interest bearing warrants in payment of salaries of all persons employed in the conduct of the public schools in the State of Texas.

Sec. 2. All warrants issued under the provisions of Section 1 of this Act shall bear interest at not more than four (4%) per cent per annum from the date of issuance; provided, that no warrant that has been issued and sold by the holder thereof at a discount prior to the passage of this Act shall bear interest.

Sec. 3. The total amount of warrants which may be issued under the provisions of this Act, together with all other warrants theretofore issued for the current expenses of the schools in any district during any particular year, shall not exceed eighty (80%) per cent of the estimated proceeds of the local maintenance tax, as shown by the budget, and as determined by the County Board and the County Superintendent in the case of Common School Districts, and the City Superintendent and Trustees of the Individual Independent Districts, in the case of Independent Districts, together with not more than sixty (60%) per cent of the total per capita apportionment to be received from the State of Texas during the current scholastic year.

Sec. 4. It shall be the duty of the County Superintendent of schools, or the Secretary of the School Board of each Independent School District, to number numerically and record each such interest bearing warrant, and to give official notice of its issuance to the proper depository, and it shall be the duty of such depository to notify the County Superintendent or the Secretary of the Independent School District when sufficient funds are in its hands to the credit of such district to liquidate these warrants, and such warrants issued for the payment of salaries shall be paid numerically.

Sec. 4-a. None of the provisions of this Act shall be of any force and/or effect from and after August 31st, 1935. [Acts 1933, 43rd Leg., p. 579, ch. 191.]

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

[Art. 2919a. School canning factories in districts of not less than 225 scholastics]

Sec. 1. That the Board of School Trustees of Independent School Districts having a scholastic population of not less than 225 nor more than 325 according to the latest approved census roll on file in the State Department of Education, be and are hereby authorized to borrow money from the Reconstruction Finance Corporation, or any other source, for such periods of time as may be necessary, for the purpose of installing school canning factories to be used in giving instruction in food conservation work to high school children and adults of said districts, and for the purpose of purchasing the necessary equipment for the installation of manual training departments; and for the equipment of physical education departments and for the erection of the necessary buildings therefor.

Sec. 2. That the Board of School Trustees of the districts designated in the preceding section be and are hereby authorized to charge such fees for the use of such equipment or departments as are provided for herein as may be necessary to make the project self-liquidating as said term self-liquidating is defined by the Emergency Relief and Construction Act of 1932.

Sec. 2-a. That all such fees be placed in a special fund known as the "Self-liquidating Fund" in the Depository of School Funds for said districts, that said fund cannot be used for any purpose save the payment of interest and principal or obligations incurred for the erection of necessary buildings and the installation of such equipment or departments as are provided for herein. Should the amount collected from fees for the use of such equipment or departments, be insufficient at any time to meet the interest, or interest and principal due on such obligations as provided for herein, the Boards of Trustees of such districts are vested with authority and are hereby directed to transfer from the local maintenance tax of said district any amount necessary to meet such interest, principal, or interest and principal.

Sec. 3. That the Board of School Trustees in such districts as are provided for in Section One, be and are hereby vested with authority to issue securities based on fees as provided for in preceding Section, which may be supplemented by additional warrants based on the maintenance tax to be collected in succeeding years.

Sec. 4. The Boards of Trustees or such School Districts as are provided for in Section One be and are hereby authorized to perform any and every act in anywise suggested or demanded by the Reconstruction Finance Corporation, which may be necessary to obtaining loans for the above named purpose or any other purpose. [Acts 1933, 43rd Leg., p. 195, ch. 90.]

[Art. 2919b. School canning factories in districts of not less than 1800 scholastics]

Sec. 1. That the Board of School Trustees of Independent School Districts having a scholastic population of not less than 1800 nor more than 1900, according to the latest approved census roll on file in the State Department of Education, be and are hereby authorized to borrow money from the Reconstruction Finance Corporation, or any other sources, for such periods of time as may be necessary, for the purpose of installing school canning factories to be used in giving instruction in food conservation work to high school children and adults of said districts, and for the purpose of purchasing the necessary equipment for the installation of manual training departments;

Sec. 2. That the Boards of School Trustees of the districts designated in the preceding section be and are hereby authorized to charge such fees for the use of such equipment or departments as are provided for herein as may be necessary to make the project self-liquidating as said term self-

liquidating is defined by the Emergency Relief and Construction Act of 1932.

Sec. 2-A. That all such fees be placed in a special fund known as the "Self-liquidating fund" in the Depository of School Funds for said districts, that said fund cannot be used for any purpose save the payment of interest and principal or obligations incurred for the installation of such equipment or departments as are provided for herein. Should the amount collected from fees for the use of such equipment or departments, be insufficient at any time to meet the interest, or interest and principal due on such obligations as provided for herein, the Boards of Trustees of such districts are vested with authority and are hereby directed to transfer from the local maintenance tax of said district any amount necessary to meet such interest, principal, or interest and principal.

Sec. 3. That the Board of School Trustees in such districts as are provided for in Section One, be and are hereby vested with authority to issue securities based on fees as provided for in preceding Section, which may be supplemented by additional warrants based on the maintenance tax to be collected in succeeding years.

Sec. 4. That Boards of Trustees of such School Districts as are provided for in Section One be and are hereby authorized to perform any and every act in anywise suggested or demanded by the Reconstruction Finance Corporation, which may be necessary in obtaining loans for the above named purposes or any other purpose. [Acts 1933, 43rd Leg., p. 132, ch. 63.]

TITLE 50—ELECTIONS

[Art. 2952. Repealed by Acts 1933, 43rd Leg., p. 3, ch. 3, § 9]

[Art. 2953a. Special elections to fill vacancies in public offices]

Sec. 1. Where special elections are authorized by this Act, the officer authorized by law to order elections shall make such order, fixing the time of the election not less than twenty nor more than ninety days after the first public notice of such order.

Sec. 2. Where vacancies which are to be filled by election occur in a civil office, an election shall immediately be ordered to fill the unexpired term.

Sec. 3. Where an officer, holding an office the vacancy of which is to be filled by election, is re-elected to a term of office succeeding that of which he is the incumbent, and where, after the re-election of said officer, by reason of the death or resignation of the officer or otherwise, there is no person legally entitled to fill the office for the unexpired term or to fill the office for the succeeding term to which the former officer was elected to succeed himself, an election shall be immediately ordered to elect a person to fill the unexpired term in said office and to elect a person to fill the term of office succeeding the unexpired term.

Sec. 4. When the incumbent of an office, the vacancy of which is to be filled by election, tenders to the officer authorized by law to receive same a written resignation effective at a future date, an election shall be ordered immediately after acceptance of the resignation to elect a successor to the incumbent to fill the term of office unexpired from and after the effective date of the resignation.

Sec. 5. When an officer-elect to an office a vacancy in which must be filled by election, tenders to the officer authorized by law to receive the resignation of an incumbent of the office to which said officer-elect was elected, a declaration in writing of his intention not to qualify for the office to which he was elected, an election shall be ordered immediately upon receipt of said written declaration to elect a successor to the incumbent of the office.

Sec. 6. When the officer-elect to an office which must be filled by election dies or becomes ineligible to qualify for the office to which he was elected

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the proper officer shall immediately order an election to elect a successor to the incumbent of the office.

Sec. 7. Where no officer is otherwise authorized by law to receive and accept the resignation of an officer, the Governor is hereby designated as the officer to do so, and he is hereby empowered and authorized to receive and accept the resignation of all such officers.

Sec. 8. Whenever a special election or special primary as herein provided or otherwise provided by law shall be called between February 1st and April 1st, the tax collectors of the counties in which such election or primary is to be held shall make up and deliver to the board charged with the duty of furnishing election supplies separate certified lists of the citizens in each precinct who have paid their poll tax or have received their certificates of exemption in the form now provided by law, on or before February 20.

Sec. 10. All elections heretofore held or orders of elections heretofore made are hereby validated where same would have been authorized under the provisions of this Act.

Sec. 11. If any section, paragraph, or provision of this Act be held or declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs, or provisions of this Act, but the same shall remain in full force and effect. [Acts 1933, 43rd Leg., p. 3, ch. 3.]

Section 9 of Acts 1933, 43rd Leg., p. 3, ch. 3, expressly repeals art. 2952.

[Art. 2955a. Qualifications for voting for bond issues, lending credit, expending money, or assuming debt]

When an election is held by any county, or any number of counties, or any political subdivision of the State, or any political subdivision of a county, or any defined district now or hereafter to be described and defined within the State, and which may or may not include towns, villages or municipal corporations, or any city, town or village, for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, only qualified electors who own taxable property in the State, county, political subdivision, district, city, town or village where such election is held, and who have duly rendered the same for taxation, shall be qualified to vote and all electors shall vote in the election precinct of their residence. [Acts 1933, 43rd Leg., p. 376, ch. 147, § 1.]

[Art. 2955b. Certified list of taxpayers]

Whenever an election is called in the State of Texas or any political subdivision thereof or in any defined district for the purpose of authorizing the issuance of bonds which place a lien upon real estate, it shall be the duty of the Tax Collector of the county or political subdivision or defined district to furnish to the Election Judges a certified list of the owners of real estate in said county or political subdivision of the State in which said election is to be held who have rendered the same for taxes as shown on the tax rolls; said list of real estate owners shall determine the qualification of the electors to participate in said election. [Acts 1933, 43rd Leg., p. 376, ch. 147, § 2.]

Art. 2956. [2939]. Absentee voting

Any qualified elector, as defined by the laws of this State, who expects to be absent from the County of his or her residence on the day of election may vote subject to the following conditions, to-wit: At some time, not more than twenty (20) days nor less than three (3) days, prior to the date of such election, such elector shall make his or her personal appearance before the Clerk of the County of his or her residence and shall deliver to such Clerk his or her poll tax receipt or exemption certificate entitling him or her to vote at such election, and said Clerk shall deliver to such elector one ballot which has

been prepared in accordance with the law for use in such election, which shall then and there be marked by said elector apart and without the assistance or suggestion of any person, and in such manner as said elector shall desire same to be voted; which ballot shall be folded and placed in a sealed envelope and delivered to said Clerk who shall keep same so sealed, and who shall also keep said poll tax receipt or certificate open to the inspection of any person who may wish to examine or see same until the second day prior to said election; and said Clerk shall, on said second day, place the said poll tax receipt or certificate, together with the said envelope containing said marked ballot, in another envelope which shall then be mailed by said Clerk to the presiding Judge of the voting precinct in which said elector lives. Or, at some time not more than twenty (20) days prior to the date of such election, such elector shall make his or her written application to the County Clerk of his or her County requesting a ballot, and shall send together with said application his or her poll tax receipt or exemption certificate, but in the event said elector does not have his or her receipt or certificate, the County Clerk is directed to procure from the Tax Collector a certificate in lieu of said receipts or exemption certificates. Such County Clerk receiving the application for a ballot, after verification shall mail a ballot to such elector, which ballot having been prepared in accordance with the law for use in such election, said envelope to be marked "Official Ballot for ——" giving elector's name. Such elector, upon receipt of said ballot, shall mark the same immediately, apart and without the assistance or suggestion of any other person, in such manner as said elector shall desire same to be voted, which ballot shall be folded and placed in a sealed envelope, prepared for the purpose, and mailed by such elector to the County Clerk of the County wherein such elector votes, who shall keep same so sealed, and who shall also keep said poll tax receipt or certificate open to the inspection of any person who may wish to examine or see same until the second day prior to said election; said Clerk shall on said day place the said poll tax receipt or certificate, together with the said sealed envelope containing said sealed ballot, in another envelope which shall be by said Clerk then mailed to the presiding Judge of the voting precinct in which said elector lives.

On the day of such election, and in the presence of the election officers provided by the law, the presiding Judge shall, between the hours of two and three o'clock, open the envelopes containing said poll tax receipts, exemption receipts, and marked ballots, and publicly announce that the ballot of such named electors are proposed to be cast, at which time any person who desires to challenge said vote and the right of same to be cast, shall be heard to present such challenge, and if there be no challenge of same, said vote shall be cast and counted according to the law; and if there be any challenge of such vote, legal cause for same shall be heard and decided according to the law provided in the case of such challenge. In case no challenge is made, such poll tax receipt, after same is marked "voted" as provided by law, shall be mailed back to the said County Clerk. But in case of challenge, such poll tax receipt together with affidavits relating thereto shall be mailed by said Judge of election of [to] the County Clerk of such County who shall keep same for thirty (30) days, and if no demand be made for the production of same before anybody or persons in authority within said time, said County Clerk shall deliver such receipt to the owners thereof. When voted, the Judge of election shall mark opposite the name of such absentee voter the word "Absentee." The provisions of this Article shall apply to all elections, including General, Special and Primary Elections, except primary elections ordered by the executive committee of a political party to nominate candidates for a special election; provided, however, that the executive committee of a political party may at its option provide in ordering a special primary [primary] election to nominate candidates for a special election that any qualified voter who expects to be absent from the County of his residence on the day of the Election may vote in accordance with the procedure under either of the methods prescribed in this Act at some time not more than ten days nor less than three days prior to the

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date of such election. [As amended Acts 1931, 42nd Leg., p. 180, ch. 105; Acts 1933, 43rd Leg., p. 5, ch. 4.]

Art. 3022. [3016-17] Status of count announced

Immediately upon the closing of the polls, and at intervals of two hours thereafter, one of the judges of election shall make a correct but unofficial memorandum of the total number of votes counted for each candidate at that time, such memorandum being in the order in which the names of the candidates appear upon the official ballot; and thereupon he shall publicly announce from such memorandum the status of the count at the door of the building where the counting is in progress. This memorandum shall thereafter be accessible to the public, and especially to newspaper reporters who may call for information; and the presiding judge and associate judge may furnish reporters information concerning the status of the count at other times after the polls have been closed. The announcement of the status of the count shall continue, as aforesaid, until the count has been completed, when a correct but unofficial announcement of the total number of votes received by each candidate shall be made as above provided. In all general, special or primary elections, the presiding judge of election shall, upon the completion of the count, immediately transmit by telephone or by more expeditious means, if available, to the officer of the county clerk, if the election be a general or special election, or to the county chairman, if a primary election, an unofficial but complete report of the number of votes cast for each candidate, and/or cast for or against each proposition submitted to the voters for determination. No judge, clerk, supervisor or other officer of election shall make any statement, or give any information in any manner, of the number of votes cast for or against any candidate or for or against any proposition submitted to the people, or convey to any person his opinion regarding the state of the polls until after the closing thereof, and then only as herein expressly permitted. The provisions of this Article shall apply to all elections, general, special or primary. [As amended Acts 1933, 43rd Leg., p. 762, ch. 225, § 1.]

Section 13 of Laws 1933, 43rd Leg., p. 762, ch. 225, being a penal provision, is published as Pen. Code, art. 231a.

Acts 1933, 43rd Leg., p. 762, ch. 225, § 14 reads as follows: "If any section, paragraph or provision of this Act be held or declared

unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect."

[Art. 3022a. Tabulation of unofficial returns]

Sec. 2. The county clerk in case of general election, or the county chairman if a primary election, shall tabulate such unofficial returns when received, and at convenient intervals until midnight of election day shall announce or have announced at the courthouse door, or some other designated place, the total number of votes, as far as tabulated at the time; counted for each candidate, and/or for or against each proposition submitted to the voters for determination. When returns from each precinct of the county shall have been tabulated the county clerk or county chairman shall immediately prepare an unofficial memorandum of the total number of votes received by each candidate, and/or cast for or against each proposition submitted to the people, and shall post a copy of the same at the courthouse door or at some other designated public place in the county. And such officer shall, after making the unofficial memorandum, immediately transmit by telegraph or by more expeditious means to the Secretary of State, an unofficial but complete report of the number of votes cast in his county for each candidate for state and district offices, and/or cast for or against each proposition submitted to the voters of the entire State. The Secretary of State shall tabulate the unofficial returns received at his or her office and shall prepare an unofficial memorandum concern-

ing the status of the returns received, at least once each day until he shall have received complete, unofficial returns from each county, at which time he shall prepare a memorandum giving the total number of votes received by each candidate, and/or cast for or against each proposition submitted to the people, as shown by the unofficial returns received at his office.

Sec. 3. For receiving unofficial returns by telephone and tabulating them as herein provided, the county clerk or county chairman and assistants employed in the work shall receive the same compensation per hour as allowed precinct judges of election.

Sec. 4. Charges for telephone or other service in transmitting unofficial returns to the county clerk shall be payable out of the general fund of the county. Charges for such service in primary elections shall be payable out of the funds of the political parties holding such elections.

Sec. 5. The tabulation of unofficial returns shall be preserved for public inspection until such time as official returns shall have been tabulated; thereafter, the unofficial tabulation may be destroyed.

Sec. 6. In precincts using voting machines, where absentee ballots have been voted by mail, none of said ballots shall be opened until immediately after the closing of the polls to voters who vote in person. If there be more than one absent voter's ballot entitled to be cast, they shall, without being unfolded, be thoroughly intermingled in some proper manner, after which they shall be unfolded and, under the personal supervision of all the judges, be registered on the voting machine the same as if the absent voter had been present and voted in person. [Acts 1933, 43rd Leg., p. 762, ch. 225.]

[Art. 3026a. Time for report by election judges]

The presiding judges in the several election precincts of this State in general and special elections shall, within seventy-two hours after the closing of the polls in said general and special elections, make a report of the returns of said election to the County Judge of their respective counties in the State, and said County Judges shall forthwith and within forty-eight hours after the returns have been canvassed by the Commissioners' Court as provided in Article 3030, Revised Civil Statutes 1925, forward by mail to the Secretary of State complete returns of the general and special elections in their respective counties. Provided this Section shall in no wise be construed as repealing Article 3036, Revised Civil Statutes, 1925. [Acts 1933, 43rd Leg., p. 769, ch. 228, § 1.]

Section 3 of Laws 1933, 43rd Leg., p. 769, ch. 228, being a penal provision is published as Pen. Code, art. 231b.

Art. 3033. [3035] [1757] Returns for certain State and district officers

In all elections for state or district officers, except members of the legislature, the county judge shall, within twenty-four hours after the Commissioners' Court shall have opened the returns and estimated the result, as provided in Article 3030, make out duplicate returns of the election; one of which he shall immediately transmit to the seat of government of the State, sealed in an envelope, directed to the Secretary of State, and endorsed, 'Election Returns for _____ county, for _____' (filling the first blank with the name of the county and the other blank with the name of the office for which the election was held, or a designation of the proposed amendments to the Constitution voted upon, as the case may be); and the other of such returns shall be deposited in the office of the clerk of the county court of the county where such election was held. [As amended Acts 1933, 43rd Leg., p. 762, ch. 225, § 7.]

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Art. 3034. [3036] [1758] [1710] Such returns counted

On the fifteenth day after the election, the day of election excluded, and not before, the Secretary of State in the presence of the Governor and Attorney General, or in case of vacancy in either of said offices, or of inability or failure of either of said officers to act, then in the presence of either one of them, shall open and count the returns of the election. [As amended Acts 1933, 43rd Leg., p. 762, ch. 225, § 8.]

[Art. 3078a. Convention to ratify proposed Amendments to Federal Constitution; election of delegates]

Sec. 1. Whenever the Congress of the United States shall submit to the respective States a proposed Amendment to the Constitution of the United States and shall propose that it be ratified by conventions in the several States, an election shall be held on the fourth (4th) Saturday in August of the year in which any such amendment is submitted by the Congress of the United States, at which election thirty-one (31) delegates and thirty-one (31) alternates each, such total number of delegates and such total number of alternates to be composed of one (1) delegate and one (1) alternate from each of the several thirty-one (31) Senatorial Districts of the State, shall be elected, provided that the same is submitted to this State within the time necessary to comply with the provision hereof, otherwise at the succeeding General Election.

[Nominating Conventions]

Sec. 2. On the sixtieth (60th) day preceding the day of the election those persons, groups and organizations in favor of the ratification of the Amendment, and those persons, groups and organizations against the ratification of the Amendment shall hold separate Conventions in the City of Austin. Any qualified voter of this State shall be entitled to participate and vote in either of said Conventions, but not in both. Ten (10) days prior to the meeting of such Conventions it shall be the duty of the Governor of this State to designate a qualified voter of this State known by him personally to be in favor of the ratification of such Amendment, and it shall be the duty of the person so appointed to select and designate the place in the City of Austin at which the Convention of those persons, groups and organizations favoring the ratification of the Amendment shall convene and hold its meeting and the person so appointed shall preside as president pro tem until the permanent officers of the Convention are elected. The Governor shall likewise appoint a qualified voter of this State, known to him to oppose the ratification of the proposed Amendment, and the person so appointed shall select and designate the place in the City of Austin where the Convention of those persons, groups and organizations opposing the ratification of the proposed Amendment shall convene and hold their meeting, and the person so appointed shall preside and act as president pro tem until the permanent officers of the Convention of those persons opposing the ratification of the Amendment are elected.

[Nomination and qualifications of delegates and alternates]

Sec. 3. After each such Convention has been organized and its permanent officers elected the same shall proceed to nominate thirty-one (31) delegates and thirty-one (31) alternates each, such total number of delegates and such total number of alternates to be composed of one (1) delegate and one (1) alternate from each of the several thirty-one (31) Senatorial Districts of the State. Candidates for the offices of delegates and alternates to the Convention to pass on the proposed amendment shall be citizens and residents of this State and duly qualified voters in the Senatorial District from which they offer their candidacy for election, and their names shall be certified by the Chairman and Secretary of the respective Conventions to the Secretary of State within five (5) days after

the day of holding the respective Convention. No person shall be eligible as a delegate or alternate of the Convention of those persons opposing the ratification of the Amendment unless he shall make affidavit before some officer authorized to administer oaths that he is opposed to the ratification of the Amendment, and will so cast his vote in Convention, and no person shall be eligible as a delegate or alternate of the Convention favoring the ratification of the proposed Amendment unless he shall make affidavit in writing before some officer authorized to administer oaths that he favors the ratification of the Amendment, and will so cast his vote in Convention, and each such delegate and alternate shall file his affidavit with the Chairman of the Convention of which he is the nominee, or with the Secretary of State, which affidavit shall be filed within fifteen (15) days after the date of the filing of the list of delegates and alternates with the Secretary of State by the respective Chairmen of the Conventions. No nominee of either Convention shall be either a State, District or County office holder. The Chairman of each Convention shall file the affidavit of the respective nominees of each Convention with the Secretary of State, together with the certified list of nominees for said Convention.

[Journal of Nominating Conventions]

Sec. 4. Each such Convention shall be required to keep a journal of its proceedings and set forth among the minutes thereof the respective names of each delegate and alternate nominated at such Convention, together with the number of votes received by each such nominee, together with all other proceedings that may be had in said Convention. It shall be the duty of the Chairman of each such Convention, upon the adjournment thereof, to deposit each such journal with the Secretary of State where the same shall remain as a permanent public record.

[Certification of nominees by Secretary of State]

Sec. 5. It shall be the duty of the Secretary of State to certify to the County Clerk of each county in this State the names of the persons selected as the nominees of each Convention and to show in his certificate those delegates and alternates in favor of the ratification of the Amendment and those delegates and alternates against the ratification of such Amendment.

[General Election Laws applicable]

Sec. 6. All laws pertaining to conducting and holding General Elections and the qualifications of voters shall apply to the holding of the election ordered by the Governor except in so far as they are inconsistent with the provisions of this Act.

[Form of ballot]

Sec. 7. The election shall be by ballot, separate from any ballot to be used at the same election, and shall be prepared as follows: It shall first state the substance of the proposed Amendment. This shall be followed by appropriate instructions to the voter. It shall then contain perpendicular columns of equal width headed respectively, in plain type "For Ratification of the above Amendment," and "Against Ratification of the above Amendment." In the column headed "For Ratification of the above Amendment" shall be placed the names of the nominees or delegates and alternates nominated as in favor of the ratification; in the column headed "Against Ratification of the above Amendment" shall be placed the names of the nominees or delegates and alternates nominated as opposed to the ratification. The voter shall be entitled to vote for any number of candidates whose names appear on such ballot, not to exceed thirty-one (31) delegates and thirty-one (31) alternates. Such voter shall indicate

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his choice by drawing a line through or striking out all the names of such candidates other than the ones for whom he desires to cast his vote.

The ballot shall be substantially in the following form:

<p>PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES</p> <p>The Congress has proposed an amendment to the Constitution of the United States which reads as follows: (Here insert the proposed amendment)</p>	
<p>INSTRUCTIONS TO THE VOTER</p>	
<p>FOR the ratification of the above amendment. (Insert names of delegates and then alternates in alphabetical order favoring the ratification of the amendment)</p>	<p>AGAINST the ratification of the above amendment. (Insert names of delegates and then alternates in alphabetical order against the ratification of the amendment)</p>

[Form of ballot in case of proposed repealing amendment]

Sec. 7a. Provided, however, that if such proposed amendment, is one which repeals another amendment to the Constitution of the United States then it shall not be necessary to state the substance of the proposed amendment; and in lieu of the words "for ratification of the above amendment," and "Against ratification of the above amendment" at the top of the two perpendicular columns, there shall be inserted the words "For repeal of the _____ amendment," and the words "Against repeal of the _____ amendment," respectively; the number of such amendment which it is proposed to repeal to be inserted in the blank space above, as e. g. "For repeal of the Eighteenth (18th) Amendment," and "Against repeal of the Eighteenth (18th) Amendment." In such instances the ballot shall be substantially in the following form:

<p>INSTRUCTIONS TO THE VOTER</p>	
<p>FOR the repeal of the _____ amendment. (Inserting in the blank the number of the amendment proposed to be repealed) (Insert names of delegates and then alternates in alphabetical order favoring the repeal of the amendment)</p>	<p>AGAINST the repeal of the _____ amendment. (Inserting in blank the number of the amendment proposed to be repealed) (Insert names of delegates and then alternates in alphabetical order against the repeal of the amendment)</p>

[Voting and marking ballots]

Sec. 7b. The voter shall be entitled to vote for not more than thirty-one (31) delegates (candidates) and thirty-one (31) alternates (candidates) and shall indicate his choice by drawing a line through or marking out all the names of such delegates (candidates) and alternates (candidates) other than the ones for whom he desires to cast his vote.

[Making and canvassing returns]

Sec. 8. Returns shall be made of the election in the same manner and by the same officers as is provided by law for the making of returns of elections for Railroad Commissioners. On the thirtieth (30th) day following the day of the election and not before, the Secretary of State, in

the presence of the Governor and the Attorney General, or either of them, shall open and canvass the returns of the election.

[Certificates of election]

Sec. 9. The thirty-one (31) delegates and the thirty-one (31) alternates receiving the highest number of votes shall be declared elected and the Governor shall issue to each of those persons a certificate of election which shall be signed by the Governor and attested by the Secretary of State.

[Time of convening of ratification convention]

Sec. 10. On the ninetieth (90th) day following the day of the election the thirty-one (31) delegates and thirty-one (31) alternates elected at the said election and commissioned by the Governor shall convene in the City of Austin at 10 o'clock A. M., and shall thereupon constitute a convention to pass upon the question of whether or not the proposed amendment to the Constitution shall be ratified.

[Quorum; Alternates]

Sec. 11. A majority of the delegates so elected shall constitute a quorum at such convention for the purpose of transacting business. A majority of the quorum present and voting may act for the convention. In the event any delegate to such conventions, after he has been duly elected, shall die, resign, become incapacitated or fail to attend such convention, then and in any such event the alternate of such delegate shall act in the stead of said delegate with the full and complete powers of said delegate.

[Journal of ratification convention]

Sec. 12. The convention shall keep a journal of its proceedings in which shall be recorded the vote of each delegate on the question of the ratification of the proposed Amendment, and upon final adjournment the journal reflecting the vote of the delegates, together with the minutes of the convention, shall be filed with the Secretary of State of the State of Texas where it shall remain on file as a public record.

[Certificate of ratification]

Sec. 13. If the convention shall agree to the ratification of the proposed Amendment, a certificate to that effect shall be executed by the President and Secretary of the Convention and transmitted to the Secretary of State of this State and to the Secretary of State of the United States. The Secretary of State shall in turn transmit such certificate under the great Seal of the Sovereign State of Texas to the Secretary of State of the United States.

[Election expenses; duties of public officials]

Sec. 14. The expenses necessary to conduct such election shall be paid for by the respective counties of this State in the same manner as is now provided by law with reference to any other general or special State-wide election and the duties of all public officials with reference to providing for such election shall be the same as is now prescribed by law with reference to other elections except as herein provided.

[Appointment of county chairman and vice-chairman]

Sec. 15. The permanent chairman of each Convention provided for in Section 2 hereof is hereby empowered to appoint a chairman and vice-chairman for each county. The chairman in each county (or the vice-chairman in event of failure or inability of the chairman) is hereby empowered to appoint one assistant election judge and one clerk for each

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voting precinct for the purpose of assisting in holding the election provided for by this Act. Should a chairman or vice-chairman fail to make such appointments, then the presiding judge of each precinct is hereby empowered to appoint such assistants, in the manner now provided by statute, the appointees, however, shall be selected to equally represent both sides of the question; otherwise the said election, manner of conducting the same and the returns, thereof, shall be in all things held as is now provided by statute for the holding of general elections. None of the expenses arising or accruing because of the appointment of or the services rendered by the officials provided for in this Section shall be borne by the State or any county thereof; provided, however, any other usual, customary election expenses for officials to hold said election and for other election expenses shall be paid as is now provided by law for general elections.

[Expenses of delegates]

Sec. 16. The delegates elected to such Convention shall defray their own expenses incurred in connection therewith.

[Conflicting Statute or Resolution of Congress]

Sec. 17. If Congress should, at any time, either by Resolution or by Statute, prescribe the method and manner in which the Convention shall be constituted, and shall not except from the provisions of such Statute or Resolution such States as may have theretofore provided for constituting such conventions, the provisions of this Act shall be inoperative in so far as the same shall operate as to conflict with such Resolution or Act of Congress. [Acts 1933, 43rd Leg., p. 358, ch. 139.]

Art. 3123. [3121] [Time for returns by judge in party primary elections]

The presiding judges of party primary elections in all of the election precincts of this State shall, within seventy-two hours after the closing of the polls in said party primary election, make returns to the Chairman of the County Executive Committee of their respective Counties of the ballot boxes containing the ballots voted, locked and sealed, tally sheets, poll lists, return sheets, ballots mutilated and defaced, and ballots not voted, for which said County Chairman shall account to the Executive Committee of the county. The County Chairman shall, within forty-eight hours after the votes have been canvassed by the County Executive Committee as provided in Article 3124; Revised Civil Statutes of 1925 as amended by Chapter 275, Acts of the Regular Session of the Forty-first Legislature, mail to the State Chairman of their respective parties, complete returns as to the results of said party primary elections as to the several State offices. [As amended Acts 1933, 43rd Leg., p. 769, ch. 228, § 2.]

Art. 3124. [3122] Returns of election

Immediately upon the completion of the counting of the ballots, the precinct election judges shall prepare and make out triplicate returns of the same showing: (1) The total number of votes polled at such box; (2) The total number of votes cast at such box for each candidate, and the total number of votes polled at such box for or against any proposition voted upon. Such returns shall be signed and certified as correct by the judges and clerks of the election precinct. One copy of said returns shall be sealed up in an envelope and delivered by one of the precinct judges of election to the chairman of the county executive committee within twenty-four hours after the ballots shall have been counted; one copy of said returns shall be placed in one of the ballot boxes together with the ballots voted and shall be locked and sealed therein; the remaining copy of said returns shall be retained by the presiding judge

of election for a period of twelve months succeeding the date of the election. The chairman of the county executive committee shall, upon receiving returns from each election precinct in the county, order the members of the county executive committee to convene at the county seat of the county on the next succeeding day; provided, however, that if the returns of all precincts are not received by the county chairman before the first Friday succeeding the day of the primary election, the county executive committee shall meet on the first Saturday succeeding the day of the primary election, and the returns in the hands of the county chairman shall be opened by the executive committee in executive session and shall be canvassed by them. The county attorney shall upon the relation of the county chairman immediately institute mandamus proceedings in the proper court to compel the delinquent returning officers to make proper returns as required by law, and it shall be the duty of the county chairman to notify the county attorney of the delinquency of the election officers immediately after the meeting of the county executive committee on the first Saturday next succeeding the day of the primary election. [As amended Acts 1929, 41st Leg., p. 570, ch. 275; Acts 1933, 43rd Leg., p. 762, ch. 225, § 9.]

Section 2 of said Acts 1929, 41st Leg., p. 570, ch. 275, being a penal provision is published as Pen. Code, art. 246a.

Art. 3125. [3123-25] Canvass of result

At the meeting of the county executive committee, provided for in Article 3124, returns from the election precincts of the county shall be canvassed by the committee, and the result of the election declared by it. The chairman of the executive committee shall make a list of the candidates for county and precinct offices who received the necessary vote to nominate and shall certify the same and deliver it to the county clerk of the county. At the meeting of the county executive committee after the first primary, in the event the nominations for county and precinct officers are by a majority vote and no candidate received the necessary vote to nominate, the county executive committee shall determine the two candidates who received the highest number of votes cast for all candidates for the particular office and order their names printed on the ballot for the second primary. [As amended Acts 1933, 43rd Leg., p. 762, ch. 225, § 10.]

Art. 3127. [3126-7] Tabulated statement

The chairman of the executive committee in each county shall, as soon as the vote in the primary election has been counted and canvassed, as provided in this chapter, prepare a tabulated statement of the votes cast in his county for each candidate for each nomination for a State, district, county or precinct office, and of that cast for county chairman, as shown by the canvass made by the county executive committee, and shall immediately mail such statement as to a state or district office, in a sealed envelope by registered letter, to the chairman of the state executive committee, who shall present the same to the state executive committee, as herein provided. The state executive committee shall meet at the seat of government not later than the second Saturday following the day of the first primary election and shall canvass the returns for all state and district offices. In the event any candidate for a district office received in the first primary the necessary vote to nominate, the state executive committee shall certify the name of such candidate to the county clerks of the proper district to be printed upon the official ballot for the general election as a candidate of the party for said office. In the event no candidate for a particular state or district office received the necessary vote to nominate at the first primary, the state executive committee shall upon canvassing the returns, determine the

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two candidates who received the largest number of votes cast for all candidates for the particular state or district office and shall order that the names of those candidates be printed upon the official ballot for the second primary election. [As amended Acts 1933, 43rd Leg., p. 762, ch. 225, § 11.]

Art. 3135. [Repealed by Acts 1933, 43rd Leg., p. 762, ch. 225, § 12]

TITLE 52—EMINENT DOMAIN

Art. 3264b. [Eminent domain by Board of Regents acting as trustee]

Whenever the Board of Regents of the University of Texas shall have been made trustees by a will, instrument in writing or otherwise of a trust for a scientific, educational, philanthropic or charitable purpose, or other trust for a public purpose, that they may act by a quorum of the Board or a majority of all members; unless otherwise directed by the terms of the will or instrument, as such trustees they may exercise for the purposes of the trust the power of eminent domain, and may condemn land and other property as provided in this chapter; the power already existing of condemnation for University purposes is not affected hereby. [Acts 1933, 43rd Leg., 1st C. S., p. 77, ch. 23, § 1.]

TITLE 54—ESTATES OF DECEDENTS

Art. 3568. [3492] [2125] [2071] Posting and return of citation

Acts 1929, 41st Leg. 2d C. S., p. 91, ch. 53, §§ 1-3, validates the service of citations whether published or posted in all proceedings where guardians have been appointed, written wills probated or executors or administrators appointed.

TITLE 55—EVIDENCE

[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.]

[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 writing in dispute. [Acts 1933, 43rd Leg., p. 234, ch. 106.]

TITLE 56—EXECUTION

Article 3770. [3714] [2324] [2267] Execution on judgment

Stay of executions in foreclosure, see art. 2218b.

Art. 3773. [3717] [2326a] 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. [As amended Acts 1933, 43rd Leg., p. 369, ch. 144.]

TITLE 61—FEES OF OFFICE

Art. 3883. [3881 to 3883] Maximum fees

Except as otherwise provided in this Act, the annual fees that may be retained by precinct, county 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 (\$2750.00) Dollars each; Justice of the Peace and Constable, Fifteen Hundred (\$1500.00) Dollars each.

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 (\$3500.00) Dollars each; Justice of the Peace and Constable, Eighteen Hundred (\$1800.00) Dollars 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.

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 con-

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taining 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. [As amended Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20; Acts 1931, 42nd Leg., p. 822, ch. 340; Acts 1933, 43rd Leg., p. 734, ch. 220, § 1.]

See, also, article 2350h, ante.

Art. 3883a. [Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9]

Art. 3884. [Repealed by Acts 1931, 42nd Leg., p. 364, ch. 214, § 1]

Effective 90 days after May 23, 1931, date 225, ch. 92, § 1 (effective 90 days after May of adjournment. This article was, also, 21, 1929, date of adjournment). repealed by Acts 1929, 41st Leg. 1st C. S., p.

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) inhabitants, 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 (\$1800.00) Dollars per annum, and one of whom shall receive a salary not to exceed Fifteen Hundred (\$1500.00) Dollars per annum. He may appoint two investigators, who shall receive a salary not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum. He may appoint one court reporter who shall receive a salary not to exceed Twenty-four Hundred (\$2400.00) 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 (\$3600.00) 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 employees; 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. [As amended Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20; Acts 1933, 43rd Leg., p. 734, ch. 220, § 5.]

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

Art. 3886A. [Assistants and other appointments by district and county attorneys in counties of 125001]

Sec. 5-A: 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 Commissioners' 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. [Salaries of assistant county attorneys in certain counties having no district attorney]

Sec. 5-B: In all counties in this State having a population of one hundred thousand and one (100,001) inhabitants, and not more than one hundred and fifty thousand (150,000) inhabitants, and containing two cities of fifty thousand (50,000) population or more each according to the last preceding Federal Census, in which there is no District Attorney, the first assistant to the County Attorney shall receive a salary of not more than Thirty-six Hundred Dollars (\$3600.00) per annum, and the second assistant to the County Attorney shall receive a salary not to exceed Three Thousand Dollars (\$3000.00) per annum, and the other assistants to the County Attorney shall receive a salary of not more than Twenty-three Hundred Dollars (\$2300.00) per annum. [Acts 1933, 43rd Leg., 1st C. S., p. 145, ch. 49, § 1.]

[Art. 3886C. Assistant criminal district attorneys and other appointees in counties of over 355000]

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 (\$3,000.00) 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 combination stenographer and accountant and fix his salary at not to exceed Twenty-one Hundred Dollars (\$2100.00) per annum. He may employ one 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 employees 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

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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 court reporter and fix his salary at not to exceed Twenty-one Hundred and Sixty Dollars (\$2160.00) per annum. 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 information clerk and fix his salary at not to exceed Nine Hundred Dollars (\$900.00) per annum, but such additional assistants of 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.]

The Legislature numbered two articles 3886B so this is number 3886C.

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. [As amended 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.]

Sec. 2a. [Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9.]

Prior to its repeal this section was Acts 1931, 42nd Leg., 2nd C. S., p. 56, ch. 34.

Art. 3891. [3889] Disposition of fees

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 (\$3000.00) Dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Fourteen Hundred (\$1400.00) Dollars.

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 (\$3500.00) Dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Eighteen Hundred (\$1800.00) Dollars.

In counties containing as many as thirty-seven thousand five hundred and one (37,501) and not more than sixty thousand (60,000) 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 (\$4250.00) Dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Twenty-two Hundred (\$2200.00) Dollars.

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 (\$4750.00) Dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Twenty-six Hundred (\$2600.00) Dollars.

In counties containing as many as one hundred thousand and one (100,001) and not more than one hundred 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 (\$5500.00) Dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Three Thousand (\$3000.00) Dollars.

In counties containing as many as one hundred 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 (\$6500.00) Dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Four Thousand (\$4000.00) Dollars.

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

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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. [As amended 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.]

Art. 3895. [3893] 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. [As amended Acts 1933, 43rd Leg., p. 734, ch. 220, § 7.]

Art. 3899. [3897] Expense account

At the close of each month of his tenure of such office, each officer whose fees are affected by the provisions of this Act shall make as a 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, traveling expense and other necessary expense. If such expense 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 that such item was not necessary thereto, such item may be by such auditor or court rejected, in which case the correctness of such item may be adjudicated

in any court of competent jurisdiction. The amount of such expense referred to in this paragraph shall not be taken to include the salaries of assistants or deputies which are elsewhere herein provided for. The amount of such expense shall be deducted by the officer in making each such report from the amount of current fees, if any, due by him to the county under the provisions of this law. 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 shall be bought by the county in the manner prescribed by law for the purchase of supplies, and paid for out of the general fund, and they shall be and remain the property of the county. The expense of the maintenance of operation of such automobile or 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, provided, however, that the Commissioners' Court shall not allow an excess of the total sum of Fifty (\$50.00) Dollars, per month expenses for the operation and depreciation on cars owned by the sheriff or his deputies, personally, and the amount thereof shall be reported by the sheriff on the report above provided for, and shall be deducted by him from the amount, if any, due by him to the county in the same manner as the other expenses are deducted which is provided for in this Act. [As amended Acts 1933, 43rd Leg., p. 734, ch. 220, § 4.]

[Art. 3899a. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9.]

Prior to its repeal this art. was Acts 1929,
41st Leg., p. 37, ch. 12.

Art. 3902. [3903] Deputies—appointment of

Whenever the County Judge, Sheriff, County Clerk, County Attorney, District or Criminal District Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Justice of the Peace or Constable, except as provided in Article 3886, as herein amended, 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, setting out by sworn application the number needed, the position sought to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts and disbursements of the office; and said court may make its order authorizing the appointment of such deputies, assistants and clerks and fix the compensation to be paid them and determine the number to be appointed; 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 shall be authorized to appoint them as provided by law; provided that said compensation shall not exceed the maximum amount hereinafter set out. The maximum compensation which may be allowed to a deputy, assistant or clerk to the officers above named, for their services, shall be as follows:

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.

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 (\$2000.00) Dollars per annum; other assistants, deputies or clerks not to exceed Seventeen Hundred (\$1700.00) Dollars per annum each.

3. In counties having a population of thirty-seven thousand five hundred

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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.

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.

5. In counties having a population of one hundred thousand and one (100,001) and not more than one hundred fifty thousand (150,000) inhabitants; First Assistant or Chief Deputy not to exceed Twenty-six Hundred (\$2600.00) Dollars per annum; 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) or more inhabitants; First Assistant or Chief Deputy not to exceed Three Thousand (\$3000.00) Dollars per annum; other assistants, deputies or clerks not to exceed Twenty-four Hundred (\$2400.00) Dollars each, except as otherwise provided in this Act.

Heads of departments may be allowed by the Commissioners' Court, when in their judgment such allowable* is justified, the sum of Two Hundred (\$200.00) Dollars per annum in addition to the amount hereinbefore authorized, 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; provided, that no heads of departments shall be created except where the person sought to be appointed shall be in actual charge thereof, 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.

The Commissioners' Court in each order granting authority to appoint deputies, assistants or clerks shall state the number authorized and the amount of compensation to be allowed each deputy, assistant or clerk, which compensation shall be paid out of the fees of the office to which such deputy, assistant or clerk may be appointed and assigned, and the compensation so paid shall not be included in estimating the maximum fees of the officers herein named. The salaries referred to shall not be paid by the county unless otherwise provided herein, but are to be paid out of the fees of the office in the following manner: First, out of any current fees collected; second, if such fees are not sufficient, then out of any delinquent fees collected which are due the county after the legal deductions provided for in Article 3892 are made, and if there be any balance remaining after payment of the maximum and excess fees due such officer or officers and the compensation of such deputies, assistants or clerks, such balance shall be paid to the County Treasurer.

Provided that the above provision shall not be construed as in any way repealing or affecting the provision of Chapter 280, Acts of the Regular Session of the Forty-second Legislature, relative to appointment of Deputy Constables, or as repealing or affecting Article 6869, Revised Civil Statutes, 1925, as amended by Chapter 113, Acts of the First Called Session of the Forty-first Legislature, or as repealing or affecting the provisions of House Bill No. 7, passed by the Regular Session of the Forty-third Legislature.

In counties having a population in excess of one hundred fifty thousand (150,000) inhabitants, the District Clerk, with the approval and consent of the County Commissioners' Court, shall appoint a Deputy District Clerk to serve under the presiding District Judge in setting and disposing of cases on the general jury docket, and said Deputy District Clerk shall

* Probably should be "allowance."

receive as compensation for his services so rendered, a salary not to exceed Three Thousand (\$3000.00) Dollars per annum, payable monthly by warrant drawn on the general fund of the county.

All laws and parts of laws, general or special, relating to the compensation of deputies and assistants, or relating to the expense accounts of the officers named herein or their deputies or assistants, are hereby expressly repealed, it being intended that this Act shall apply to the salaries of deputies, assistants and clerks of each of the officers named herein in each and every county of this State except as otherwise provided in this Act. [As amended 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.]

[Art. 3902A. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9.]

Prior to its repeal this art. was Acts 1929, 41st Leg., 1st C. S., p. 58, ch. 24, as amended Acts 1929, 41st Leg., 2nd C. S., p. 94, ch. 55.

[Art. 3902B. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9.]

Prior to its repeal this art. was Acts 1927, 40th Leg., p. 410, ch. 272.

[Art. 3902c. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9.]

Prior to its repeal this art. was Acts 1929, 41st Leg., 2nd C. S., p. 97, ch. 58.

[Art. 3902d. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9.]

Prior to its repeal this art. was Acts 1927, 40th Leg., p. 409, ch. 271.

[Art. 3902—E. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9]

Prior to its repeal, this art. was Acts 1931, 42nd Leg., p. 815, ch. 336.

[Art. 3902f. Repealed by Acts 1933, 43rd Leg., p. 734, ch. 220, § 9]

Prior to its repeal, this art. was Acts 1931, 42nd Leg., p. 806, ch. 330.

[Art. 3912a. County judge as budget officer in counties of over 300,000; 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

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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 be present and participate in said hearing. Prior to the 20th day of December of each year the budget shall be acted upon by the Commissioners 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. 3912b. Compensation of precinct and county officers in counties of 290,000; excess fees paid into county treasury]

That in counties in which the population is as many as two hundred ninety thousand (290,000) and less than three hundred ten thousand (310,000) inhabitants, according to the last preceding Federal Census, the precinct officers shall receive during each fiscal year maximum fees not to exceed Three Thousand Dollars (\$3,000.00), and no more, out of the fees of office now provided for by law. The Criminal District Attorney and District Attorney, Sheriff and County Judge shall retain during each fiscal year all fees until the same amounts to Four Thousand Dollars (\$4,000.00), and of the remaining excess fees, such officer shall retain one-half of such remaining excess fees until such one-half together with said sum of Four Thousand Dollars (\$4,000.00), shall amount during each fiscal year to the sum of Five Thousand Dollars (\$5,000.00), and all other county and district officers receiving fees of office shall retain all fees until the same amount to Three Thousand Eight Hundred Dollars (\$3,800.00), and of the remaining excess fees, such officer shall retain one-half of such remaining excess fees until such one-half, together with said sum of Three Thousand Eight Hundred Dollars (\$3,800.00), shall amount during each fiscal year

to the sum of Five Thousand Dollars (\$5,000.00), and all fees collected by officers named in this Act during any fiscal year in excess of the maximum amount allowed by this Act, shall be paid into the County Treasury of the County, and the compensation, limitations and maximums herein fixed in this Act for officers shall include and apply to all fees and compensation whatever collected by said officers in their official capacity, whether accountable as fees of office under the present laws or not, and shall include all compensation for certified or uncertified copies of any record or paper, or for any certificates issued, and including notarizing of documents, and particularly shall include all fees now allowed by law to officers pertaining to delinquent taxes and tax certificates and shall not exclude any other fees from the operation of this Act. The compensation fixed by this Act for sheriffs shall be exclusive of rewards received for the apprehension of criminals or fugitives from justice. The maximum fees for the compensation of County Judges and Justices of the Peace shall be inclusive of any compensation received for performing marriage ceremonies, which amount shall be accounted for and required to be reported as fees of office; provided, however, no precinct officer, unless with constitutional authority, shall receive a fee for any misdemeanor case arising outside of the precinct for which he was elected or appointed. [Acts 1933, 43rd Leg., p. 128, ch. 60, § 1.]

Art. 3937. [3871] Tax assessor

Each Assessor of taxes shall receive the following compensation for his services which shall be estimated on the total value of the property assessed as follows: For assessing the State and County Taxes on all sums for the first Two Million Dollars (\$2,000,000.00) or less, five (5) cents for each One Hundred Dollars (\$100.00) of property assessed. On all sums in excess of Two Million Dollars (\$2,000,000.00) and less, than Five Million Dollars (\$5,000,000.00), two and one-half (2½) cents on each One Hundred Dollars (\$100.00), and on all sums in excess of Five Million Dollars (\$5,000,000.00), two and one-fourth (2¼) cents on each One Hundred Dollars (\$100.00), provided, that in counties in which the population does not exceed twelve thousand, five hundred (12,500) inhabitants, the Assessor shall receive on all sums for the first Four Million Dollars (\$4,000,000.00), the sum of five (5) cents for each One Hundred Dollars (\$100.00), and on all sums above such amount the fee shall be as above stated, one-half of the above compensation shall be paid by the State and one-half by the county; for assessing the taxes on all drainage districts, road districts, or other political subdivisions of the county, the Assessor shall be paid three-fifths of one cent for each One Hundred Dollars (\$100.00) of the assessed value of such districts or subdivisions.

Provided that in counties in which the population is not more than forty-two thousand (42,000) nor less than forty-one thousand, fifty (41,050) inhabitants according to the preceding United States Census, the Tax Assessor shall be paid for assessing the taxes, in all drainage districts, road districts, or other political subdivisions of the county, two (2) cents for each One Hundred Dollars (\$100.00) of the assessed value of such districts or subdivisions, provided further that such compensation as is paid to the Assessor shall be prorated among the various drainage districts, road districts and other political subdivisions of the county, according to the value of the property assessed in each district or other political subdivision, and for assessing the poll tax, five (5) cents for each poll, which shall be paid by the State. The Commissioners Court shall allow the Assessor of taxes such sums of money to be paid monthly from the County Treasury as may be necessary to pay for clerical work, taking assessments and making out the tax rolls of the county, but such sums so allowed to be deducted from the amount allowed to the Assessor as compensation upon the completion of said Tax rolls, provided the amount

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allowed the Assessor by the Commissioners Court shall not exceed the compensation that may be due the county to him for assessing.

It is further hereby provided that from and after January 1, 1934, in the counties having a population of more than seventy thousand (70,000), inhabitants according to the last preceding Federal Census, the Tax Collector shall advance to the Tax Assessor, out of State taxes collected by the Tax Collector, such sums of money to be paid weekly, as may be necessary to pay the salaries of said Tax Assessor, but such sums shall not total, before the annual tax rolls are submitted by him to the Comptroller of Public Accounts, more in one year than 60% of the estimate for said year hereinafter provided for.

In counties of the class last mentioned on January 1st of each year the Assessor of taxes shall submit to the Comptroller of Public Accounts and County Auditor an estimate of State fees for assessing taxes for said year, which, if approved by said County Auditor and said Comptroller of Public Accounts, shall authorize the payment out of State taxes of the salaries in the next paragraph hereinabove provided; and at the time the Assessor of taxes submits his tax roll each year, he shall be paid such balance due him from the State as shall be determined by the said Comptroller of Public Accounts and County Auditor and such balance shall be paid out of State taxes upon the warrant of the Comptroller of Public Accounts drawn upon the Tax Collector.

Sec. 2. It is not the purpose of this Act to change the salary of Tax Assessors as now fixed by law. [As amended Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20; Acts 1931, 42nd Leg., p. 138, ch. 94; Acts 1933, 43rd Leg., 1st C. S., p. 310, ch. 112.]

[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. [Acts 1931, 42nd Leg., p. 770, ch. 308, as amended Acts 1933, 43rd Leg., p. 47, ch. 21.]

TITLE 67—FISH, OYSTER, SHELL, ETC.

Art. 4016. The Commissioner

Commissioner abolished and powers and duties conferred on Fish, Game and Oyster Commission, see Penal Code art. 978f.

Art. 4031. [Repealed by Acts 1933, 43rd Leg., 1st C. S., p. 85, ch. 29, § 7]
See Penal Code, art. 934a.

Art. 4032. [Repealed by Acts 1933, 43rd Leg., 1st C. S., p. 85, ch. 29, § 7]
See Penal Code, art. 934a.

Art. 4033. [Repealed by Acts 1933, 43rd Leg., 1st C. S., p. 85, ch. 29, § 7]
See Penal Code, art. 934a.

Art. 4034. [Repealed by Acts 1933, 43rd Leg., 1st C. S., p. 85, ch. 29, § 7]
See Penal Code, art. 934a.

Art. 4044. [Repealed by Acts 1933, 43rd Leg., 1st C. S., p. 85, ch. 29, § 7]
See Penal Code, art. 934a.

Art. 4054. Use in municipal road work

Act 1933, 43rd Leg., p. 29, ch. 23 provides
for payment of certain refunds.

TITLE 69—GUARDIAN AND WARD

[Art. 4223a. Partition of ward's interest in realty.]

Sec. 1: If the estate of a minor owns an interest in real estate in common with other part owner or owners, and it, in the opinion of the guardian of said minor's estate, is to the best interest of such ward's estate that said real estate be partitioned, the guardian may agree upon a partition with the other part owner or owners, subject to the approval of the Court in which the guardianship proceedings are pending.

Sec. 2: When a guardian has reached an agreement with the other part owner or owners as to how said real estate is to be partitioned, he shall file with the court an application to have such agreement approved; the application shall describe the land to be divided and state why it is to the best interest of the ward's estate that said real estate be partitioned, and shall show that the proposed partition agreement is fair and just to the ward's estate.

Sec. 3: When such application is filed the Clerk of the Court shall immediately call the attention of the Judge of the court in which such guardianship is pending to the filing of the application and the Judge shall designate a day to hear such application, which may be heard in term time or vacation, provided such application shall remain on file at least five days before any orders are made, and the Judge may continue such hearing from time to time until he is satisfied concerning the application.

Sec. 4: If the Judge is satisfied that the proposed partition is for the best interest of the ward's estate, the court shall enter an order in term time or vacation approving partition and directing the guardian to execute the necessary agreement, or agreements, for the purpose of carrying such order and partition into effect.

Sec. 5: Whenever it shall appear that a guardian has heretofore executed agreements, or may hereafter execute agreements, as to the partition of any lands in which the ward has an interest without having first secured the approval of the court as provided herein, such guardian may file with the court in which such guardianship proceedings are pending, an application for the approval and ratification of said partition agreements. The application shall refer to said agreements in such manner that the court or Judge can fully understand the nature of the partition and the lands divided. It shall also state that in the opinion of the guardian said agreement or agreements are fair and just to the ward's estate and for the best interest of said estate. When said application is filed the clerk shall immediately call to the attention of the judge of the court in which guardianship is pending, the filing of such application, and the Judge shall designate a day to hear such application, which may be heard in term time or vacation, provided such application shall remain on file at least five days before any orders are made, and the judge may continue such hearing from time to time, until he is satisfied concerning the application. If the Judge is of the opinion that such partition is fairly made and the same is for the best interest of the ward's estate, an order shall be entered ratifying and approving such partition agreement or agreements, and when so ratified and approved such partition shall be as effective and binding as if executed after an order of the court, as is provided in this Act.

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Sec. 6: If the guardian of the estate of a minor is of the opinion that it is for the best interest of said ward's estate that any real estate which said ward owns in common with other part owner or owners should be partitioned he may apply to the court in which guardianship proceedings are pending for authority to bring suit in the District Court of the proper county against the other part owners for the partition of such real estate, and if the court hearing such application is of the opinion that such real estate should be partitioned, it shall enter an order authorizing suit to be brought for said purpose. [Acts 1933, 43rd Leg., p. 838, ch. 239.]

[Art. 4295a. Removal of guardianships from one county to another county; procedure for removal]

Sec. 1. From and after the passage of this Act, in all cases where guardianships have been pending, or may be hereafter begun, in one county of this State, and wherein in such cases the guardian of the ward's estate is in one person, or corporation, and the natural guardian, or the guardian of the person, is a different person, and where in such cases, the ward removes his residence to some other county of this State, and where, at the same time, the guardian of such ward's estate retains his, or its, residence in a different county, the parent or natural guardian, or any other proper person, acting for the ward, may make known by written application the desirability of the complete removal of such guardianship from the old county to that of the residence of the ward, and to which he has removed, and such application shall set forth such removal of the ward's residence, naming the adopted county and it shall be the duty of the Clerk of the Court where the guardianship has been pending to issue citations forthwith to the guardian of the ward's estate, and to the sureties on his or its bond, making known the filing of such application for the termination of the guardianship in such county, and such issuance of notices, or citations, and action thereon, and the return thereof shall be the same, as is now provided by law in probate matters.

Sec. 2. Upon the hearing of such application, if it appears to the Court that the ward has changed his residence to the county named in such application, and if at such hearing it is further made to appear that for any reason, the guardian of such ward's estate cannot, or will not, remove his, or its, residence to such new county to which the ward has removed, it shall be mandatory for the Court hearing such application to enter its order for the complete removal of the guardianship to such other county named in the application, upon compliance with the conditions hereinafter provided.

Sec. 3. Any proper person or corporation, having bona fide residence in the county to which the ward has removed, may make written application to the Court in such county, setting forth the facts of the changed residence, and the necessity for the appointment in the new county of a guardian of the estate of the ward, whereupon the Clerk of the county shall issue due notices of the application, as the law now provides in matters pertaining to appointments of guardians, and upon due hearing of such application such applicant, or any other worthy and proper person, shall be appointed guardian of such ward's estate. Such newly appointed guardian shall forthwith qualify in the time and in the manner as now provided by law generally in guardianships.

Sec. 4. When the fact of the appointment, and the due qualifications of the new guardian of such ward's estate, in the county to which the ward has moved his residence, is made to appear to the Court of the county from which the guardianship is being removed, it shall be the duty of the Court to enter its order removing such guardianship to such new county, and this order shall in all things terminate such guardianship in such old county, and in such order the Court shall direct the Clerk of the Court to enter such order, and thereupon to record all papers, by law required to be recorded, where not already recorded, and to make a complete certified

transcript of all such papers, orders, decrees, judgments and other proceedings in such guardianship, and upon being paid all fees and costs for such service, to forthwith transmit such transcript, with all the original papers in the case, to the Clerk of the Court to which the guardianship is being removed, and wherein the newly appointed guardian resides, and has duly qualified, according to law.

Sec. 5. Upon receipt of the transcript and the papers, the Clerk of the county to which the guardianship is being removed, shall certify receipt of same, under the seal of his office, and shall forward such receipt to the Clerk from whom received, and this fact shall make effective and complete such removal, and such guardianship shall then proceed in the county to which removed the same as if originally commenced therein.

Sec. 6. The newly appointed guardian of the ward's estate, in the county to which the guardianship has been moved, upon duly qualifying and giving of adequate and sufficient bond, as the law now directs, and in the time and manner as the law now directs, shall make known such fact to the old guardian of the ward's estate, in the county from which the guardianship has been removed, by exhibiting his letters of guardianship, and shall call upon the old guardian of the estate to deliver into his hands full and complete control of all properties, monies, and assets, of whatever nature, constituting and comprising the estate of the ward, and it shall be the duty of the old guardian of such ward's estate forthwith to deliver the corpus of the estate into the hands of such new guardian. (And at the same time such old guardian shall render a detailed, full and complete accounting under oath, showing what monies and properties came into his hands, and what disposition has been made of the same; and shall exhibit with his or its report such receipts and disbursements as have been made, and such accounting shall be made to the Court to which the guardianship has been removed, and in all things shall be given under the rules and law as it now pertains to the closing of a guardianship, and final accounting); provided that in all such cases the old guardian shall have at least thirty (30) days from the date of his notification of the qualification of the new guardian of the estate of the ward, to deliver into such new guardian's hands the corpus of the ward's estate, and all properties comprising it, and provided further that such old guardian shall have thirty (30) days from date of his notification of the qualification of the newly appointed guardian in which to make and file his final account with the Clerk of the county to which the guardianship has been removed.

Sec. 7. If such final account of the old guardian shows prudent management of the ward's estate, and that it has been managed in all things according to the law now governing such matters, it shall be the duty of the Court to which the guardianship has been removed to enter its order fully discharging such guardian of the ward's estate, and his bondsmen, but if such report and final accounting shows gross irregularities in the lending of the funds of the estate, or illegal mismanagement of the estate, or conversion of the ward's estate, or any part thereof, or any other actionable negligent act, whether of omission or commission, or if the said old guardian fails and refuses, for any reason, to turn over to the newly appointed guardian of the ward's estate, the corpus of the same, and the assets comprising it, and suit therefor becomes necessary against the guardian, or his bondsmen, or if such old guardian has been guilty of actionable negligence in any manner in his management of the estate resulting in financial loss to the ward, whether in the manner of investment of the funds, or otherwise, or has failed to account to the new guardian fully for everything to which the ward is entitled, under the law, the venue of all such suits shall be in the county to which the guardianship has been removed, and in the Court having jurisdiction of the amount, or, at the election of the newly appointed guardian, or some other proper person acting for them, in the county of the residence of the old guardian.

Sec. 8. Provided further, that in all suits for the recovery of the cor-

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pus of the ward's estate growing out of any actionable negligence on the part of the old guardian, where the old guardian shall be cast in such suit, the newly appointed guardian or any other proper person acting for the ward, shall be entitled to a reasonable attorney's fee against such old guardian and the sureties on his bond, and same shall be assessed against them as a penalty for his actionable wrongs, and shall be recoverable along with the corpus of the ward's estate. [Acts 1933, 43rd Leg., p. 96, ch. 47.]

Section 9 of Acts 1933, 43rd Leg., p. 96, ch. 47 provides that if any section is held invalid, such holding shall not affect the remainder and section 10 repeals all conflicting laws.

TITLE 70—HEADS OF DEPARTMENTS

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.]

TITLE 71—HEALTH—PUBLIC

[Art. 4419b. Cooperation with United States in controlling malaria]

The State Board of Health is hereby authorized and empowered to cooperate with the United States Public Health Service in continuing the campaign toward the control and eradication of malaria in Texas. [Acts 1933, 43rd Leg., 1st C. S., p. 80, ch. 26, § 1.]

Art. 4477. Sanitary code

[Rule 40a. Death certificates.]

[21]. That if the deceased shall have rendered service in any war, campaign or expedition of the United States of America, the Confederate States of America or the Republic of Texas, or which at the time of death was in the service of the United States of America, or a wife or widow of any person who has served in any way, campaign or expedition of the United States of America, the Confederate States, or the Republic of Texas, the undertaker or person burying the body show the following facts on the reverse side of the death certificate:

- (1) The organization in which service is or was rendered;
- (2) The serial number taken from the discharge papers, if discharged, or the number from the Adjusted Service Certificate;
- (3) The name and postoffice address of the next of kin or next friend of the deceased.

And provided that when such a death certificate is filed, the local Registrar shall immediately notify the nearest American Legion Post.

And provided further, that the State Registrar, when such certificate is filed with the State Bureau of Vital Statistics, shall notify the State Service Officer of the Adjutant General's Department and the State Adjutant of the American Legion and the State Comptroller. [Acts 1929, 41st Leg., 1st C. S., p. 7, ch. 4, § 5 as amended Acts 1933, 43rd Leg., p. 57, ch. 28.]

TITLE 72—HOLIDAYS—LEGAL

[Art. 4591b. Stephen F. Austin day; designation and commemoration]

That the Third day of November of each year is hereby designated and fixed, and is to be hereafter known as, "Father of Texas Day" in memory of Stephen F. Austin, the real and true Father of Texas, and that said day and date be regularly observed by appropriate and patriotic programs, being given in the Public Schools and other places that will properly commemorate the birthday of that great pioneer patriot, Stephen F. Austin, and thereby inspire a greater love for our beloved Lone Star State; provided, however, that said day shall not be a legal holiday. [Acts 1933, 43rd Leg., p. 68, ch. 37.]

Art. 4591c. [General Pulaski Memorial Day.]

Therefore be it Resolved, by the Legislature of the State of Texas, that the Governor of the State of Texas is authorized and directed to issue a proclamation calling upon officials of the Government to display the flag of the United States on all governmental buildings on October 11th of each year and inviting the people of the State of Texas to observe the day in schools and churches, or other suitable places, with appropriate ceremonies in commemoration of the death of General Casimir Pulaski. [Acts 1931, 42nd Leg., p. 899, S. C. R. #12.]

The resolution cited to the text contained the following preamble:

WHEREAS, the 11th day of October 1779, is the date in American history of the heroic death of Brigadier General Casimir Pulaski, who died from wounds received on October 9th, 1779, at the siege of Savannah, Georgia; and

WHEREAS, the States of Indiana, Wisconsin, Michigan, Ohio, South Carolina, Pennsylvania, New York, Minnesota, Mary-

land, New Jersey, Illinois, Rhode Island, New Hampshire, Nebraska, Georgia, and other States of the Union have by legislative enactment designated October 11th to be "General Pulaski's Memorial Day;" and

WHEREAS, it is fitting that the recurring anniversary of this day be commemorated with suitable patriotic and public exercises in observing and commemorating the death of this great American hero of the Revolutionary War;

TITLE 75—HUSBAND AND WIFE

Art. 4604. [4610] [2956] [2840] License

Persons who desire to marry shall procure from the County Clerk a license directed to all persons authorized by law to celebrate the rites of matrimony, which shall be sufficient authority to celebrate such marriage. [As amended Acts 1929, 41st Leg., p. 260, ch. 114; Acts 1933, 43rd Leg., p. 284, ch. 113.]

[Art. 4604a. Repealed by Acts 1933, 43rd Leg., p. 284, ch. 113, § 2.]

Before its repeal this art. was Acts 1929, 41st Leg., p. 260, ch. 114, § 1.

[Art. 4604b. Repealed by Acts 1933, 43rd Leg., p. 284, ch. 113, § 2.]

Prior to its repeal, this art. was Acts 1929, 41st Leg., p. 260, ch. 114, § 1.

TITLE 78—INSURANCE

[Art. 4682c. Board of Insurance Commissioners; rules and regulations for stabilization of insurance companies authorized]

Sec. 1. The Board of Insurance Commissioners of the State of Texas with the approval of the Governor of the State, from and after the passage of this Act, are specifically authorized and empowered to promulgate such

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rules, regulations, and orders as they may deem necessary to regulate and stabilize the payment of premiums to life insurance companies, and fraternal benefit societies and the payment of policy reserve loans and withdrawals of cash surrender values, due and payable to policy holders. To protect the interest of policy holders, such Board during the emergency covered by this Act shall have authority to prevent the cancellation of policies, and extend the time for the payment of premiums due thereon for such period of time and upon such conditions as to the Board may seem just and proper. Provided, however, that said Board of Insurance Commissioners shall not have power to limit the payment of death, sick and accident claims, and such other claims, including final judgments, for which such life insurance companies and fraternal benefit societies may be liable. And providing further, that the Board of Insurance Commissioners with the approval of the Governor of Texas shall have power and authority to cancel the permit to do business in this State of any life insurance company and fraternal benefit society violating or refusing to comply with any rule, regulation or order promulgated in pursuance of the authority granted under this Act. It is further provided, however, that no limit of liability or extension of time shall be granted as to obligations due by life insurance companies or fraternal benefit societies to policy holders, until and unless a like limit be at the same time extended to policy holders as to all policy obligations due to life insurance companies and fraternal benefit societies on all policies to which such extension or limitation of liability with respect to loan or cash values apply. The provisions of this Act shall be applicable to all Life Insurance Companies and fraternal benefit societies doing business in the State of Texas. The Board of Insurance Commissioners of Texas shall have power to regulate the salaries and number of employees and officers and other expenses of such Life Insurance Companies and fraternal benefit societies; but no salary shall ever be paid during the operation of this Act, either directly or indirectly, to any officer or employee in excess of One Thousand (\$1,000.00) Dollars per month and no dividends shall be paid, directly or indirectly, to the stockholders or policy holders of such Insurance Companies or fraternal benefit societies during the time this Act is in effect.

Sec. 2. If any section, provision, sentence, clause or phrase of this Act shall be declared unconstitutional or invalid for any reason it shall not affect any other provision or portion of this Act and the same shall remain in full force and effect; provided that this Act shall expire and be of no force and effect from and after the 31st day of December, 1933. [Acts 1933, 43rd Leg., p. 104, ch. 52.]

Art. 4686. [4497] Shall issue certificate of authority

No individual, or group of individuals, unless, now or hereafter, otherwise permitted by Statute, shall be permitted to engage in the business of insuring others against those losses which may be insured against under the laws of this State. Should the Board of Insurance Commissioners be satisfied that any insurance carrier applying for a certificate of authority has in all respects fully complied with the law; and that if a stock company, its capital stock has been fully paid up, that it has the required amount of capital or surplus to policyholders; it shall be its duty to issue to such carrier a certificate of authority under its seal authorizing such carrier to transact insurance business, naming therein the particular kinds of insurance, for the period of not more than twelve (12) months, and not extending beyond the last day of February next following the date of said certificate, unless the date is otherwise fixed by Statute for the particular kind of insurance carrier. Any such carrier who may now be doing business within the State of Texas shall on and after the first day of January, 1934, be required to comply with all of the provisions as set out by this Act.

Sec. 2. The word "carrier" as herein used is defined as that type of

insurer which, in consideration of premium, issues policies to others insuring against those losses which may be insured against under the provisions of the law, including stock companies, mutual companies, reciprocals or inter-insurance exchanges, or Lloyds Associations. [As amended Acts 1933, 43rd Leg., p. 420, ch. 164.]

Art. 4706. [4712] [3035] [2917] Investment of surplus money

Act authorizing investment of funds in stock of Federal Home Loan Bank see art. 881a-69.

Art. 4836. Investments

Act authorizing investment of funds in stock of Federal Home Loan Bank, see art. 881a-69.

Art. 4838—a. [Societies issuing certificates on weekly or monthly premium plan]

Societies may be incorporated in the manner prescribed by this Chapter for the organization of fraternal benefit societies, which shall have power only to transact business within the State of Texas; and to issue certificates providing for a maximum benefit of not exceeding Three Hundred (\$300.00) Dollars, on the weekly or monthly premium plan. Such Society or Societies shall be issued a certificate of authority in accordance with the provisions of this Chapter. When it shall have received five hundred (500) bona fide applications on which at least one monthly payment has been made, which said payments in the aggregate shall in no case be less than Eight Hundred (\$800.00) Dollars.

Sec. 2. Provided that the advantages and privileges granted under this Act shall be as follows: Permits to organize under this Act may be granted until January 1, 1934, at which date it shall be necessary for the holder or holders of such permits to have two hundred and fifty (250) bona fide applications on which at least one monthly payment has been made, and the remaining two hundred and fifty (250) bona fide applications, on which one monthly payment has been made, shall be completed within a period of six (6) months before a permanent certificate may be issued, provided that all other provisions in Section 1 of this Act have been met. [Acts 1933, 43rd Leg., p. 853, ch. 243.]

Art. 4859f. [Mutual assessment life insurance corporations]

Sec. 1. Corporations Included. Any corporation organized and incorporated under a preexisting law in this State without capital stock and not for profit, which law has been amended or repealed or reenacted, and which was operating and actually carrying on in this State immediately prior to January 1, 1933, the statewide business of mutually protecting or insuring the lives of its members by assessments made upon its members may comply with the terms of this Act, subject to the subsequent provisions hereof.

Sec. 2. Application for Certificate. Any corporation entitled to and desiring to avail itself of the provisions of this Act shall within six (6) months after the effective date of this Act make application to the Board of Insurance Commissioners for a certificate and permit to do business under the terms of said Act. Said application shall be sworn to by the President or General Manager of said corporation and shall contain the following:

(1) It shall have attached as exhibits a certified copy of the charter of said corporation, certified copies of all amendments, and a copy of all by-laws of said corporation certified by the Secretary or General Manager of the corporation to be true and correct.

(2) The name of the corporation.

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(3) The location of its principal office.

(4) The titles of the officers of the corporation and the number of directors and the names of persons who will serve as officers and directors until another election is held.

(5) It shall state the facts with reference to the corporation as set out in the preceding section, to-wit:

(a) that said corporation was organized under a preexisting law;

(b) that said law has been amended or repealed or reenacted;

(c) that said corporation was operating and actually carrying on in this State immediately prior to January 1, 1933, the statewide business of mutually protecting or insuring the lives of its members by assessments made upon its members.

(6) That the corporation at the time of making its application has a membership of at least five hundred (500) members and that there is not outstanding against said corporation an unpaid final judgment of any court of competent jurisdiction more than ninety (90) days past due.

(7) The application shall be accompanied by a financial statement on the form prescribed by the Board of Insurance Commissioners.

Sec. 3. Certificate and Permit. The Board of Insurance Commissioners may require such reasonable additional proof of the truth of the facts stated in said application as they may deem necessary, and upon consideration of said application and the proof furnished the said Board of Insurance Commissioners, if the corporation has in all things complied with the pertinent requirements and provisions of this Act, then the Board of Insurance Commissioners shall issue to the corporation a certificate and permit, the form of same to be prescribed by the said Board, authorizing and permitting the said corporation to carry on its business in the State of Texas under the provisions of this Act.

But if it appears from said application or otherwise, that the corporation has not fully complied with the pertinent requirements and provisions of this Act, then the Board of Insurance Commissioners shall refuse said application and shall refuse to issue said permit.

No such corporation shall continue to operate in this State if the Board has notified it in writing of the refusal of the Board to issue it a certificate and permit. But any such corporation may within sixty (60) days after receiving such notice file a suit in any district court of Travis County, Texas, to review the said action of the Board and may by trial de novo have all necessary relief both in law and equity to enforce its rights under this Act.

Nothing in this Act shall be construed to validate or otherwise sanction any unlawful act of any such corporation, except when such unlawful act may have been construed to be unlawful simply by reason of the fact that the law under which said corporation was created has since been repealed or amended so as to omit therefrom such corporations as are described in this Act.

Sec. 4. Deposits. Before any certificate or permit shall issue to any corporation under the terms of this Act, the corporation shall furnish the Board of Insurance Commissioners with evidence of the fact that the corporation has on deposit with some bank or trust company in this State subject to the payment of its obligations for benefits due under its policies or certificates wheresoever incurred a sum equal to the face value of the maximum loss insured by said corporation in any individual policy issued by it. Said deposit shall not be subject to check by the corporation, but the corporation may draw the interest, if any, accruing on said deposit. Said deposit shall be held for the protection of policyholders and claimants wheresoever the rights of said policyholders and claimants may have accrued or been incurred, the purpose of said fund being to guarantee the payment of the amount owing by the corporation on any valid claim against such corporation for benefits under a policy or certificate

after determination by a court of final jurisdiction wherever rendered. Said deposit shall be subject to the extraordinary writs of attachment and garnishments as provided by the laws of this State, but said writs shall not issue until final judgment has been rendered against the corporation. If said fund shall become depleted or shall become impounded by some process of a court, then the Board of Insurance Commissioners shall require the corporation to immediately restore said deposit to its original sum, and upon the failure of the corporation to so restore said deposit within ten (10) days after such notice, the Board of Insurance Commissioners shall call upon the Attorney General to proceed against the corporation as provided in Section 13 of this Act.

Sec. 5. Annual Statement. On or before the first day of March of each year each corporation availing itself of the provisions of this Act shall file with the Board of Insurance Commissioners complete and full sworn statement of its financial condition on the thirty-first day of December next preceding. Such statement shall plainly exhibit all real and contingent assets, and all liabilities and an account of income and disbursements to and from the mortuary fund during the year, and on blanks which the Commissioners shall furnish for the making of such annual statements. Upon examination of said report the Board of Insurance Commissioners, if such report shows that the corporation is in all things complying with this law shall issue such corporation a certificate of authority to transact its business in this State for the year next succeeding the filing of said report.

Sec. 6. Examination. The Board of Insurance Commissioners in addition to the annual report shall once in every two years or oftener, if deemed advisable, require the books and affairs of any corporation examined and audited by an accountant designated and commissioned by the Board of Insurance Commissioners. For the purpose of any examinations the Board and the auditor shall have free access to all books, papers and accounts of the corporation, and said cost, not to exceed Twenty-five Dollars (\$25.00), per day for time required in making such examination and audit, and necessary expense, shall be paid by the corporation. Such corporation shall not be required to pay for more than two (2) audits in one (1) year, nor more than Twenty-five Dollars (\$25.00), per each one thousand (1,000) members.

Sec. 7. (a) Officers Bond. Such corporation shall, by resolution adopted and entered on its minute books, a copy of which properly certified by President, Secretary, or General Manager, shall be filed with the Board of Insurance Commissioners, designate some officer who shall be responsible in the handling of the funds of the corporation. Such officer shall make and file a surety bond with a corporate surety company authorized to write surety bonds in this State, as surety, in the sum of not less than Five Thousand Dollars (\$5,000.00), payable to the Board of Insurance Commissioners for the use and benefit of said corporation, and which shall at all times be equal to the amount of the mortuary fund on hand, not to exceed Twenty Thousand Dollars (\$20,000.00), which said bond shall obligate the principal and surety to pay such pecuniary loss, not exceeding the penalty of the bond, as the corporation shall sustain of money or property by any act or acts of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction or wilful misapplication on the part of the said officer, directly or through connivance with others, while employed as such officer or exercising powers of such office. In lieu of such bond any such officer may deposit with the Board of Insurance Commissioners cash (or securities approved by the Commission) which cash or securities shall be in the amount and subject to the same conditions as provided for said bond.

(b) Recovery On Bond. When the Board of Insurance Commissioners is informed that any officer of any such corporation has violated the terms

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of his said bond, the Board shall cause an audit or examination to be made, and if same reveal a violation, it shall immediately notify the company executing said bond, and if the Board deem it necessary, request the Attorney General to bring suit against such company under said bond or to enforce the liability against said cash or securities. It shall be the duty of the Attorney General to immediately file such suit in the name of the Board of Insurance Commissioners for the benefit of the corporation or its claimants. Such suit shall be brought in some court of competent jurisdiction in Travis County, Texas.

Sec. 8. Branch Offices. No corporation operating under this Act shall be permitted to operate any independent branch office, separate group, club, or class, under any other name than that of said corporation, but all of its policies shall be issued in the home office of said corporation. Nothing herein shall be construed, however, as to prohibit any corporation hereunder from providing by its by-laws for the creation of separate groups, clubs, or classes, based upon such a reasonable classification as specified in the by-laws, and providing in the policies issued to the members of such groups, clubs, or classes that the benefits under said policies shall be limited to the assessments made, levied, and collected from any such particular group, club, or class, respectively. It is further provided that no stock or assets or benefits of any such particular group, club or class, shall be pledged, sold, or transferred without the consent of three-fourths of the members of such particular group, club, or class.

Sec. 9. Benefits. The relief funds of any corporation complying with and operating under the terms of this Act shall be created by assessments levied upon the members of said corporation. Such assessments may be made periodically upon such contingencies as may be provided in the by-laws of the corporation, or at such stated periods as in the discretion of the managing officer or officers of the corporation may be deemed necessary. The benefits to be paid by such corporation shall be dependent upon the amount realized from assessments upon the membership, and the certificate shall so provide; and the certificate shall also state the maximum to be paid. Such corporation shall provide in its by-laws for the portion of its assessments to be allotted to the mortuary fund and may provide for the payment out of said mortuary fund of all attorneys' fees and necessary expenses arising out of the defense, settlement, or payment of contested claims.

The interest of a beneficiary in a life insurance policy or contract heretofore or hereafter issued shall be forfeited when the beneficiary is the principal or an accomplice in wilfully bringing about the death of the insured. When such is the case, the nearest relative of the insured shall receive said insurance.

Sec. 10. By-Laws. Each corporation shall submit to the Board of Insurance Commissioners a copy of its by-laws. Such by-laws shall contain all things required by this Act and shall not contain any provision in conflict with this Act. The by-laws shall provide for the periodical meetings of the membership and for special meetings, at which meetings all members shall be permitted to vote. The Board of Insurance Commissioners shall examine such by-laws, and if the same comply with the provisions of this Act shall signify their approval of same. If they shall not be in accordance with the provisions hereof, then the corporation shall make said by-laws conform hereto. Upon approval of the by-laws a copy duly certified to by the President or General Manager and the Secretary of the corporation shall be filed with the Board of Insurance Commissioners, and a copy duly certified by such Board shall be received in evidence in all the courts of this State. All policies issued by a corporation under this Act shall provide that said policy is subject to the by-laws of the corporation and all future amendments thereto. All amendments shall be filed with the Board of Insurance Commissioners in a like manner as the original by-laws. A certified copy of any changes in the by-laws of

each such corporation shall be mailed to each of the stockholders and/or members at the next assessment after such change in the by-laws is made.

Sec. 11. Policies. No corporation hereunder shall issue any certificate or policy upon a limited payment plan, nor guarantee or promise to pay any type of endowment or annuity benefits, but shall confine its operation to the issuance of certificates looking to continuous payment premiums or assessments during the life time of the policyholder. And provided further that no such corporation shall issue any certificate or deposit agreeing to pay any benefits until a copy of such certificate or policy has been filed with the Board of Insurance Commissioners and approved by them as being in compliance with this Act.

Every policy or certificate issued by any such corporation after the passage of this Act shall contain a provision that if said policy has been continuously in force for a period of two (2) years before the death of the insured member, then said policy shall be incontestable except for non-payment of dues or assessments. Nothing in any application for the policy shall constitute a defense against any claim or loss under the policy unless a copy of said application is attached to the policy, and no misrepresentation therein shall constitute a defense unless same shall be shown to be material to the risk assumed, and any person who shall solicit an application for insurance upon the life of another shall in any controversy between the insured and his beneficiary and the company issuing any policy upon such application, be regarded as the agent of the company, and not the agent of the insured, but such agent shall not have power to waive, change or alter any of the terms or conditions of the application or policy.

Sec. 12. No corporation operating under this Act shall write any policy or certificate of insurance calling for a maximum benefit in excess of Five Thousand Dollars (\$5,000.00), nor any policy or certificate of insurance unless the membership of said corporation, liable for assessments on said policy or certificate or group or class or club liable therefor shall be sufficient in number at the assessment rate charged said class to pay fifty per cent (50%) of the maximum benefit set forth in said policy or certificate. In the event the membership in any group, class, or club of said corporation shall fall below such number, then the corporation shall immediately notify the members of such group, class, or club, and if said membership is not increased to said number within six (6) months thereafter, said group, class, or club shall be consolidated with some other group, class, or club, or discontinued. In the event any corporation hereunder has only one class, group, or club, then in the event the membership of said corporation shall at any time fall below fifty per cent (50%) of the number required at the assessment rate charged to pay the maximum benefit provided by any one of its policies or certificate, the corporation shall immediately notify the members of the corporation, and unless the membership is increased to said number within six (6) months thereafter, the Attorney General shall take steps under Section 13 of this Act to bring about the liquidation of said corporation.

Sec. 13. Insolvency. At any time the Board of Insurance Commissioners, after investigation, shall be satisfied that any corporation operating under the provisions of this Act in this State is insolvent, because the death claims due and unpaid which have matured under policies written after such corporation complied with the terms of this Act exceed the assets of the corporation and assessments or periodical payments called, or to be called, or in the process of collection, or which may reasonably be made against the members subject to assessment, or has exceeded its powers, failed to comply with any provision of the laws of this State applicable to it, or has a membership of less than five hundred (500) paying their assessments, the Board shall report the fact to the Attorney General of this State who shall thereupon apply to any court in Travis County having jurisdiction thereof for leave to file a suit in the nature of quo warranto

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to forfeit the charter of such corporation or to require it to comply with the law or to satisfy the Board as to its solvency. The court may, in its discretion, appoint agents or receivers to take charge of the effects and wind up the business of the corporation, under usages and practices of equity, and may make disposition of the business and membership of the corporation as in the discretion of the court may seem proper. No suit for receiver shall be filed against any such corporation, nor shall any receiver be appointed, except upon the application therefor by the Attorney General, and in no event shall any receiver for any such corporation be appointed until after reasonable notice has issued and a hearing had before the court.

Sec. 14. Corporations Not Complying. No person, firm, unincorporated association, or corporation shall carry on in this State the statewide business of mutually protecting or insuring the lives of its members by assessments made upon its members except under the terms of and by complying with the provisions of this Act. The charter of each corporation in this State entitled to comply with the terms of this Act which does not make application to do so within six (6) months after the Act shall go into effect is hereby expressly repealed and revoked, and such corporation is hereafter forever prohibited from carrying on its business in this State. Each and every charter of every corporation and mutual relief or benefit association granted by the State of Texas under the authority of the Secretary of State of this State, which was or is exempt from the provisions of the insurance laws of this State by the terms of Article 2971a, R. S. 1879, (Article 3096, Revised Statutes 1895) and Article 3096w, Revised Statutes 1895, which corporations do not make application to comply with the terms of this Act within six (6) months after the Act takes effect, is hereby expressly repealed and revoked and said corporations are hereafter forever prohibited from carrying on any business in this State. It is the expressed intent of this section and this Act to revoke, repeal and cancel the charter of every corporation, dormant, or otherwise, exempt from the insurance laws of this State by Article 2971a, Revised Statutes 1879, and Articles 3096 and 3096w, Revised Statutes of 1895, which fails to comply with the terms of this Act. The charters of all corporations complying with this Act are expressly continued in force during the terms of said charters subject to the provisions hereof. It shall be the duty of the Attorney General of this State immediately upon the expiration of six (6) months after the effective date of this Act to take necessary action by quo warranto, application for receiver, or otherwise to enforce the forfeiture of charters as provided herein and to liquidate and close the affairs of a corporation herein referred to which has failed to comply with the terms of this Act.

Sec. 15. Penalty. Any person or persons violating any of the provisions of this law shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not more than Five Hundred Dollars (\$500.00). Any responsible officer of any corporation permitting or participating in the violation of this law by any corporation shall be deemed guilty of a violation of this Act and subject to the penalties herein.

The Attorney General shall be authorized to enforce in addition to the rights of forfeiture provided herein the penalty provided in this section against any corporation or unincorporated association which shall be guilty of the violation of any of the provisions of this law. The venue of any suit or prosecution under this section may be in Travis County, Texas.

Sec. 16. Service of Process. In all law suits brought against a corporation operating under this Act, service of citation shall be served upon the president, any active vice-president, secretary, or general manager of said corporation or upon the Chairman of the Board of Insurance Commissioners of this State within the time required for service upon individuals. The Board, when served with citation for such a corpora-

tion shall forthwith transmit the same by Registered Mail to the corporation at the postoffice address as designated in records on file with the Board of Insurance Commissioners.

Sec. 17. Venue. In all actions brought against corporations operating under this Act growing out of or based upon any right of claim or loss or proceeds due, arising from or predicated upon any claim for benefits under any policy or contract of insurance issued by such corporation, venue shall lie in the county where the policyholder or beneficiary instituting such suit resides or in the county of the principal officer of such corporation.

Sec. 18. Fees. For filing original application for certificate to operate under this Act each corporation shall pay a filing fee of Twenty Dollars (\$20.00), to the Board of Insurance Commissioners. The Board shall also charge a fee of One Dollar (\$1.00) per each certificate and permit to do business issued. For filing each annual report the Board shall charge a filing fee of Ten Dollars (\$10.00). All of said fees upon receipt shall be paid into the General Fund of the State.

Sec. 19. Exceptions And Exemptions. This Act shall in no wise affect or apply to companies operating as local mutual aids, as fraternal benefit societies, reciprocal exchanges, or to foreign assessment companies operating under any other law in this State, or any other form of insurance other than those corporations carrying on in this State the state wide business of mutually protecting or insuring the lives of their members by assessments made upon their members. Except as herein expressly provided, no insurance law of this State shall apply to any corporation operating under this Act, and no law hereafter enacted shall apply to them unless they be expressly designated therein.

Sec. 20. Constitutionality. If any section, subsection, sentence or phrase of this Act is held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act, it being the intent of the Legislature that such remaining portion shall operate as a valid law. [Acts 1933, 43rd Leg., p. 856, ch. 245.]

[Art. 4875a-5] Organization

(5) When such permit to solicit membership has been issued by the Commissioners, the organizers may solicit members, and when they shall have received not less than five hundred (500) bona fide applications for membership in the association in all classes and when they shall have collected from such members the membership fees and one advance assessment, they shall make a showing to the Board of Insurance Commissioners of Texas in such form as is required, setting forth the facts. Such membership must be completed within six months from date of filing application. Thereupon the Board shall require, and the officer of the association designated to have charge of the funds of the Association shall make and file a surety bond executed by a surety company authorized to do business in the State of Texas, satisfactory to the Commission as surety, as surety,* in the sum of not less than Two Thousand Five Hundred (\$2500.00) Dollars, payable to the Board of Insurance Commissioners for the use and benefit of said corporation, and which shall at all times be equal to the amount of the mortuary fund on hand, not to exceed Twenty Thousand (\$20,000.00) Dollars, which said bond shall obligate the principal and surety to pay such pecuniary loss, not exceeding the penalty of the bond, as the corporation shall sustain of money or property by an act or acts of Fraud, Dishonesty, Forgery, Theft, Embezzlement, Wrongful Abstraction or Willful Misapplication on the part of the said officer, directly or through connivance with others, while employed as such officer or exercising powers of such office. In lieu of such bond any such officer may deposit with the Board of Insurance Commissioners cash (or securi-

* These two words are superfluous.

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ties approved by the Commission) which cash or securities shall be in the amount and subject to the same conditions as provided for in said bond. Provided, however, that the provisions of this section shall not apply to any local mutual aid association now organized and operating whose total membership shall at no time exceed one thousand (1,000) members and which shall never charge for annual dues or assessments in excess of One (\$1.00) Dollar each, and whose membership fee shall at no time exceed Two Dollars Fifty Cents (\$2.50). However, such association thus exempted shall file a bond, conditioned as herein above provided, in the amount of One Thousand (\$1,000.00) Dollars with the Board of Insurance Commissioners of Texas. [Acts 1929, 41st Leg., p. 563, ch. 274, as amended Acts 1933, 43rd Leg., p. 577, ch. 190.]

Art. 5006. Investment of funds

No company organized under the provisions of this chapter shall invest its funds over and above its paid up capital stock in any other manner than as follows:

(a) In bonds of the United States or of any of the states of the United States which are at or above par.

(b) In bonds or first liens on unencumbered real estate in this State or in any other state, country or province in which such company may be duly licensed to conduct an insurance business, and providing in each instance such real estate shall be worth at least twice the amount loaned thereon. The value of such real estate shall be determined by a valuation made under oath by two freeholders of the county where the real estate is located and if buildings are considered as a part of the value of such real estate they must be insured for the benefit of the mortgages.

(c) In bonds or other interest-bearing evidence of indebtedness of any county, incorporated city, town or school or sanitary or navigation district, such navigation district to contain a population of not less than three hundred and fifty-nine thousand (359,000) according to the last preceding Federal census, in this or any other state in which said company may be duly licensed to conduct an insurance business, if such evidences of indebtedness are issued by authority of law and if interest upon them has never been defaulted.

(d) In the stocks or bonds or other evidences of indebtedness of any solvent dividend-paying corporation incorporated under the laws of this State, or of the United States, or of any state, country or province in which such company may be duly licensed to conduct an insurance business.

(e) In loans upon the pledge of any mortgage, stock or bonds, or other evidence of indebtedness, acceptable as investments under the terms of this law if the current value of such mortgage stock, bonds or other evidence of indebtedness is at least twenty-five per cent more than the amount loaned thereon. [As amended Acts 1933, 43rd Leg., p. 851, ch. 242.]

[Art. 5068b. Licensing of life, health, and accident insurance agents; cancellation of license]

Sec. 1. Hereafter when any person shall desire to become an agent for a life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, doing business in this State, as the term "agent" is elsewhere defined, in the law, he shall, in such form and giving such information as it may require, make application to the Board of Insurance Commissioners for a license to act as such agent. If the Board shall determine that such person is of good character and reputation, it shall issue the license to such person in such form as it may prepare.

Sec. 2. Any license so issued by the Board of Insurance Commissioners to any person shall remain in full force and effect, without necessity of periodical renewal, until such time as the same shall have been sur-

rendered voluntarily by such person, or until same shall be cancelled for cause by the Board, or until such person shall not have outstanding a legal and definite appointment by some life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, authorized to do business in Texas to act as its agent, in which latter event the license shall automatically forfeit.

Sec. 3. When any life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, doing business in this State, shall employ any such person who has received such license, as its agent, such company shall notify the Board of Insurance Commissioners of such employment and appointment, and thereafter such person shall prima facie be deemed for all purposes to be the agent of such life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company until written notice has been received by the Board of Insurance Commissioners that such employment and appointment has been terminated and withdrawn.

Sec. 4. The Board shall have the right to cancel a license once issued, or to refuse the application for a new license, of any person found not to be of good character or reputation, or who shall willfully violate any of the insurance laws of Texas. Before cancelling for cause any license issued, the Board shall notify the licensee to appear at Austin, at any named date after ten (10) days, and show cause why the license should not be cancelled, and shall hear what the licensee may have to offer touching the question of cancellation and the cause therefor. Any licensee whose license is cancelled, or any applicant to whom a license is refused, may have redress in the Courts as in other Civil suits.

Sec. 5. No person shall be authorized to engage in business as a life, health or accident insurance agent until he shall have procured a license from the Board of Insurance Commissioners as herein provided; and no company shall appoint any person to act as its agent or solicitor unless such person shall have first obtained a license under the provisions hereof; and no person who shall have obtained a license as a life, health or accident insurance agent shall engage in business as such life, health or accident insurance agent or solicit life, health or accident insurance in any way until he shall have been appointed to act as agent by some duly authorized life, health or accident insurance company doing business in Texas, nor shall he under any circumstances solicit insurance for any person or for any company not authorized to do a life, health or accident insurance business in Texas. [Acts 1933, 43rd Leg., p. 356, ch. 138.]

Effective May 16, 1933. Section 6 of said penal provision is published as Penal Code, Acts 1933, 43rd Leg., p. 356, ch. 138 being a art. 570a.

TITLE 83—LABOR

Article 5155. Pay days

Each manufacturing, mercantile, mining, quarrying, railroad, street railway, canal, oil, steamboat, telegraph, telephone and express company, employing one or more persons, and each and every water company not operated by a municipal corporation, and each and every wharf company, and every other corporation engaged in any business within this State, or any person, firm or corporation engaged in or upon any public work for the State or for any county or any municipal corporation thereof, either as a contractor or a sub-contractor, therewith, shall pay each of its employees the wages earned by him or her as often as semi-monthly, and pay to a day not more than sixteen (16) days prior to the day of payment. [As amended Acts 1933, 43rd Leg., p. 730, ch. 217.]

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[Art. 5159a. Construction of public works in State and municipal or political subdivisions; prevailing wage rate to be maintained]

Sec. 1. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work, shall be paid to all laborers, workmen and mechanics employed by or on behalf of the State of Texas, or by or on behalf of any county, city and county, city, town, district or other political subdivision of the State, engaged in the construction of public works, exclusive of maintenance work. Laborers, workmen, and mechanics employed by contractors or subcontractors in the execution of any contract or contracts for public works with the State, or any officer or public body thereof, or in the execution of any contract or contracts for public works, with any county, city and county, city, town, district or other political subdivision of this State, or any officer or public body thereof, shall be deemed to be employed upon public works.

Sec. 2. The public body awarding any contract for public work on behalf of the State, or on behalf of any county, city and county, city, town, district or other political subdivision thereof, or otherwise undertaking any public work, shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the call for bids for said contract, and in the contract itself, what the general prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, also the prevailing rate for legal holiday and overtime work, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the State, county, city and county, city, town, district or other political subdivision on whose behalf the contract is made or awarded, Ten Dollars (\$10.00) for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its agents and officers, to take cognizance of complaints of all violations of the provisions of this Act committed in the course of the execution of the contract, and, when making payments to the contractor of monies becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this Act; provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, without a full investigation by the awarding body. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this Act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

Sec. 3. The contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents.

Sec. 4. Any construction or repair work done under contract, and paid for in whole or in part out of public funds, other than work done directly

by any public utility company pursuant to order of the Railroad Commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public works" within the meaning of this Act. The term "locality in which the work is performed" shall be held to mean the county, city and county, city, town, district or other political subdivision of this State in which the building, highway, road, excavation, or other structure, project, development or improvement is situated in all cases in which the contract is awarded by the State, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, district or other political subdivisions on whose behalf the contract is awarded in all other cases. The term "general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, or authorizing the work, whose decision in the matter shall be final. Nothing in this Act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said general prevailing rate of wages. [Acts 1933, 43rd Leg., p. 91, ch. 45.]

Sections 5, 6 of said Acts 1933, 43rd Leg., p. 91, ch. 45 being a penal provision are published as Penal Code, art. 1581a.

[Art. 5190a. Creation and term of office of commission]

Sec. 1. For the purpose of coordinating and unifying the administration of all funds of a Federal and/or State character appropriated or otherwise made available for the employment, rehabilitation and/or relief of the unemployed, there is hereby created the Texas Relief Commission. Said Commission shall cease to exist on August 26, 1935.

[Duties of commission]

Sec. 2. It shall be the duty of the Commission to administer all funds made available to said Commission by the Federal Government, provided that the activities of the Commission shall have as their sole and exclusive objects the providing of employment and/or relief to the unemployed.

Nothing herein shall be deemed to prevent, unless otherwise prohibited by law, any individual, corporation, association, partnership, firm, public body, municipality or other political subdivision of the State or department of the State Government from borrowing from the Federal Government or any agency thereof, including, without exclusion because of enumeration, projects made possible by the Emergency Act, public work projects, self-liquidating projects, construction of housing units to be rented at low cost, colonization projects, crop production made possible under the Emergency Relief and Reconstruction Act, or from administering any funds made available to such individual, corporation, association, partnership, firm, public body, municipality or other political subdivision of the State or Department of the State Government.

[Composition of Commission; Director of Texas Relief Commission; vacancy; employees; salaries]

Sec. 3. The Texas Relief Commission shall be composed of nine (9) members; the Chairman of the Industrial Accident Board and his successor in office, the President of the Texas Civil Judicial Council and his successor in office, three (3) to be appointed by the Lieutenant Governor, three (3) by the Speaker of the House of Representatives, one (1) by the Governor. The members of the present Texas Rehabilitation and Relief Commission shall perform the duties imposed upon the Texas Relief Commission herein created, until five members of the Texas Relief Commission have qualified by taking the Constitutional Oath of office, after which time, they shall have no authority or rights hereunder. The

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Governor and his successors in office shall be ex-officio chairman of said Commission, but shall not be entitled to a vote, except in the case of a tie vote. The remaining members of the Commission shall take the Constitutional Oath of office, provided, however, that nothing in this Act shall prevent or preclude the reappointment of any one or more of the members now constituting the membership of the present Texas Rehabilitation and Relief Commission created by the terms of House Bill No. 897, Chapter 141, Acts of the Forty-Third Legislature, Regular Session; and provided, however, that in the event of the death, resignation, or removal for cause of any member of said Commission appointed by the Lieutenant Governor or the Speaker of the House of Representatives, the vacancy created thereby shall be filled by appointment by the person making the original appointment. The members of said Commission shall serve without compensation, but shall be allowed and paid all reasonable and necessary expenses incurred in the discharge of their duties.

At its first meeting, the Commission shall elect from its membership a Chairman pro-tem, who shall preside at all meetings in the Governor's absence, and a secretary, who shall keep a record of all meetings and be responsible therefor.

There is hereby created the position of Director of the Texas Relief Commission, and the present Director of the Texas Rehabilitation and Relief Commission shall serve as Director of the Texas Relief Commission, unless and until removed as herein provided. He shall subscribe to the Constitutional Oath of Office and shall make and execute a good and sufficient bond, payable to the Governor of the State of Texas, in the sum of Fifty Thousand (\$50,000.00) Dollars, to be approved by the Commission and the Attorney General of Texas. He shall be subject to removal by the Commission and in case of his removal, or his failure to qualify or his death or resignation, the Commission by a vote of a majority of its members shall have authority to fill such vacancy by appointment. The salary of the Director is hereby set at Four Thousand (\$4,000.00) Dollars a year.

At its first meeting, the Commission shall also by a vote of a majority of its members appoint an Assistant Director and a Chief Auditor, whose respective salaries shall be set by the Commission at an amount not to exceed Three Thousand (\$3,000.00) Dollars per year. The Assistant Director shall take the Constitutional Oath of office and shall make and execute a good and sufficient bond payable to the Governor of the State of Texas in the sum of Twenty-five Thousand (\$25,000.00¹) Dollars, to be approved by the Commission and the Attorney General of Texas.

The premium on the bonds of the Director and Assistant Director shall be paid out of the amount herein appropriated.

Subject to the approval of the Commission, the Director shall appoint such employees, including such field agents and auditors as are necessary to carry out the provisions of this Act, at salaries not to exceed those being paid by the State of Texas to employees performing similar duties in the State Departments. The employees of the present Texas Rehabilitation and Relief Commission shall continue to perform their duties until removed by the Director.

[County Relief Boards; County Administrator; employees; salaries]

Sec. 4. County Relief Boards are hereby created in each County. In all counties containing an incorporated city, having a population of one hundred thousand (100,000) or more inhabitants, according to the last preceding Federal census, the County Relief Board shall consist of seven members; three (3) of whom shall be appointed by the governing body of such city and four (4) by the Commissioners' Court of the County, with the approval of the Texas Relief Commission. In all other coun-

¹ So in copy.

ties, the County Relief Board shall consist of five (5) members to be appointed by the Commissioners' Courts of the respective Counties, with the approval of the Texas Relief Commission. At the first meeting of the County Relief Boards, the members of said Boards shall select one of their members as chairman and one as secretary. The County Relief Boards of each County may employ an administrator and such additional employees, with the approval of the Director and the Texas Relief Commission, as are necessary to carry out the provisions of this Act in accordance with such arrangement as may be made from time to time by the Commission with the Federal Emergency Relief Administration, or such other Federal Agency as may be charged with the distribution of Federal Relief Funds. The Administrator and such other employees as are appointed by the County Relief Boards shall, immediately upon appointment, enter upon the discharge of their duties and so continue until approved or rejected by the Director and/or the Texas Relief Commission. The members of the present County Boards of Welfare and Employment shall continue as members of the respective County Relief Boards, until a majority of the members of the County Relief Boards shall have been appointed and qualified by taking the Constitutional Oath of office. Immediately upon the qualification of a majority of the members of any County Board, such members shall discharge the duties of said Board pending their approval by the Texas Relief Commission. In case of the removal, failure to qualify, resignation or death of any member of the County Board, his successor shall be appointed in the same manner as hereinabove provided.

The salaries of the County Administrator and other employees shall be fixed by the State Director with the approval of the State Commission. If Federal funds are not available for the payment of such salaries and administrative expense, the State Commission may, in its discretion, authorize the payment of such salaries and administrative expense out of State funds, not to exceed five (5%) per cent of such State funds allocated to each county; provided, however, that the County Commissioners' Court shall set the salaries of the employees in counties bearing the administrative expense.

The said Commission, whenever in its judgment, it is deemed to be for the best interest of the public and for the general welfare, may remove the members of any County Board or discharge any employee of any County Relief Board and the failure of the governing bodies of such county to appoint other suitable persons on such board or of the County Board to employ other persons, will authorize the Commission to make other appointments on said Boards and to such administrative personnel.

It shall be the duty of the County Relief Board of each County to fill such vacancies and to keep such records as may be required by the Texas Relief Commission and to conform the use of said funds to the provisions of this Act and the rules of the Texas Relief Commission and, in the event any board or body charged with the disbursements of funds under this Act fails or refuses to administer and expend any funds allocated to it in compliance with this Act and the rules of the Texas Relief Commission, or refuses to make reports as may be required by the Texas Relief Commission, the said Commission may withdraw all funds from said County and withhold further advances until convinced that no further infraction of the law or rules will be committed and until any funds erroneously expended are returned to the Commission. The Texas Relief Commission shall have the power to discontinue work in any county at any time when such work in its judgment is not justified for the purpose of relieving unemployment.

It shall be the duty of the County Relief Board to coordinate and unify all work for the distribution and disbursement of funds made available to the said Texas Relief Commission by the State or Federal Gov-

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ernment for the employment and/or relief of the unemployed. Subject to the rules and regulations of the Texas Relief Commission, the County Relief Boards shall administer relief to the unemployed through the organization of work opportunity and/or relief. It shall be the duty of the County Relief Boards to keep a list of citizens of the county who desire to employ labor. At any time a person on the relief rolls physically able to work is offered employment at the prevailing wage scale in the locality wherein the work is to be performed, refuses to accept the same without good cause, said County Relief Board is hereby prohibited from giving further direct relief or work relief to said individual.

The Governing Body of any County and/or City may by mutual agreement delegate the supervision and direction of any public welfare agency under their respective control to the County Relief Boards.

The County Administrator shall at all times keep a complete record of the disbursement of funds through his office by setting forth in said records the names and post office addresses of all individuals receiving aid. Such records shall at all times be subject to public inspection.

[Appropriation]

Sec. 5. There is hereby appropriated out of the General Fund of the State of Texas, not otherwise appropriated the sum of Forty Thousand (\$40,000.00) Dollars, or so much thereof as is necessary to be expended during the balance of the biennium ending August 31, 1935.

[Monthly statements]

Sec. 6. It shall be the duty of the Texas Relief Commission through its Chief Auditor to make monthly statements duly itemized as to all money expended, showing to whom paid, and for what said money was expended, which statements shall be filed in the office of the Secretary of State and a copy with the State Comptroller. [Acts 1933, 43rd Leg., p. 365, ch. 141, as amended Acts 1933, 43rd Leg., 1st C. S., p. 118, ch. 37, § 11.]

Sections 1-10, 12-19 of said Acts 1933, 43rd Leg., 1st C. S., p. 118, ch. 37, are published as art. 842b. Sections 20 and 21 of said Act being penal are published as Penal Code, art. 107c.

TITLE 84—LANDLORD AND TENANT

Art. 5238. [5490] [3251] Owners of buildings lien

All persons leasing or renting any residence, storehouse or other building, shall have a preference lien upon all property of the tenant or of any subtenant of such tenant in such residence, storehouse or other building, for the payment of rents due and to become due provided that in order to secure the lien for rents that are more than six (6) months due, it shall be necessary for the person leasing or renting any storehouse or other building which is used for commercial purposes, to file in the office of the county clerk of the county in which such storehouse or such other building is situated, a sworn statement of the amount of rent due, itemized as to the months for which it is claimed to be due, together with the name and address of the tenant and/or subtenant, a description of the rented premises, the date on which the rental contract began and that on which it is to terminate, verified by the person claiming such lien, his agent or attorney, and such statement when so verified shall be recorded by the county clerk in a book to be provided for such purpose. No lien for rent more than six (6) months past due upon any storehouse or other building rented for commercial purposes shall be valid as against bona fide purchasers or unsecured or lien creditors of said tenant and/or subtenant, unless said statement shall be verified, filed and recorded as above provided.

Each county clerk shall keep an alphabetical index for the purpose of recording the rental liens above described. The lien for rents to become due shall not continue or be enforced for a longer period than the current contract years, it being intended by the term "current contract years" to embrace a period of twelve (12) months, reckoning from the beginning of the lease or rental contract, whether the same be in the first or any other year of such lease or rental contract. Such lien shall continue and be in force so long as the tenant shall occupy the rental premises, and for one (1) month thereafter; but this Article shall not be construed as in any manner repealing or affecting any Act exempting property from forced sale. [As amended Acts 1933, 43rd Leg., p. 282, ch. 112.]

TITLE 86—LANDS—PUBLIC

Art. 5338. [Repealed by Acts 1931, 42nd Leg., p. 452, ch. 271, § 13]

See Art. 5421c.

[Art. 5367a. Commissioner's duty to ascertain bonus and rental money due state]

Sec. 1. It shall be the duty of the Commissioner of the General Land Office to ascertain and determine as soon as practicable the amounts of bonus and rental money due the State and by whom due as a result of the execution of oil and gas leases by owners of the soil as agents of the State under the provisions of the Relinquishment Act. The term "Relinquishment Act," as used in this Act, refers to and includes Chapter 81, Printed Acts of the Second Called Session of the 36th Legislature and the amendment thereof enacted by the First Called Session of the 37th Legislature.

[Cash or deferred payments of rental or bonus due state]

Sec. 2. When the Land Commissioner has ascertained and determined the amounts due the State, and by whom due, as in Section 1 of this Act provided, in every case where he finds that the lessee in an oil and gas lease executed by a land owner under the terms and conditions of the Relinquishment Act is indebted to the State under the terms and provisions of said Relinquishment Act, and in every case where the Land Commissioner finds that a lessor, who executed an oil and gas lease under the terms and provisions of the Relinquishment Act, has received bonus and rental money under such lease and has failed to remit to the State that portion of such bonus and rental money due the State under the terms of said Relinquishment Act, all such indebtedness shall be paid to the State in cash; or if any such lessee or lessor is unable to pay said indebtedness in cash, such lessee or lessor shall file with the Land Commissioner an affidavit to the effect that such debtor is unable to pay such debt in cash. In addition to the affidavit of the debtor, the Land Commissioner may require such additional affidavits or substantiating evidence as he may deem sufficient to establish the true condition of the debtor's financial condition. Upon the filing of such affidavit and additional proof, if required, and the finding of the Land Commissioner that the affidavit speaks the truth, the debtor shall pay one-twentieth (1/20) of the debt found to be due in cash and make and execute an obligation to the State for the balance due which obligation shall provide for the payment of the balance in twenty (20) equal annual payments, the first of which shall be due and payable one (1) year after the date of the obligation, and a similar payment each year thereafter until the twenty (20) deferred annual payments have been made. The obligation shall be in the form of a promissory note and shall bear interest at the rate of four

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per cent (4%) per annum, and such interest shall be payable annually; principal and interest shall be payable at Austin, Travis County, Texas, and all past due interest and principal shall bear interest at the rate of five per cent (5%) per annum. The note shall provide that failure to pay any installment of principal or interest when due, shall, at the option of the State to be exercised by the Attorney General, mature the whole amount of said indebtedness and cause same to become then due and payable.

[Purpose of Act]

Sec. 3. If the courts should hold that the Legislature may not grant an extension of time in which to pay said debts to those unable to pay in cash without granting the same extension upon like terms and conditions to those who are able to pay, then and in that event, it is the intent and purpose of the Legislature in enacting this law that all debts due the State for bonus and rental money arising from the execution of any oil and gas lease under the provisions of the Relinquishment Act may be paid by the debtor executing the obligation as provided in Section 2 of this Act.

[Release of State's lien]

Sec. 4. Nothing in this Act shall ever be construed as releasing any lien that the State may now have to secure the indebtedness due the State after the same has been ascertained and determined and the obligation executed, nor shall the liability of any party be changed.

[Demand and collection]

Sec. 5. When the amount of indebtedness mentioned in Section 1 of this Act has been ascertained and determined, the Land Commissioner shall make a demand upon the debtor for the payment of the amount due, and unless the debtor pays such obligation in cash within ninety (90) days or executes his obligation in lieu thereof as provided in Section 2 within such time, the Attorney General shall take such steps as in his opinion are necessary or proper for the immediate collection of such obligation.

[Suit by state, limitations]

Sec. 6. No suit may be instituted or maintained by the State for the collection of any debt due the State for bonus and rental money because of the execution of any oil and gas lease under the provisions of the Relinquishment Act until the Land Commissioner has ascertained the amount of such debt and the debtor has had an opportunity to make affidavit of inability to pay, as provided in this Act; and providing further that no suit may be instituted or maintained for any debt or alleged debt due the State for bonus and rental money under the Relinquishment Act, unless such suit be instituted within five (5) years from and after the date this Act becomes effective, but this limitation shall not apply to the obligation made to the State as provided in Section 2 of this Act, or to any suit for the collection of such debt where the State in its petition alleges that the affidavit of inability to pay made by the debtor is false or fraudulent, and such allegation is established to the satisfaction of the court trying said cause.

[Not applicable to bonus or rental in escrow or held in suspense]

Sec. 7. The terms and provisions of this Act shall not apply to any bonus or any rental money derived from a lease on any section or part of a section of land producing oil or gas at the effective date of this Act, or that has theretofore produced oil and/or gas in commercial or paying quantities, or to any indebtedness due the State which may accrue subsequent to the date this Act becomes effective, or to any debt due the State

for bonus or rental where such amount has not been paid to the landowner, but has been placed in escrow or held in suspense by the lessee.

[Partial unconstitutionality]

Sec. 8. If any section, clause, provision or sentence of this Act contained should ever be held to be unconstitutional, such holding shall not affect the remaining portions of this Act, it being the intent of the Legislature that effect shall be given to so much of this Act as may be valid, even if a portion of this Act shall be held invalid.

[Pending suits]

Sec. 9. The provisions of this Act shall not apply to the obligations of any lessee for the collection of which suit was pending in any court of the State on May 22, 1933. [Acts 1933, 43rd Leg., p. 560, ch. 183.]

[Art. 5414c. Effect of judgment in action to recover abandoned land titled before adoption of common law]

That in any case where any land in the State of Texas was titled prior to the adoption of the Common Law on March 20, 1840, and there has been a judicial finding that the original grantee of said land abandoned said land prior to the adoption of the Common Law, and the State of Texas has at any time instituted suit for the recovery of said land, resulting in a final judgment adverse to the State of Texas whether on demurrer, exception, or a jury finding of fact, it shall be conclusively presumed that those now claiming said land under conveyance from, or judgment against, the original grantee or his heirs, are vested with all title to said land which was vested in said original grantee by virtue of any patent or title from the sovereignty of the soil to him. [Acts 1933, 43rd Leg., p. 398, ch. 156.]

[Art. 5421c. Regulating sale and lease of school lands, public lands and river beds; Board of Mineral Development created]

Sec. 8-A. * * * * *

Subsection 6a. It is hereby declared, as to any and each lease and/or contract hereafter made by the Board of Mineral Development, to be the policy of this State, with reference to the development of all portions of beds of rivers and channels described in such lease and/or contract, that the activities of the State and of all lessees or contracting parties, their heirs, successors or assigns, under such lease and/or contract, shall conform to the valid laws of this State, and to the valid orders, rules and regulations of any agency of this State, applicable to the development, by others than this State, of petroleum and/or natural gas bearing land within the State; and each lease and/or contract hereafter made by the Board of Mineral Development shall be subject hereto. [Acts 1933, 43rd Leg., p. 309, ch. 120, § 1.]

Subsection 6b. As to any and each lease and/or contract heretofore made by the Board of Mineral Development, such Board shall be, and it is hereby, authorized and empowered to revise the same, with the consent of the lessees and/or contracting parties thereunder, their heirs, successors or assigns, in such wise as to subject such lease and/or contract thenceforth to the public policy declared in Subsection 6a. Such revision shall be accomplished by supplemental or modificatory instrument on such terms as the Board of Mineral Development may deem fair and advantageous to this State, but only after a proposal for such revision shall be formally made, in a public document, to the said Board of Mineral Development, by the lessees and/or contracting parties under such lease and/or contract, their heirs, successors or assigns; and provided that in consideration of the consent by such lessees and/or contracting parties, their heirs, successors or assigns, to such revision the Board of Mineral De-

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velopment shall not reduce the State's share of the oil and/or gas to be received in the future under such lease and/or contract to less than one-fourth of the gross production of oil and/or gas from the land described in such lease and/or contract.

Provided that any revision made under this Act as referred to hereinbefore shall contain in such supplemental or modificatory instrument the power and authority on the part of the Board of Mineral Development to re-instate any money requirement or reduced royalty requirement at any time that in the opinion of the Board such re-instatement should, in view of the then existing conditions and fairness to the State of Texas under the original lease or contract, be made; and the Board of Mineral Development shall exercise such power whenever in its opinion the interest of the State of Texas requires the exercise of such power; provided, further that said Board may modify said contract as aforesaid by adjusting up or down from time to time the State's portion of said oil and/or money payment as the conditions hereinbefore set forth may justify and which may be equitable to the State and to said contractors or their assigns, but in no event shall the State's portion be less than one-fourth nor more than now provided in said contracts, and in no event shall the Board of Mineral Development have any authority to modify or change said original leases as to gas. Provided, further that no revision made under this Act shall release the lessees or their assigns from the payment to the State for any oil and/or gas produced or the delivery to the State of any oil produced and due the State under the original contracts and produced prior to the effective execution of any revision hereunder.

Provided further, that nothing in such revision shall in anywise relieve any lessee and/or contracting party from any obligation now existing to drill any well either as an offset or otherwise.

"And/or" as used in this Act shall mean and include both and either of the words "and" and "or". [Acts 1933, 43rd Leg., p. 309, ch. 120, § 1.]

Subsection 6c. No change shall be made by the Board of Mineral Development that will relieve, release and/or suspend the lessees from the payment of any money and/or royalty now due and payable to the State for oil and/or gas produced to the date that the Board makes any change in the present existing lease contracts. [Acts 1933, 43rd Leg., p. 309, ch. 120, § 1a.]

Subsection 14. The Board, or any person or corporation holding a contract with said Board, including all leaseholders or assignees, or any leaseholder or assignee holding a lease contract with the State or under the State Land Commissioner prior to the enactment of Acts 1931, 42nd Legislature, 2nd Called Session, Page 64, Chapter 40, or what is commonly known as the River Bed or Board of Mineral Development Law, for the development of oil and/or gas resources, in State-owned river beds, streams or channels, is hereby granted the right of Eminent Domain and Condemnation as provided by the General Laws of the State of Texas for the following purposes:

(1) Of securing such additional adjoining lands as may be necessary for erection of power machinery, and construction of storage tanks and slush pits in the operation of said channel or river development and to prevent or lessen the dangers of pollution involved in the drilling of any well in any such river beds or channels.

(2) For the purpose of securing a right of way to and from any well which may be drilled in said river beds or channels so as to enable the Board or any of its contract or leaseholders to go to and from said wells and to transport any materials necessary in the development of said river beds or channels and to transport oil and/or gas away from any wells.

Provided, that at any time hereafter, in all cases, where the landowner and/or other interested parties and the leaseholder to said river beds and/or Board are unable to agree on the measure of damages, if any, and

it is necessary to resort to condemnation proceedings, that in the event it should become necessary for any offset well to be drilled by said landowner or other interested party within the area or surface of the land taken, condemned or thus sought to be condemned, the mineral rights of the condemned party shall at all times be superior to the surface rights of the condemning party, and in the event of any conflict on account of the drilling of any offset well or wells, under and by virtue of a permit from the Railroad Commission, the condemning party shall be compelled to move any interference or hindrance whatsoever therewith, or to go around such offset well, and in the event of his failure or refusal to immediately move any such interfering object or hindrance, upon demand, the owner of the mineral rights shall have the right to immediately do so himself without any liability.

It is the intent of this Act that the mineral rights of the owner shall at all times be superior to the surface rights of the condemning party, and in determining the measure of damages, if any, in such condemnation proceeding, the Commissioners or any other tribunal shall not take into consideration the value of the oil or gas lying under said rights of way of such condemned properties, and this Act, as amended, which same is remedial only, shall apply to all cases or proceedings now pending. [Acts 1931, 42nd Leg., 2nd C. S., p. 64, ch. 40, as amended Acts 1933, 43rd Leg., p. 192, ch. 88.]

[Art. 5421d. Patents to lands formerly claimed as in New Mexico]

Sec. 1. That the Commissioner of the General Land Office is authorized and requested to prepare and issue, and the Governor is authorized to execute and deliver, patents for the lands and accretions thereto, heretofore claimed by New Mexico to be in that state, but determined by the Supreme Court of the United States by Decree entered April 9, 1928 (New Mexico against Texas, 278 U. S. 558) to be in Texas, to the persons who, on April 9, 1928, were in actual bona fide possession of said lands and claiming title to such lands under patent from the United States.

Sec. 2. In order to receive a patent under this Act, the person desiring such patent shall first make written application to the Commissioner of the General Land Office, describing the land for which a patent is sought and shall show in such application the facts necessary under this Act to entitle applicant to a patent hereunder, and the applicant shall verify the allegations in the application by any accompanying Affidavit, stating that such allegations are true to the best of the knowledge and belief of the applicant, and it shall be necessary that any such application be filed in the office of the Commissioner of the General Land Office within five (5) years from the date upon which this Act goes into effect, and the applicant shall, upon filing said application, deposit with the Commissioner of the General Land Office One Dollar (\$1.00) for each acre or fractional part of an acre in the land covered by the application, which shall constitute the purchase price for said land, and upon the delivery of any patent to any person under this Act, the purchase price shall be applied to the Public School Fund of the State of Texas.

Sec. 3. It is further provided that any land acquired by patent issued under this Act shall be subject to the same liens other than liens for taxes and water and like quasi public charges that would have been against such land had it been in New Mexico.

Sec. 4. It is provided that patents issued under this Act shall be merely quit-claims, and the title conveyed by such patents shall be subject to any prior conveyances by this State, and the patents shall so read.

Sec. 5. As used in this Act, the term "person" applies to and includes an individual, corporation, partnership, or association. [Acts 1933, 43rd Leg., p. 634, ch. 212.]

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

[Art. 5421e. Division of profits between State and United States from land improvements]

Sec. 1. That where as a result of improvements made on lands owned by the State or by any county or city of the State by the Federal Government with funds appropriated and expended under the provisions of Public No. 5, an Act of the Seventy-third Congress of the United States, approved March 31, 1933, and providing "for the relief of unemployment through the performance of useful public work and other purposes," there accrues upon the sale of said lands or from the sale of its products, a direct profit to the State resulting directly from such work, the profits so arising shall be divided equally between the State and the Federal Government until the State shall have paid for the work done on each particular tract of land, or its products so sold, at the rate of One (\$1.00) Dollar per day per man for the time spent on such work, not to exceed, however, Three (\$3.00) Dollars per acre so improved.

Sec. 2. The provisions of this Act shall not apply to lands held by the State, or by any county of the State for public free school purposes or for university purposes. [Acts 1933, 43rd Leg., p. 799, ch. 233.]

TITLE 87—LEGISLATURE

Art. 5429. [5515] [3281] Election of officers

Pursuant to Const. Amendment Art. III, § 5 by House Concurrent resolution No. 9, 1933, 43rd Leg., p. 903, the following rules governing the House and Senate were adopted:

WHEREAS, Under said amendment it is specifically provided that either house may determine its order of business by an affirmative vote of four-fifths of its membership; therefore be it

RESOLVED by the House of Representatives by an affirmative vote of four-fifths of its membership, the Senate concurring by an affirmative vote of four-fifths of its membership, That the order of business is hereby determined to be governed by the general rules of the respective Houses, insofar as they do not conflict with the following special rules, which are hereby adopted.

RULE I

It shall be in order to introduce bills or resolutions in the Senate and House as heretofore determined by the rules of each house respectively and have the same referred to a proper committee, each house fixing its own time limits.

RULE II

After the time for the introduction of bills and resolutions in either house as determined by its own rules no bills or resolutions shall be introduced except local bills as hereinafter defined, emergency appropriations, acting upon appointees of the Governor (whether recess appointments or otherwise) and all emergency matters submitted by the Governor in special messages to the Legislature, unless otherwise directed by an affirmative record vote of four-fifths of the membership of the house in which the bill is first introduced.

RULE III

Local bills may be introduced at any time and considered at any time by the commit-

tee to which they have been referred and reported by said committee and considered and disposed of by the house in which said bill is pending in the due order of business as determined by the general rules of the house in which the bill is pending. A local bill is defined for the purposes of this rule as an act the provisions of which relate to or affect directly a defined locality, district or section of the State but which does not affect directly the State at large, and the operation of which is confined to a particular locality, district or section of the State.

RULE IV

Local bills, emergency appropriations acting upon the appointees of the Governor (whether recess appointments or otherwise) and all emergency matters submitted by the Governor in special messages to the Legislature may be considered and disposed of at any time by either house under the general rules and order of business.

RULE V

During the period fixed by each house respectively, under the rules of each house respectively and in the due order of business, either house may take up, consider and dispose of any bill not of the nature named in the foregoing Rule IV by an affirmative record vote of four-fifths of the membership, or in accordance with the rules of the house in which said bill is pending.

RULE VI

It shall be in order for committees to consider bills at any time during the session, their reports and the consideration by either house in accordance with the rules of the house in which said bill is pending.

The Joint Rules of the two houses as shown by pages 491 to 497 of the Manual of the 42nd Legislature of Texas, are hereby adopted, except Joint Rule No. 24 is hereby amended to read as follows:

Joint Rule No. 24. During the Regular Session of the Legislature the President of the Senate and the Speaker of the House of Representatives shall upon request of the author cause to be placed on the calendar of their respective houses, for consideration each day after the morning call, any and all pending joint resolutions proposing amendments to the Constitution of the State of Texas, and no other bills or resolutions shall be considered, on any particular day, until all such joint resolutions are finally disposed of by the house before which such resolutions are pending.

When any bill shall have been finally acted upon by either branch of the Legislature, and shall have been transmitted to the other, said bill shall be by the presiding officer thereof referred to an appropriate committee, and it shall not be necessary to be

voted upon as a prerequisite to its consideration by the receiving branch.

RULE VII

In reckoning the time within which a bill has been introduced, the date of its first introduction in either house shall govern.

RULE VIII

For and during the term of the 43rd Legislature only, it shall be mandatory upon the Finance Committee of the Senate and the Appropriations Committee of the House and the presiding officer of each of said respective bodies to report out to each of said two houses all general appropriation bills for the biennium ending August 31, 1935, on or before March 25, 1933; and the consideration of such bills shall be the first order of business in each house until finally acted upon.

TITLE 90—LIENS

[Art. 5497a. Registration of chattel mortgages on motor vehicles]

That all chattel mortgages hereafter given as security for money advanced for the purchase of motor vehicles shall, when registered as required by law of chattel mortgages, be and are superior to the claim or claims of other creditors even though such motor vehicle or vehicles are daily exposed for sale. Provided, however, any such chattel mortgage shall be void as to bona fide purchasers when such motor vehicles are daily exposed for sale. [Acts 1933, 43rd Leg., p. 305, ch. 117.]

Art. 5506. [5671] [3326] Other liens not affected

Stay of mortgage foreclosures, see art. 2218b.

[Art. 5506a. Hospital or clinic's lien for services on cause of action of persons injured; procedure]

Sec. 1. Every association, individual, corporation, or other institution maintaining a hospital or clinic rendering hospital services in the State of Texas shall be entitled to a lien upon any and all rights of action, suits, claims, counterclaims, or demands of any persons admitted to any such hospital and receiving treatment, care, and maintenance therein, on account of any personal injuries received in any accident as the result of the alleged negligence of any other person or firm or corporation or joint stock association, his, its, or their agent, servant or employee, which any such injured person may or shall have, assert, or maintain against any such other person or firm or corporation or joint stock association for damages on account of such injuries, for the amount of the charges of such hospital or clinic for such treatment, care and maintenance as may have been given to the injured persons. Provided the lien provided for herein shall not exist or attach unless the injured person is received in such hospital within seventy-two (72) hours after the happening of the accident causing the injury.

Sec. 2. The lien of any such hospital shall also attach to any verdict, report, decision, decree, award, judgment, or final order made or rendered in any action or proceeding, in any Court in Texas, or any public board or bureau in any suit, action or proceeding brought by such injured persons, by any person entitled thereto in case of death of such injured person against any other person or corporation or joint stock association for the recovery of damages or compensation on account of injuries received in any such accident, as well as the proceeds of any settlement thereof, or the

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

settlement of any such claim or demand effected by any such injured person or other person entitled thereto with any other person or firm or corporation or joint stock association whose negligence is claimed or alleged to have been the cause of the said accident.

Sec. 3. No release of any claim or demand on account of any such injuries, or in respect of any such verdict, report, decision, decree, award, judgment, or final order, made or rendered, as hereinbefore mentioned, executed by any such injured person, or by any person entitled thereto, shall be valid or effectual between the parties thereto or otherwise, unless prior to the execution and delivery thereof all such charges of any such hospital or institution or clinic, furnishing hospital services, which has filed its, his, or their lien as hereinafter provided, shall have been paid in full, or to the extent of a full and true consideration paid and given to the injured person by the other party or parties to such release named therein, or paid and given by any other person or corporation in behalf of such other party or parties, or unless such release shall also have been executed by the person, corporation, association, or institution maintaining such hospital; and every such verdict, report, decision, decree, award, judgment, or final order shall remain in force and effect until all such charges of any such hospital or institution shall have been paid in full or to the extent of any such verdict, report, decision, decree, award, judgment, or order; provided such hospital institution or clinic furnishing said services does not charge more than a reasonable rate for such accommodations, in no event to exceed more than Five Dollars (\$5.00) per day for not longer than one hundred (100) days; provided that a notice in writing containing the name and address of the injured person, the date of the accident, the name and location of the hospital or clinic rendering the service, and if known, the name of the person or persons, firm or firms, corporation or corporations, alleged to be liable to pay damages to such injured person for such injuries so received, shall be filed in the office of the County Clerk of the county in which such injury shall have occurred, prior to the payment of any moneys to such injured person or his legal representative or other person entitled thereto as damages for or on account of such injuries. Provided further that this lien shall not attach to any claim for amounts due the injured person under the Workmen's Compensation Act of the State of Texas, or Federal Liability Act, or Federal Longshoremen's or Harbor Workers' Act, or Workmen's Compensation Act of Texas, nor to any insurance company, corporation, or joint stock association furnishing hospitalization under the Workmen's Compensation Act of the State of Texas. Provided further, that the lien provided for in this Act shall not attach to any claim for amounts due the injured person by any person, firm, association, corporation, or the receiver, or receivers thereof, owning and/or operating a railroad in this State, where such person, firm, association, corporation, or receiver, or receivers, or his, its, or their employes, maintain a hospital, furnishing hospitalization to injured persons.

Sec. 4. Every County Clerk shall at the expense of the county, provide a suitable, well bound book, to be called the "Hospital Lien Docket," upon which, on the filing of lien claims under the provisions of this Act he shall enter the name of the injured person, the date of the accident, the name and address of the hospital or clinic or other institution making the claim, and the amount thereof.

And the said Clerk shall make a proper index of the same in the name of the injured person, and such Clerk shall be entitled to twenty-five (25) cents for filing each claim and such fee shall be accountable as fees of office.

The term "corporation," as used in this Article shall include all municipal corporations, as well as all private, public and quasi-public corporations, except county and common and independent school districts.

Sec. 4a. Any person or persons, firm or firms, corporation or corporations legally liable or against whom a claim shall be asserted for compensation for such injuries, shall be permitted to examine the records of any such association, corporation, or other institution or body maintaining such hospital in reference to such treatment, care and maintenance of such injured person, under such reasonable rules and regulations as such hospital may require; and the hospital record with respect to injured persons may be admitted in evidence in any proceeding with respect to the recovery of damages.

Sec. 4b. To discharge any notices filed under the provisions of this Act the hospital authorities or person in charge of the finances of said hospital to whom said lien has been duly paid shall execute a certificate to the effect that the claim filed by such hospital for treatment, care and maintenance therein has been duly paid or released and authorizing the Clerk of the County in whose office said notice of hospital lien has been filed, to discharge the same; and thereupon such Clerk shall enter upon the margin of the hospital lien docket in which the said hospital lien notice has been entered, a memorandum of such filing and the date when such certificate of payment or release was filed in his office, which certificate and entry shall constitute a discharge of lien, for which the Clerk shall receive the sum of twenty-five (25) cents and such fee shall be accountable as fees of office.

Sec. 4c. If any part of this Act is declared by the courts to be unconstitutional such decision shall not affect the validity of the remaining part of this Act, unless the part held unconstitutional is indispensable to the operation of the remaining part and the Legislature hereby declares that it would have passed those parts of this Act which are valid and omitted any parts which may be unconstitutional, if it had been advised of such unconstitutionality at the time of the passage of this Act.

Sec. 4d. The provisions of this Act shall not give to any such hospital, or any person, firm or corporation claiming under it, any lien, claim, right, or demand upon the proceeds of any insurance policy in favor of the injured party, his beneficiaries, or legal representatives, and none of the provisions of this Act shall have application thereto. Provided, however, this section shall not include public liability insurance carried by the insured to protect him against loss or damage as a result of any accident or collision covered by said public liability insurance policy. [Acts 1933, 43rd Leg., p. 182, ch. 85.]

TITLE 92—LUNACY—JUDICIAL PROCEEDINGS IN CASES OF

Art. 5561. Officers' and jury fees

In such cases the officers shall be allowed the same fees as are now allowed for similar services performed in misdemeanor cases, and the jurors shall each be allowed a fee of One (\$1.00) Dollar to be paid out of the estate of the defendant if he have an estate, otherwise by the County on accounts approved by the County Judge. [As amended Acts 1929, 41st Leg., 1st C. S., p. 243, ch. 101, Acts 1933, 43rd Leg., p. 603, ch. 200.]

TITLE 93—MARKETS AND WAREHOUSES

Art. 5565. [Repealed by Acts 1933, 43rd Leg., p. 731, ch. 218, § 1]

Art. 5567. [Repealed by Acts 1933, 43rd Leg., p. 731, ch. 218, § 2]

Art. 5568. [Repealed by Acts 1933, 43rd Leg., p. 731, ch. 218, § 2]

Art. 5569. [Repealed by Acts 1933, 43rd Leg., p. 731, ch. 218, § 2]

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

[Art. 5679b. Deduction from agreed price for deficiency in weight]

When any buyer of spot cotton has made a bona fide bid for same from sample or bale and the sale price is agreed to between the buyer and seller, the buyer shall not make any deductions from the total value thereof as agreed to between the parties by reason of the weight of said bale of cotton, unless such bale shall weigh less than four hundred (400) pounds. If the bale weighs less than four hundred (400) pounds a deduction of not more than One Dollar (\$1.00) may be made by the buyer. Nothing contained herein shall prevent the buyer from refusing to accept a bale of cotton weighing less than three hundred and fifty (350) pounds. [Acts 1933, 43rd Leg., p. 379, ch. 150, § 1.]

[Art. 5679c. Recovery of double amount of unlawful deductions]

If deductions or charges are made contrary to this Act, then the seller or grower of such cotton may recover from the buyer or ginner twice the amount of the deductions or charges in the same manner as is allowed for recovery by law for usury. [Acts 1933, 43rd Leg., p. 379, ch. 150, § 2.]

TITLE 102—OIL AND GAS

Art. 6008. [7849] Gas to be confined [penalty recoverable by Attorney General]

Any person, firm or corporation in possession as owner, lessee, agent, trustee, receiver, or manager, or any person, co-partnership, or corporation in possession of any well producing natural gas only, in order to prevent said gas from wasting by escaping, shall within ten (10) days after encountering such gas, confine said gas in said well until said gas shall be utilized for light or fuel; provided, that in all common reservoirs or pools consisting of more than three hundred thousand (300,000) acres where gas is encountered for which there is no reasonable market for light or fuel available to the owner, the same may be utilized for other purposes, including the manufacture of natural gasoline, to the extent of twenty-five (25) per cent of the open flow of the well producing such gas, and under such circumstances, such utilization for purposes other than light and fuel shall not constitute waste; and provided further that the Commission may permit the use of gas from any well producing natural gas only for the purpose of being introduced into an oil or gas bearing stratum in order to maintain or increase the rock pressure or otherwise increase the ultimate recovery of oil or gas from such stratum and for any other purpose which under circumstances surrounding each particular case might be found by the Commission after hearing to be practical and conducive to the public welfare. Any person violating the provisions of this Article shall be liable to a penalty of One Thousand Dollars (\$1,000.00) for each day such offense is committed, to be recovered with the costs of suit in a civil action instituted by the Attorney General in the name of the State of Texas in Travis County, and each day any such violation continues, shall be a separate and distinct offense and for which the party in violation shall be held liable for the penalty herein prescribed. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26; Acts 1933, 43rd Leg., p. 222, ch. 100; Acts 1933, 43rd Leg., 1st C. S., p. 229, ch. 88, § 1.]

Art. 6014. "Waste"

The production, storage or transportation of crude petroleum oil or of natural gas in such manner, in such amount, or under such conditions as to constitute waste is hereby declared to be unlawful and is prohibited. The term "waste" among other things shall specifically include:

- (a) The operation of any oil well or wells with an inefficient gas-oil

ratio, and the Commission is hereby given authority to fix and determine by order such ratio.

(b) The drowning with water of any stratum or part thereof capable of producing oil or gas, or both oil and gas, in paying quantities.

(c) Underground waste or loss however caused and whether or not defined in other subdivisions hereof.

(d) Permitting any natural gas well to burn wastefully.

(e) The wasteful utilization of natural gas, provided, however, the utilization of gas, lawfully permitted to be produced from a well producing both oil and gas, for manufacturing gasoline shall not be construed to be wasteful, and provided further that the utilization of natural gas authorized by the Commission under the provisions of Section 2 of Acts of the Forty-Second Legislature, First Called Session, Chapter 26 [Art. 6008], shall not be construed as wasteful.

(f) The creation of unnecessary fire hazards.

(g) Physical waste or loss incident to, or resulting from, so drilling, equipping, locating, spacing or operating well or wells as to reduce or tend to reduce the total ultimate recovery of crude petroleum oil or natural gas from any pool.

(h) Waste or loss incident to, or resulting from, the unnecessary, inefficient, excessive or improper use of the reservoir energy, including the gas energy or water drive, in any well or pool; however, it is not the intent of this Act to require repressuring of an oil pool or that the separately owned properties in any pool be unitized under one management, control or ownership.

(i) Surface waste or surface loss, including unnecessary or excessive surface losses or destruction of crude petroleum oil or natural gas without beneficial use.

(j) The escape into the open air, from a well producing both oil and gas, of natural gas in excess of the amount which is necessary in the efficient drilling or operation of the well.

(k) The production of crude petroleum oil in excess of transportation or market facilities or reasonable market demand. The Commission is authorized to determine when such excess production exists or is imminent, and to ascertain the reasonable market demand.

The Commission is expressly authorized to consider any or all of the above definitions in making rules, regulations or orders to prevent waste of oil or gas. [As amended Acts 1929, 41st Leg., p. 694, ch. 313; Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26; Acts 1932, 42nd Leg., 4th C. S., p. 3, ch. 2, § 1.]

[Art. 6014a. Railroad Commission without power to declare any process of refining oil as waste]

The Railroad Commission of Texas shall have no authority to make any rule, regulation or order, or in any wise determine or hold, that any mode, manner or process of refining crude petroleum oil constitute waste.

Nothing in this Act shall be construed as granting to the Railroad Commission of Texas any power or authority to restrict, or in any manner limit, the drilling of wells for the purpose of exploring for crude petroleum oil or natural gas or both in territory not known to produce either such oil or gas.

The Railroad Commission of Texas shall not restrict the production of crude petroleum oil from any new field brought into production by such exploration until such total production therefrom aggregates 10,000 barrels of crude petroleum oil per day, unless such restriction results from the enforcement of rules, regulations or orders dealing with the method or manner of producing, storing or transporting crude petroleum oil therefrom to prevent physical waste occurring in such new field; provided, however, the production of any such new field shall not be limited by the

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

application of Subdivision (k) of Section 1 [art. 6014], hereof until the production of such new field is more than 10,000 barrels per day.

Nothing in Section 1 [art. 6014] hereof shall be construed to authorize the limitation of production of marginal wells, as such marginal wells are now defined by statute, below the amount fixed by statute for such wells. [Acts 1932, 42nd Leg., 4th C. S., p. 3, ch. 2, § 2.]

[Art. 6020a. Pipe lines; grants of rights of way over public lands, and waters; penalty for unauthorized use]

Sec. 1. The Commissioner of the General Land Office may execute grants of all easements for rights of way for oil pipe lines, gas pipe lines, sulphur pipe lines, and other pipe lines of whatsoever nature, granted by this State, across all unsold public free school land, and across all islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tide water limits, and across that portion of the Gulf of Mexico within the jurisdiction of Texas. The Board of Regents of the University of Texas may continue to execute, under authority heretofore granted, all right of way easements for oil pipe lines, gas pipe lines, sulphur pipe lines, and other pipe lines of whatever nature, across lands belonging to the State, and dedicated to the support and maintenance of the University of Texas. The Board of Regents of the University may continue to execute, under authority heretofore granted, easements or leases for the erection and maintenance of pumping stations, loading racks, and tank farms on university lands, and the Commissioner of the General Land Office may execute easements or leases for pumping stations, loading racks, and tank farms to be located on State lands other than those owned by the University.

Sec. 2. All easements granted under Section 1 of this Act shall be on forms approved by the Attorney General.

Sec. 3. No right of way easement, or tank farm, loading rack, or pumping station easement or lease of the character enumerated in Section 1 hereof may be granted for a longer term than ten (10) years, but any such easement may be renewed by the official or officials charged with the execution thereof, in his or their discretion.

Sec. 4. From and after the passage of this Act every person or corporation occupying or using any unsold public free school land, any islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tide water limits, any portion of the Gulf of Mexico within the jurisdiction of Texas, and any unsold public land dedicated to the University of Texas, or any part thereof, as an oil and/or gas pipe line right of way, shall, as a condition to such further use or occupancy, pay annually in advance for such privileges, to the Commissioner of the General Land Office at the General Land Office in Austin, Texas, a sum equal to two and one-half cents per lineal rod per annum for each and every rod of oil pipe line and/or gas pipe line used, possessed, or maintained by any such person or corporation on any unsold public free school land, on any islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tide water limits, on any portion of the Gulf of Mexico within the jurisdiction of Texas, and on any public land dedicated to the University of Texas. This annual privilege fee shall be paid by all such persons and corporations on all oil pipe lines and/or gas pipe lines now existing and situated on public lands of the classes above mentioned which have not heretofore paid such fee. All amounts due shall be paid annually unless the easement granted provides otherwise.

Sec. 5. Hereafter all pipe line right of way easements shall be executed on terms to be fixed by the Land Commissioner, and by the Board of Regents of the University of Texas, respectively, but no oil and/or gas pipe line right of way easement shall be granted which does not provide for an annual privilege fee of not less than two and one-half cents per

lineal rod per annum of oil and/or gas pipe line for which a right of way is sought. A higher fee may be fixed by contract between the officials named and any grantee of such easement.

Sec. 6. The rental to be charged for an easement or lease for pumping stations, loading racks, and tank farms shall be such as shall be agreed upon between the lessee and the Board of Regents with respect to University Lands, and the Commissioner of the General Land Office with respect to other State lands.

Sec. 7. All income received by the Land Commissioner under this Act from public school land shall be credited to the Available School Fund; all income received by the Land Commissioner under this Act from University Lands shall be credited to the Available University Fund, and all income received by the Land Commissioner under this Act from the other lands herein set out shall be credited to the General Revenue Fund.

Sec. 8. All past due payments under this Act shall bear interest at the rate of ten per centum (10%) per annum. In event the date of payment is not fixed by contract, or in event no written contract has been executed, all unpaid annual fees due shall bear interest at the rate of ten per centum (10%) calculated from the 1st day of January following the year for which such annual privilege fee was due.

Sec. 9. No person or corporation shall hereafter construct any pipe line, tank farm, loading rack and/or pumping station of the kind and character enumerated in Section 1 hereof across or on any section or part of a section of land of the character enumerated in Section 1 hereof and owned by the State of Texas nor shall any person or corporation owning or possessing any pipe line, tank farm, loading rack and/or pumping station of the kind and character enumerated in section one hereof now lying and situated on or across any section or part of a section of land of the character enumerated in section one hereof and owned by the State of Texas, who has not obtained a proper easement as herein provided for continue in possession of any such lands without obtaining from the Commissioner of the General Land Office, or the Board of Regents of the University of Texas, respectively, a grant of a right of way easement or other easement across or on such lands where such pipe line, tank farm, loading rack or pumping station is to be constructed. Any person or corporation violating this section of this Act shall be liable for a penalty of One Hundred Dollars (\$100.00) per day for each day of such violation, said penalty to be recovered by the Attorney General.

Sec. 10. The venue of all suits by the State arising out of this Act, or for violation of any provision of this Act, is hereby fixed in Travis County.

Sec. 11. If any section, clause or provision of this Act shall be held unconstitutional or otherwise invalid or unenforceable, such holding shall not have the effect of nullifying or in anywise affecting the remainder of this Act and the parts of this Act not so held to be unconstitutional or invalid shall remain in full force and effect. [Acts 1933, 43rd Leg., p. 168, ch. 77.]

Art. 6029. Rules and regulations

The Commission shall make and enforce rules, regulations or orders for the conservation of crude petroleum oil and natural gas and to prevent the waste thereof, including rules, regulations or orders for the following purposes:

(1) To prevent the waste, as hereinbefore defined, of crude petroleum oil and natural gas in drilling and producing operations and in the storage, piping and distribution thereof.

(2) To require dry or abandoned wells to be plugged in such way as to confine crude petroleum oil, natural gas, and water in the strata in which they are found and to prevent them from escaping into other strata.

(3) For the drilling of wells and preserving a record thereof.

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

(4) To require wells to be drilled and operated in such manner as to prevent injury to adjoining property.

(5) To prevent crude petroleum oil and natural gas and water from escaping from the strata in which they are found into other strata.

(6) To establish rules and regulations for shooting wells and for separating crude petroleum oil from natural gas.

(7) To require records to be kept and reports made by oil and gas drillers, operators, and carriers of crude petroleum oil or natural gas and by its inspectors.

(8) It shall do all things necessary for the conservation of crude petroleum oil and natural gas and to prevent the waste thereof, and shall make and enforce such rules, regulations or orders as may be necessary to that end. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26; Acts 1932, 42nd Leg., 4th C. S., p. 3, ch. 2, § 7.]

Art. 6032. Tax

Acts 1933, 43rd Leg., p. 409, ch. 162, § 11 reads as follows: "Article 6032, Revised Civil Statutes of 1925 as amended by House Bill No. 25 of the 1st Called Session of the 42nd Legislature (Regulation Pipe Line Tax) is hereby reenacted to conform to the requirements of this Article and shall be paid monthly."

[Art. 6049a. Regulating pipe lines and common purchasers of oil]

11j. [Repealed by Acts 1932, 42nd Leg., 4th C. S., p. 3, ch. 2, § 11.]

Prior to its repeals this section was Acts 1930, 41st Leg., 5th C. S., p. 171, ch. 36, as amended Acts 1931, 42nd Leg., 1st C. S., p. 58, ch. 28.

See note to Art. 6049d.

[Art. 6049b. Marginal wells defined; curtailing production]

Sec. 1. The term "Marginal Well" as used herein means a pumping oil well capable, under normal unrestricted operating conditions, of producing such daily quantities of oil as herein set out as would be damaged, or result in a loss of the production ultimately recoverable, or cause the premature abandonment of same, if its daily production were artificially curtailed. The following described wells shall be deemed "Marginal Wells" in this State:

(a) Any pumping oil well within this State having a daily capacity for production of ten (10) barrels or less, averaged over the preceding thirty (30) consecutive days, producing from a depth of two thousand (2,000) feet or less:

(b) Any pumping oil well within this State having a daily capacity for production of twenty (20) barrels or less, averaged over the preceding thirty (30) consecutive days, producing from a horizon deeper than two thousand (2,000) feet and less in depth than four thousand (4,000) feet:

(c) Any pumping oil well within this State having a daily capacity for production of twenty-five (25) barrels or less, averaged over the preceding thirty (30) consecutive days, producing from a horizon deeper than four thousand (4,000) feet and less in depth than six thousand (6,000) feet:

(d) Any pumping oil well within this State having a daily capacity for production of thirty (30) barrels or less, averaged over the preceding thirty (30) consecutive days, producing from a horizon deeper than six thousand (6,000) feet and less in depth than eight thousand (8,000) feet:

(e) Any pumping oil well within this State having a daily capacity for production of thirty-five (35) barrels or less, averaged over the preceding thirty (30) consecutive days, producing from a horizon deeper than eight thousand (8,000) feet. [Acts 1931, 42nd Leg., p. 92, ch. 58, as amended Acts 1933, 43rd Leg., p. 215, ch. 97.]

[Art. 6049c. Oil and gas conservation, powers and duties of Railroad Commission]

Sec. 5. The Commission shall have power, and it shall be its duty, from time to time, to inquire into the production, storage or transportation of crude petroleum oil, and of natural gas, and the market demand therefor, all in order to determine whether or not waste exists or is imminent. The Commission shall have the right to require any party to make and file with the Commission sworn statements as to facts within the knowledge or possession of such party pertaining to the production, storage or transportation of crude petroleum oil or of natural gas, and to the market demands therefor, as often and for such periods as the Commission may specify, and may require any well or wells under the control of any party, whenever and as often, and for such periods, as the Commission may specify, to be inspected or gauged and the books and records of any party to be examined. [Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26, as amended Acts 1932, 42nd Leg., 4th C. S., p. 3, ch. 2, § 3.]

Sec. 7. Upon the initiative of the Commission, or upon the verified complaint of any party producing, storing or transporting crude petroleum oil or natural gas in this State that waste of crude petroleum oil or natural gas is taking place in this State, or is reasonably imminent, the Commission may hold a hearing, at such time and place as it may fix, to determine whether or not waste is taking place, or is reasonably imminent, and what, if any, rule, regulation or order should be made or what, if any, other action should be taken to correct, prevent or lessen such waste. Notice of such hearing shall be given by the Commission, as provided by law. At said hearing all parties interested shall be entitled to be heard and introduce evidence and to require the attendance of witnesses and the production of evidence may be required as provided by law. If upon the hearing the Commission shall find that waste is taking place, or is reasonably imminent, the Commission shall make such rule, regulation or order as in its judgment is reasonably required to correct, prevent or lessen such waste.

In the event any such rule, regulation or order which the Commission may adopt provides for the limitation or fixing of the production of crude petroleum oil, or of natural gas from wells producing gas only, in any common pool or portion thereof, the Commission shall distribute, prorate, or otherwise apportion or allocate, the allowable production among the various producers on a reasonable basis.

From and after the promulgation of any rule, regulation or order of the Commission it shall be the duty of each party affected thereby to comply with the same. The Commission may, without notice, revoke any such rule, regulation or order; and it may, without notice, amend the same, provided the subject matter of the amendment was considered at the hearing made the basis for such rule, regulation or order. The renewal or extension of any rule, regulation or order shall be based upon a hearing after proper notice. [Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26, as amended Acts 1932, 42nd Leg., 4th C. S., p. 3, ch. 2, § 5.]

Sec. 8. Any interested party affected by the conservation laws of this State relating to crude petroleum oil or natural gas, and the waste thereof, including this Act, or by any rule, regulation or order made or promulgated by the Commission thereunder, and who may be dissatisfied therewith, shall have the right to file a suit in a court of competent jurisdiction in Travis County, Texas, and not elsewhere, against the Commission, as defendant, to test the validity of said laws, rules, regulations or orders. Such suit shall be advanced for trial and be determined as expeditiously as possible and no postponement thereof or continuance shall be granted except for reasons deemed imperative by the Court. In all trials under this section, the burden of proof shall be upon the party complaining of such laws, rule, regulation or order and such laws, rule, regulation or

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order so complained of shall be deemed prima facie valid until otherwise shown. [Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26, as amended Acts 1932, 42nd Leg., 4th C. S., p. 3, ch. 2, § 8.]

Sec. 9. [Repealed by Acts 1932, 42nd Leg., 4th C. S., p. 3, ch. 2, § 11.]

Prior to its repeal this section was Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26. See note to Art. 6049d.

[Art. 6049d. Conservation of petroleum oil and natural gas; duties of Railroad Commission; anti trust laws not to be affected]

Sec. 4. Whenever the full production, from wells producing gas only, from any common source of supply of natural gas in this State is in excess of the reasonable market demand, the Railroad Commission shall inquire into the production and reasonable market demand therefor and shall determine the allowable production from such common source of supply, which shall be the reasonable market demand which can be produced without waste, and the Commission shall allocate, distribute or apportion the allowable production from such common source of supply among the various producers on a reasonable basis, and shall limit the production of each producer to the amount allocated or apportioned to such producer.

Sec. 6. In order to prevent unreasonable discrimination in favor of one common source of supply of crude petroleum oil as against another, and upon written complaint and proof of such discrimination, the Railroad Commission of Texas is authorized to allocate or apportion the allowable production among the various common sources of supply of crude petroleum oil in the State; provided, however, that in allocating or ascertaining the reasonable market demand for the whole State the reasonable market demand of one common source of supply shall not be discriminated against in favor of any other common source of supply; and provided further that the Railroad Commission of Texas shall ascertain the reasonable market demand of each such respective common source of supply as the basis for determining the allotments to be assigned each such respective common source of supply, to the end that such discrimination may be prevented.

Sec. 6-A. It is further provided that in the administration of this Act the Railroad Commission of Texas shall, at all times, take into consideration and protect the rights and interests of the purchasing and consuming public of crude oil, and all of its products, such as gasoline and lubricating oil; provided, however, that if this Section 6-A, be held for any reason unconstitutional the remaining sections of this Bill shall, nevertheless, be valid; and it is declared that such remaining portions would have been included in this Act though this particular section had been omitted.

Sec. 9. If any section, subdivision, paragraph, sentence, clause or word of this Act be held to be unconstitutional, the remaining portions of same shall, nevertheless be valid; and it is declared that such remaining portions would have been included in this Act though the unconstitutional portions had been omitted.

Sec. 10. This Act shall be cumulative of all laws of the State of Texas, not inconsistent herewith and not hereby expressly repealed or amended, and the words "crude petroleum oil" and "natural gas" as used herein are not to be construed as referring to different substances than those referred to herein and in existing statutes by the use of the usual words "oil" and "gas." The word "Commission" shall mean the Railroad Commission of Texas. The words "pool," "common pool," "field," and "common source of supply" shall mean a common reservoir.

Sec. 12. Nothing in this Act shall be construed to repeal Chapter Thirty-Six of Acts of the Forty-First Legislature, Fifth Called Session, known as the Common Purchaser Bill [art. 6049a], and Amendments thereto, except as specifically repealed hereby or inconsistent herewith; and

this Act shall not be construed to repeal or modify Senate Bill No. 337, passed by the Forty-Second Legislature, at its Regular Session, known as the Marginal Well Bill [Art. 6049b].

Sec. 13. It is especially provided that nothing herein shall in any manner affect, alter, diminish, change or modify the anti-trust and/or monopoly statutes of this State, and that no provision of this Act shall in any manner directly or indirectly authorize a violation of such anti-trust and/or monopoly statutes, and in this connection it is hereby declared and especially provided by the Legislature of the State of Texas enacting this legislation that notwithstanding the provisions of Sections 10, 11 and 12, or any other sections of this Act, it is the legislative intent that no provision of this Act shall in any manner, affect, alter, diminish or amend any provision of the anti-trust and/or monopoly statutes of this State, or in any manner authorize a violation of such anti-trust and/or monopoly statutes; and it is further especially provided that if any provision of this Act shall be so construed by any court of this State as to in any manner affect, alter, diminish, or modify any provision of the anti-trust and/or monopoly statutes of this State, then in that event any such section, subsection, sentence or clause or any provision of this Act so construed as conflicting with said monopoly and/or anti-trust statutes, it is hereby declared null and void rather than the anti-trust and/or monopoly statutes of this State. The legislative intent herein expressed is to prevail and take precedence over the provisions of Sections 10, 11 and 12, or any other section or sections of this Act, regardless of any statement therein to the contrary.

Sec. 14. The provisions of this Act shall end and terminate September 1st, 1935. [Acts 1932, 42nd Leg., 4th C. S., p. 3, ch. 2.]

Section 1 of Laws 1932, 42nd Leg., 4th C. S., ch. 2, amends art. 6014, § 2 is classified as art. 6014a, §§ 3, 5 and 8 amends art. 6049c, §§ 5, 7, and 8 respectively, § 11 repeals arts. 6049c, § 9 and 6049a, § 11j and § 15 is the emergency clause.

TITLE 103—PARKS

[Art. 6070a. Park concessions; funds; prison labor]

Acts 1933, 43rd Leg., Spec. L., p. 52, ch. 45, § 1 directs the Commissioner of General Land Office to convey to A. B. Mayhew a certain tract of land known as 26.5 acre Park Site situated near Con Can post office in Uvalde county, Texas.

[Art. 6070b. Authorizing acquirement and improvement of park sites payable solely from revenue of parks]

Sec. 1. The Texas State Parks Board is hereby authorized and empowered to acquire State park sites by purchase, gift or otherwise, and to improve, beautify and equip, and to contract with any person, firm or corporation for the improvement, beautification or equipment of the State parks of this State to such an extent as to said Board might be deemed advisable. The authority herein given to purchase is limited to two years from the effective date of this Act.

Sec. 2. In payment for such sites and of the improvement, beautification and equipment of such parks and/or other improvements, or for the purpose of borrowing money from the Reconstruction Finance Corporation, or any other U. S. Federal Agency, or from any other person, firm or corporation, the Texas State Parks Board is further authorized and empowered to issue its evidences of indebtedness for such sum or sums of money and upon such conditions as may to said Board be deemed advisable, bearing interest at a rate not to exceed six (6%) per cent per annum, and as security for the payment thereof, said Board may pledge its rents, revenues and incomes from such improvements and/or any fees, rents or revenues from any source other than appropriations made by the State Legislature, and in furtherance thereof may have full authority

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to make concession contracts of any kind or character which in the judgment of said Board might be desirable.

Sec. 3. Projects financed in accordance with this law are hereby declared to be self-liquidating in character supported by charges other than by taxation.

Sec. 4. Nothing herein shall be construed as creating a debt or binding the State of Texas in any way except as to the pledge of the revenues as hereinbefore set forth. [Acts 1933, 43rd Leg., p. 571, ch. 187.]

[Art. 6070c. Goose Island State Park established]

Resolved by the House of Representatives of the State of Texas, the Senate concurring, That Goose Island be set aside for use as a State Park and that it be placed under control and management of the Texas State Parks Board to be operated under the direction of such Board as a public park, and said island is hereby withdrawn from sale or lease for any purpose inconsistent with its use for park purposes. [Acts 1931, 42nd Leg., p. 917, H. C. R. #43.]

The resolution cited to the text contained the following preamble: "WHEREAS, The State of Texas owns Goose Island containing approximately 150 acres of land and situated in Aransas County at the junction of St. Charles Bay, Copano Bay and Aransas

Bay, near the Hug and Coast Highway; and "WHEREAS, Said island is suitable for use as a public park and playground and is desired by the Texas State Parks Board for use as a State Park therefore, be it approved by Governor, April 21, 1931."

[Art. 6077b. Creation of Canyons State Park]

Sec. 1. The Texas Canyons State Park is hereby created as one of the State Parks of Texas, and shall consist of the lands hereinafter described in Section 2, of this Act.

Sec. 2. The Legislature of the State of Texas hereby withdraws from sale the following sections of land dedicated to the Public School Fund. All unsold public free school lands situated in the following blocks and abutting the Rio Grande River, to-wit:

Sections 42, 54 and 56, Block 341 T. C. Ry. Co. land in Brewster County, Texas.

Sections 2, 21, 23, 39 and 41, Block 16, G. H. & S. A. Ry. Co. land in Brewster County, Texas.

Sections 4, 12 and 14, Block G, 17, in Brewster County, Texas.

Sections 11, 12, 17 and 20 in Block B 2, G. H. & S. A. Ry. Co. land in Brewster County, Texas.

Said above described sections of land are hereby transferred and conveyed from the State School Fund to the State of Texas, for park purposes, and are hereby valued at the sum of Five (5) Cents per acre, and such amount shall be paid by the State Treasurer from the General Revenue into the Public School Fund as consideration for said lands and in lieu of said lands. The sum of One Thousand Dollars (\$1,000.00), or so much thereof as may be required, is hereby appropriated out of the General Revenue of the State of Texas to be paid to the Permanent School Fund of the State of Texas for consideration of said land transferred and conveyed and in lieu of said lands. All minerals in and under the above described sections of land are reserved to the Public Free School Fund.

Sec. 3. The Texas State Park Board shall take over the maintenance of the Texas Canyons State Park as soon as the transfer of said lands shall be effected. [Acts 1933, 43rd Leg., Spec. L., p. 126, ch. 95.]

Laws 1933, 43rd Leg., Spec. L. p. 126, ch. 95 contained the following preamble: "WHEREAS, The largest canyons in the North American continent (with the exception of the Grand Canyon of the Colorado) are situated in Brewster County, Texas, upon the Rio Grande, and said canyons and the lands and

territory contiguous thereto constitute one of the scenic wonders of North America; and

"WHEREAS, The State of Texas, as Trustee for the Public School Fund, is the owner of a considerable body of land adjoining and abutting upon said canyons, which land

is rough, rugged and worthless for any purpose except for its scenic beauty and park purposes; and

"WHEREAS, The creation of a State Park adjoining said canyons would result in opening up to the public of Texas and the United States one of the finest parks in

the United States at little expense to the people of Texas, and result in much revenue to the State of Texas from the gasoline tax, and much profit to the people of Texas generally; now, therefore."

Canyons State Park renamed Big Bend State Park, see art. 6077c, § 4.

[Art. 6077c. Creation of Big Bend State Park]

Sec. 1. All lands south of parallel of latitude 29°, 25' north, lying and being situated in Brewster and Presidio Counties heretofore or hereafter purchased by the State for delinquent taxes which are not redeemed within the time prescribed by law, shall become the property of the State of Texas for park purposes and shall be under the supervision and control of the Texas State Parks Board, and in such event the State shall not be required to pay to the counties any taxes which may have accrued on said lands, but the State of Texas shall take said lands free and clear of all claims of the counties of the State of Texas and free from the claims of all officers who have accrued costs by reason of the original sale of said lands for delinquent taxes. The Sheriff in each county affected by the provisions of this Act shall upon the expiration of the time when lands may be redeemed, or as soon thereafter as practicable, execute a deed to said land or lands affected by the provisions of this Act, giving a full description of the same to the State of Texas for park purposes. The said Texas State Parks Board shall take over the control and management of said lands. Should any of said lands, the title to which is thus acquired by the State of Texas, be State school lands on which there is an indebtedness to the Public School Fund, said lands shall not be sold or transferred by the Texas State Parks Board until said Board has paid any balance or balances then due and unpaid to the State School Fund, and no acquisition by the Texas State Parks Board of any lands which were at any time heretofore dedicated to the Permanent School Fund shall impair or decrease any obligation, debt or lien on said lands held by or due the Permanent School Fund.

Sec. 2. Upon the acquisition by the State of Texas of the title to any land under the provisions of this Act, all the mineral estate in and under said land shall be reserved to the State of Texas for the benefit of the Permanent Public Free School Fund to be disposed of under present or future laws. In the transfer of any such land, either by sale or exchange by the Texas State Parks Board, all instruments of sale or exchange shall expressly reserve to the State for the benefit of the Permanent School Fund all the mineral estate in and under said lands.

Sec. 3. Within sixty (60) days of the date of acquisition of the surface estate in any lands under this Act, the Texas State Parks Board shall file in the General Land Office at Austin certified copies of the instruments of acquisition, together with accurate descriptions of the lands acquired, and the Commissioner of the General Land Office shall make proper records of the ownership of the minerals in said lands by the Permanent School Fund, and shall furnish to the State Parks Board, as soon as practicable after receipt of description of the land by the Land Commissioner, statements of any amounts due the Permanent School Fund on account of any such lands.

Sec. 4. The Texas Canyons State Park, created as one of The State Parks of Texas, by House Bill No. 771, of the Regular Session of the Forty-third Legislature, is hereby renamed Big Bend State Park, and shall consist of the lands described in said Act, and other lands as described in Sections 1 and 5 of this Act.

Sec. 5. The Legislature of the State of Texas hereby withdraws from sale all unsold Public Free School Lands situated in Brewster County, Texas, South of North Latitude 29°, 25'; and said lands, estimated to consist of about one hundred and fifty thousand (150,000) acres, are hereby transferred and conveyed from the State Public School Fund to the

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State of Texas for park purposes, and shall become a part of the Big Bend State Park, and are hereby valued at the sum of one cent per acre, which amount shall be paid by the State Treasurer from the General Revenue into the Public School Fund as consideration for said lands, and in lieu of said lands. The sum of One Thousand, Five Hundred Dollars (\$1,500.-00), or so much thereof as may be required, is hereby appropriated out of the General Revenue of the State of Texas, to be paid to the Permanent School Fund of the State of Texas, in consideration of said lands transferred and conveyed, and in lieu of said lands. All minerals in and under the above described sections of land are hereby reserved to the Public Free School Fund, to be developed under present or future laws as minerals under other unsold school land. Upon the taking effect of this Act, the Commissioner of the General Land Office shall prepare a list of the lands affected by this Act, and shall deliver one copy to the Texas State Parks Board and one copy to the State Treasurer, and shall certify to the State Treasurer the number of acres contained in said land.

Sec. 6. The Texas State Parks Board shall take over the maintenance of all lands included within the terms of this Act and within the Big Bend State Park area, and shall have supervision and control of said parks. Said Texas State Parks Board shall be authorized, and authority is hereby expressly given to them, to contract to exchange any lands included within the Big Bend State Parks with any person, firm or corporation, for any other lands in Brewster County, situated within the area bounded on the South by North Latitude 29°, 10' and on the North by North Latitude 29°, 20' and on the East by West Longitude 103°, 10' and on the West by West Longitude 103°, 25'; considered more suitable, or better located for park purposes; said Texas Parks Board shall be authorized to make contracts for the exchange of such lands, with any person, firm or corporation, but said contracts shall not be effective until approved by the Governor, Attorney General, and Commissioner of the General Land Office. Upon the making of such contracts and approval by the above constituted Board, the Governor of the State of Texas, is authorized and directed to issue conveyances for same, reserving to the State School Fund, all minerals under said land. In case any lands sought to be acquired by the Texas State Parks Board by exchange, under the provisions of this Act, shall be unpatented State School Land, the indebtedness against said land shall be transferred to the land given in exchange. The State Parks Board, shall certify to the Commissioner of the General Land Office a description of any lands acquired by it from any source in said Big Bend State Park area within ninety (90) days of date of acquisition, together with a certified copy of the instrument of transfer, and the Commissioner of the General Land Office shall list said lands as mineral lands belonging to the Permanent School Fund and shall make proper record thereof in the Land Office.

Sec. 7. If any part of this Act should be held unconstitutional, such decision shall not affect the validity of the remaining portions of this Act, it being the intention of the Legislature that such remaining portions shall operate as a valid law; and it is further the intention of the Legislature to withdraw from sale the surface estate in the public school lands, in the Big Bend Park areas.

Sec. 8. This Act shall be cumulative of all other laws on this subject, and in so far as it is inconsistent with the General Laws of this State it shall supersede the same in that part of the State to which this Act applies. [Acts 1933, 43rd Leg., 1st C. S., p. 275, ch. 100.]

[Art. 6081e. Condemnation or purchase by county or incorporated city of land for parks or playgrounds; cooperation with State Parks Board]

Sec. 1. That any county or any incorporated city of this State, either independently or in cooperation with each other, or with the Texas

State Parks Board, may acquire by gift or purchase or by condemnation proceedings, lands to be used for public parks and playgrounds, such lands to be situated in any locality in this State and in any sized tracts deemed suitable by the governing body of the city or county acquiring same; provided, however that lands to be acquired by any such city for said purpose may be, in the discretion of the governing body thereof, situated within this State, either within or without the boundary limits of such city, but within the county in which such city is situated. [Acts 1931, 42nd Leg., p. 248, ch. 148, as amended Acts 1933, 43rd Leg., p. 567, ch. 185, § 1.]

This section was amended by Acts 1933, 43rd Leg., p. 179, ch. 84, which is repealed by Acts 1933, 43rd Leg., p. 567, ch. 185.

Sec. 2. To pay for lands for park purposes, any incorporated city may issue bonds, and may levy a tax not exceeding ten (10¢) cents on the One Hundred (\$100.00) Dollars' valuation of taxable property in such city to pay the interest and provide a sinking fund to retire such bonds, the issuance of such bonds, and the collection of taxes in payment thereof to be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of 1925, governing the issuance of bonds by cities or towns in this State; this section shall be construed to authorize the levying of said tax not exceeding ten (10¢) cents on the Hundred Dollars of valuation notwithstanding the provisions of Article 6080 of the Revised Civil Statutes of 1925. [Acts 1931, 42nd Leg., p. 248, as amended Acts 1933, 43rd Leg., p. 567, ch. 185, § 2.]

This section was also amended by Acts 1933, 43rd Leg., p. 179, ch. 84 which is repealed by Acts 1933, 43rd Leg., p. 567, ch. 185.

Sec. 2-a. That where a majority of the resident property tax-payers, being qualified electors of any city or town in this State, voting on the proposition, having voted at an election held in such city or town in favor of the issuance of bonds of such city or town and the levy of taxes upon the taxable property therein, for the purpose of paying the interest on said bonds and providing a sinking fund for the redemption thereof, for the purpose of purchasing and improving lands for a public park in and for said city or town, the canvass of said vote revealing such majority having been recorded in the minutes of the governing body of such city or town, and where thereafter the governing body of such city or town by ordinance or ordinances adopted and recorded in its minutes, authorized the issuance of such bonds, prescribed the date and maturity thereof, the rate of interest the bonds were to bear, the place of payment of principal and interest, and providing for the levy of taxes upon taxable property in such city or town to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity under authority of Section 2, Chapter 148, of the General Laws passed by the Forty-second Legislature, at its Regular Session in 1931, and such bonds having been approved by the Attorney General and registered by the Comptroller of the State of Texas, each such election, and all acts and proceedings had and done in connection therewith by the governing body of such city or town in respect of such bonds and the levy of such taxes, are hereby legalized, approved and validated; and power and authority is hereby expressly conferred upon the governing body of any such city or town to adopt all orders, resolutions and ordinances, and to do all other and further acts necessary in the issuance or sale of such bonds, and such governing body is hereby expressly authorized and empowered to levy a direct general ad valorem tax upon all taxable property in said city or town for the purpose of paying the interest on and the principal of said bonds; provided, that the aggregate amount of bonds issued for park purposes shall never reach an amount where the tax of Ten (10¢) Cents on the One Hundred (\$100.00) Dollars' valuation of

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property will not pay current interest and provide a sinking fund sufficient to pay the principal at maturity, and the amount of bonds legally issued for park purposes under Acts passed prior to the enactment of Chapter 148 of the General Laws passed by the Forty-second Legislature at its Regular Session in 1931, shall be computed and estimated in the amount of bonds which may be issued by any city or town for park purposes; it being the intent of said Chapter 148 to repeal all laws, and parts of laws, in conflict therewith. [Acts 1933, 43rd Leg., p. 567, ch. 185.]

Acts 1933, 43rd Leg., p. 179, ch. 84 added a section 2-A which is repealed by Acts 1933, 43rd Leg., p. 567, ch. 185, § 3.

Sec. 6. Nothing contained in this Act shall be construed as repealing any provisions of any special charter of any incorporated city, but shall be deemed and held to be cumulative thereof; but all General Laws, and parts of General Laws, in conflict herewith are hereby repealed, and House Bill No. 104, passed at this session, and which was approved and effective on April 17, 1933, is hereby particularly repealed. [Acts 1931, 42nd Leg., p. 248, ch. 148, as amended Acts 1933, 43rd Leg., p. 567, ch. 185, § 4.]

This section was also amended by Acts repealed by Acts 1933, 43rd Leg., p. 567, ch. 1933, 43rd Leg., p. 179, ch. 84 which is re- 185.

TITLE 104—PARTITION

Article 6082. [6096] [3606] Joint owner may compel

Partition of interest of minor by guardian,
see article 4223a.

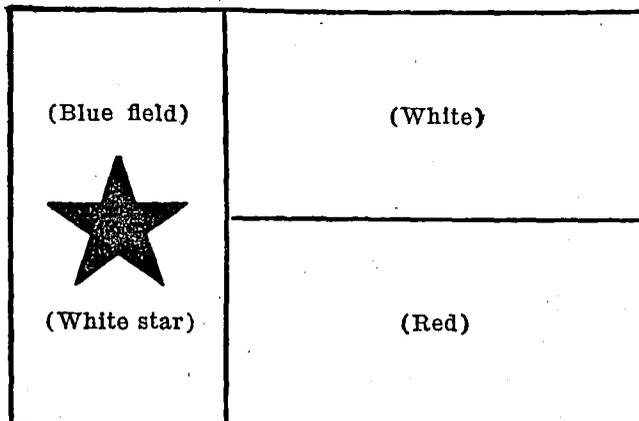
TITLE 106—PATRIOTISM AND THE FLAG

[Art. 6142a. Clarifying description of Texas Flag]

Sec. 1. This act of the Legislature is not a substitute for any previous legislation pertaining to the Lone Star Flag of Texas which may have been passed by either the Republic of Texas or the Legislature of this State, but the sole purpose of this act is to clarify the description of the Texas Flag, to standardize the star in the blue field, and to outline some important rules to govern the correct use of the Texas Flag.

Sec. 2. Illustrating Texas Flag. A drawing of the Texas Flag to illustrate the general outline of the three stripes, and the star in the blue stripe:

The Texas Flag



Sec. 3. Salute to the Texas Flag
"Honor the Texas Flag of 1836;
I pledge allegiance to thee—
Texas, one and indivisible."

Sec. 4. Description of the Texas Flag

The Texas Flag is an emblem of four sides, and four angles of ninety (90) degrees each. It is a rectangle having its width equal to two-thirds of its length. The flag is divided into three equivalent parts, called bars or stripes, one stripe being blood red, one white, and the other azure blue. These stripes are rectangles, also, and they are exact duplicates of one another in every respect. The width of each stripe is equal to one-half of its length, or one-third of the length of the Flag, while the length of each stripe is equal to the width of the Flag, or two-thirds of the length of the Emblem.

One end of the Flag is blue, and it is called the Flag's "right". This stripe is a perpendicular bar next to the staff or the halyard, and it is attached by means of a heading made of strong and very durable material. The remaining two-thirds of the Flag is made up of two horizontal bars of equal width, one being white and the other red, and this end of the Emblem is called the Flag's "left". Each one of the stripes is perpendicular to the blue stripe, and when the Flag is displayed on a flagpole or staff, or flat on a plane surface, the white stripe should always be at the top of the Flag, with the red stripe directly underneath it. Thus, each stripe of the Texas Flag touches each of the other stripes, which signifies that the three colors are mutually dependent upon one another in imparting the lessons of the Flag; bravery, loyalty, and purity.

Sec. 5. Description of the Star

In the center of the blue stripe is a white star of five points. One point of this star is always at the top, and in vertical line drawn from one end of the blue stripe to the other, and midway between its sides. This line is the vertical axis of the blue stripe, and it is perpendicular to the horizontal axis at the central point of the stripe. The two lowest points of the star are in a line parallel to the horizontal axis, and the distance from the topmost point of the star to the line through these two points is equal to approximately one-third of the length of the blue stripe, or one-third of the width of the Flag. The center of the star is at the point of intersection of the horizontal axis with the vertical axis, or at the central point of the blue stripe. The other two points of the star are above the horizontal axis, and near the sides of the blue stripe.

A few fundamental facts concerning the dimensions of the star and its position in the blue stripe are outlined here for the assistance of makers of the Texas Flag:

It is a white star of five points.

The center of the star is at the central point of the blue stripe.

The five points of the star are on a circle whose center is at the central point of the blue stripe.

The length of the diameter of the circle which passes through the five points of the star is always equal to three-fourths of the width of the blue stripe, or three-eighths of the width of the Flag.

The radius of the circle which passes through the five points of the star, then, is equal to three-eighths of the width of the blue stripe.

The topmost point of the star is at the point of intersection of this circle with the vertical axis of the blue stripe.

The two lowest points of the star are in a line parallel to the horizontal axis of the blue stripe, and the distance from the topmost point of the star to this line is equal to approximately one-third of the length of the blue stripe, or it is equal to approximately one-third of the width of the Flag.

The other two points of the star are above the horizontal axis, and near the sides of the blue stripe, and these two points are in a line parallel to the horizontal axis.

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

The five angles of the points of the star are equal to one another, and each angle contains thirty six (36) degrees.

The geometrical figure in the center of the star is a regular pentagon, or polygon of five equal sides and five equal angles, and each angle of the pentagon contains one hundred and eight (108) degrees.

With the use of a ruler and a compass, this star is very easily constructed. First, draw the line through the middle points of the ends of the blue stripe, or draw the vertical axis; then, draw the line through the middle points of the sides of the blue stripe, or draw the horizontal axis. These two axes intersect in the central point of the blue stripe, and they bisect each other.

Now, divide the horizontal axis into eight equal parts, and draw a circle with its center at the central point of the blue stripe and its radius equal to three-eighths of the length of the horizontal axis. The point in which this circle intersects the vertical axis above the central point of the blue stripe is the topmost point of the star.

Next, find the middle point of the radius of this circle which coincides with one end of the horizontal axis. Using this point as a center, and with a radius equal to the distance to the topmost point of the star, describe an arc intersecting the opposite end of the horizontal axis. The distance from the last point found to the topmost point of the star is equal to one-fifth of the circumference of the circle.

Then, beginning at the topmost point of the star, and using the measure just found as a unit of length, divide the circumference of the circle into five equal parts. The four additional points found on the circle in this way are the remaining points of the star. Two of these points are above the horizontal axis and two of them are below it, while two of the points are at the left of the vertical axis and two are at the right of it.

Now, connect the topmost point of the star with the two points below the horizontal axis. Then, connect the point which is below the horizontal axis and at the left of the vertical axis with the point which is above the horizontal axis and at the right of the vertical axis. Likewise, connect the point which is below the horizontal axis and at the right of the vertical axis with the point which is above the horizontal axis and at the left of the vertical axis. Finally, connect the two points which are above the horizontal axis and on opposite sides of the vertical axis, and the symmetrical figure thus completed is the beautiful Lone Star of the Texas Flag.

Sec. 6. Rules Governing the Use of the Texas Flag.

When the Texas flag is displayed out-of-doors, it must be on either a flagpole or staff, and the staff should be at least two and one-half times as long as the flag. The flag is always attached at the spearhead end of the staff, and the heading must be made of material strong enough to protect the colors.

The Texas flag should not be unfurled out-of-doors earlier than sunrise, and it should be taken down, or furled, not later than sunset. Of course the flag may be flown for any length of time between sunrise and sunset, as may be directed by proper authority.

It is disrespectful to the Texas flag to leave it unfurled in inclement weather, such as rain, sleet, snow, hail, or storm, and it should never be left out-of-doors at night.

The Texas flag shall be displayed on all State Memorial Days, and on special occasions of historical significance.

Every school in Texas should fly the Texas flag on all regular school days. This courtesy is due to the Lone Star flag of Texas.

The Texas flag should always be hoisted briskly, and furled slowly with appropriate ceremonies.

The Texas flag should not be fastened in such a manner that it can be torn easily.

When the Texas flag is flown from a flagpole or staff, the white stripe should always be at the top of the flag, except in cases of distress, and the red stripe should be directly underneath the white.

The Texas Flag should be on the marching left when it is carried in a procession in which the Flag of the United States of America is unfurled.

The Texas Flag should be on the left of the Flag of the United States of America, and its staff should be behind the staff of the National Colors, when the two are displayed against a wall from crossed staffs.

When the Texas Flag is flown from the same halyard as the Flag of the United States of America is flown, it must be underneath our National Colors.

When the Texas Flag is flown on a flagpole adjacent to the flagpole on which the Flag of the United States of America is flown, it must be unfurled after our National Colors, and it must be displayed at the left of the Flag of the United States of America.

When the Texas Flag and the Flag of the United States of America are displayed at the same time, they should be flown on separate flagpoles of equal length, and the Flags should be approximately the same size.

When the Texas Flag is flown from a window-sill, balcony, or front of a building, and flat against the wall, it should be on a staff, and the blue field should be at the observer's left.

When the Texas Flag and the Flag of the United States of America are displayed on a speaker's platform at the same time, the Texas Flag should be on the left side of the speaker, while our National Colors are on the right side of the speaker.

The Texas Flag should never be used to cover a platform or speaker's desk, nor to drape over the front of a speaker's platform.

When the Texas Flag is displayed flat on the wall of a platform, it should be above the speaker, and the blue field must always be at the Flag's right.

When the Texas Flag is displayed on a motor car, the staff should be fastened firmly to the chassis of the car, or clamped firmly to the radiator cap.

When the Texas Flag is displayed on a float in a parade, it should always be attached securely to a staff.

The Texas Flag should not be allowed to touch the ground or the floor, nor to trail in water.

The Texas Flag should not be draped over the hood, top, sides, or back of any vehicle, or of a railroad train, boat, or aeroplane.

The Texas Flag should not be used as a covering for a ceiling.

The Texas Flag should not be used as any portion of a costume or athletic uniform.

The Texas Flag should not be embroidered upon cushions or handkerchiefs, nor printed on paper napkins or boxes.

The Texas Flag must not be treated disrespectfully by having printing or lettering of any kind placed upon it.

The Texas Flag should not be used in any form of advertising, and, under no circumstances, may advertisements of any kind be attached to the flagpole or staff.

It is disrespectful to the Texas Flag to use it for purposes of decoration, either over the middle of streets, or as a covering for automobiles or floats in a parade, or for draping speaker's platforms or stands, or for any other similar purpose of decoration. For such purposes of decoration the colors of the Flag may be used in bunting or other cloth.

The Texas Flag should not be carried flat or horizontally, but always aloft and free, as it is carried in a parade.

The Texas Flag is flown at half-mast by first raising it to the top of the flagpole, and then slowly lowering it to a position one-fourth of the distance down the flagpole, and there leaving it during the time it is to be displayed, observing the rule, of course, that it must not be raised before sunrise, and it must be taken down each day before sunset. In taking the Flag down, it should first be raised to the top of the flagpole, and then slowly lowered with appropriate ceremony.

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

The Texas Flag should not be displayed, used, nor stored in such a manner that it can be easily soiled or otherwise damaged.

When the Texas Flag is in such condition of repair that it is no longer a suitable Emblem for displaying, it should be totally destroyed, preferably by burning, and that privately; or this should be done by some other method in keeping with the spirit of respect and reverence which all Texans owe the Emblem which represents the Lone Star State of Texas. [Acts 1933, 43rd Leg., p. 186, ch. 87.]

[Art. 6143a. State motto]

Be it Resolved, By the House of Representatives, the Senate concurring, that the word "Friendship" be and is hereby adopted and declared to be the motto of the State of Texas. [Acts 1930, 41st Leg., 4th C. S., p. 105, H. C. R. #22.]

The resolution cited to the text contained the following preamble: WHEREAS, The State of Texas has heretofore officially adopted the "Blue Bonnet" as its State Flower, the "Mocking Bird" as its State Bird and "Texas, our Texas" as its state Song, and

WHEREAS, The State of Texas has no ap-

propriate motto to symbolize its history and progress, and

WHEREAS, The name "Texas" is derived from the Indian word "Tejas," meaning friendship, and

WHEREAS, The said word is emblematic of the universal spirit existing in Texas and reflects the spirit that has at all times influenced our people; now, therefore,

[Art. 6143b. State song]

Resolved by the Senate, of the State of Texas, the House of Representatives concurring:

That, "Texas, our Texas" by William J. Marsh and Gladys Yoakum Wright be adopted as the State Song for the State of Texas. [Acts 1929, 41st Leg., 1st C. S., p. 286, S. C. R. #6.]

The resolution cited to the text contained the following preamble: WHEREAS, the 39th and 40th Legislatures passed resolutions authorizing the adoption of a State Song for the State of Texas, and

WHEREAS, a Committee of seven members, three from the Senate and four from the House, was appointed to select a song, according to rules set up by the Committee, and

WHEREAS, contests were held in each Senatorial District, and a final contest was held in Dallas for the purpose of selecting the song for adoption, and

WHEREAS, "Texas, Our Texas" by William J. Marsh and Gladys Yoakum Wright has been selected by the Legislative Committee twice, proving the song was meritorious to the extent that it "had sung itself into the hearts of the people," now therefore be it

[Art. 6143bb. State Flower Song]

Resolved by the House of Representatives, the Senate concurring, That it adopt the Bluebonnet song as the State Flower Song. [Acts 1933, 43rd Leg., p. 930, H. C. R. #24.]

The resolution cited to the text contained the following preamble:

"WHEREAS, The Regular Session of the Twenty-seventh Legislature in 1901 adopted the Bluebonnet as the State Flower; and

"WHEREAS, This House on February 8th heard the beautiful song, 'Bluebonnets'; the words by Julia D. Booth, music by Lora C. Crockett, sung by Alice Clay Routt; the words as follows:

I.

When the pastures are green in the spring-time

And the birds are singing their sonnets,
You may look to the hills and the valleys
And they're covered with lovely Bluebonnets.

Blue is the emblem of loyalty,
They're as blue as the deep deep sea,
Their smiling faces bring gladness

For they bloom for you and for me.

CHORUS

Bluebonnets blue lovely Bluebonnets,
More beautiful than all the rest.
Texas chose you for her flower
And so we love you best Bluebonnets.

II.

Bluebonnets so gorgeous and stately
In your mantle of blue and of green,—
In the spring when you're in your full glory
You're the loveliest sight ever seen.—
You're beautiful when you sway in the sunshine,
You look like the waves of the sea,
Ah Texas was wise in her choice of a flower
So we offer our homage to thee.

and

"WHEREAS, This State has no State Flower Song; therefore, be it"

[Art. 6143c. State bird]

Resolved by the Senate of the State of Texas, the House of Representatives concurring:

That the recommendation of the Texas Federation of Women's Clubs be and are [is] hereby adopted and that the mocking bird be and the same is hereby declared to be the state bird of Texas. [Acts 1927, 40th Leg., p. 486, S. C. R. #8.]

The resolution cited to the text contained the following preamble: WHEREAS, the State of Texas at present has no State bird, and

WHEREAS, the Texas Federation of Women's Clubs has adopted appropriate resolutions on this subject, as follows:

SELECTION OF A STATE BIRD

WHEREAS, the Texas Federation of Women's Clubs is supporting a program for the protection of birds and sponsors any legitimate movement that has for its object an increased interest in their economic and æsthetic value and a more intelligent and sympathetic understanding of our feathered friends; and

WHEREAS, The committee on birds and flowers, after investigation and delibera-

tion thinks the time is opportune for the selection of a state bird; and

WHEREAS, Ornithologists, musicians, educators, Texans in all walks of life unite in proclaiming the mocking bird the most appropriate species for the state bird of Texas, as it is found in all parts of the state, in winter and in summer, in the city and in the country, on the prairie and in the woods and hills, and is a singer of distinctive type, a fighter for the protection of his home, falling, if need be, in its defense, like any true Texan;

Therefore Be it Resolved, That the Texas Federation of Women's Clubs in convention assembled, go on record as naming the mocking bird the state bird of Texas, and asking that confirmation of such action be had at the approaching regular session of the 40th Legislature; therefore be it

[Art. 6144a. Texas week]

Therefore, be it resolved, that the Senate of Texas, the House of Representatives concurring therein, does here and now approve this Resolution and set apart annually the entire week in which March the Second comes as a season to be known as Texas Week; and by this action of the Legislature His Excellency, the Governor of Texas, is hereby vested with the power and is besought to issue and to publish annually his proclamation outlining the purpose and the spirit of Texas Week and urging every citizen of this State to exalt and extol the highest and the best cultural and spiritual values of Texas throughout Texas Week; and

Be it further resolved, that it is now and ever shall be in direct violation of the purpose and spirit of Texas Week to observe it as a season of holidays; and the Legislature of the State of Texas does affirm that, under no condition, is Texas Week to be looked upon as a week of holidays; but on the other hand and quite to the contrary, it is hereby alleged that during Texas Week every citizen of this State is encouraged to work, insofar as he is able, and to do his work a bit better than he does it during other weeks of the year; and

Therefore, be it further resolved, that the Legislature by this Resolution does urge His Excellency, the Governor of Texas, to suggest to the citizens of this State in his annual proclamations that they observe the following forms of activity; and from time to time such other forms of observance that he may deem wise, insofar as his suggestions do not conflict with the purpose and spirit of Texas Week as outlined in this Resolution:

First, it is enjoined that every home; every office, place of business and industry; every school, parochial, private, or public; every college and university; and all institutions of whatever class or character, educational or eleemosynary, be requested through this Resolution and the annual proclamations of the Governor of Texas to hoist a Texas Flag from some prominent point of vantage and let it be unfurled each day during Texas Week; and

Second, it is now and ever shall be expected that all teachers and pupils in every school of whatever class or classification shall observe Texas Week appropriately in general assemblies, in classes, clubs, and

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

in any and all other groups as they may be assembled for school work; that schools be encouraged to assemble exhibits of Texas products, pictures, relics, books and documents, and hang in permanent places pictures of famous heroes of Texas; that schools which are in reach of battle fields, missions, and other places of historical interest and importance are hereby encouraged to make patriotic pilgrimages to such places of fame during Texas Week; but it is understood that no school is to celebrate Texas Week as a season of holidays. On the other hand, better work shall be expected of all schools throughout Texas Week; and

Third, it is enjoined upon commerce and industry, professional life and activity, civic activity, and every other kind of occupational pursuit, in which Texas citizens may be engaged, that they recognize and observe Texas Week in a fitting manner. To this end it is recommended that courts in session, luncheon clubs, women's organizations, churches, conventions, lodges, and the Legislature when in session, all departments of government, city, county, and State; and any and every other group of citizens for whatever purpose they may be assembled, be urged now and ever in the future to observe Texas Week appropriately by rendering programs in keeping with the purpose and spirit of this occasion as set forth in this Resolution; and

Fourth, that every citizen, old or young, within the borders of this great State be urged now and ever in the future, by this Act of the Legislature and in accordance with the proclamations of the Governor of Texas issued and published annually to be seen and read by all citizens of Texas, to exalt and extol the cultural and spiritual values which we cherish so fondly; the blessed and romantic traditions of our glorious history; the high standards and lofty ideals of statesmanship, of scholarship, of leadership, of character, and of service which our forefathers gave to us as our rare and rich heritage, and to give thanks for this marvelous inheritance as we faithfully and conscientiously observe Texas Week. [Acts 1932, 42nd Leg., 3rd C. S., p. 131, S. C. R. #8.]

The resolution cited to the text contained the following preamble:

WHEREAS, the State of Texas is an empire within itself, vast in its area, unparalleled in the glory of its heroic deeds and chivalric history, unrivaled in the splendid progress and achievements of its brilliant past, unmatched in the marvelous opportunities of its inspiring present, and unlimited in the resources and possibilities it has in store for its citizens ever in the future; and

WHEREAS, it is incumbent upon the people of this State to pause at frequently recurring intervals to take inventory of their countless blessings bestowed upon them by

a loving and bountiful Heavenly Father and render unto Him due thanks for His care and keeping, and, at the same time, reconsecrate their lives as loyal and faithful citizens, as grateful people should do; and

WHEREAS, no time or season has as yet been specifically appointed for the citizens of this State to recall and extol the unselfish services of our heroes, to review our glorious history and splendid achievements of the past, to sum up our present opportunities which are offered in such abundance by this Lone Star State, and to visualize the rare possibilities that are in store for our most auspicious future;

TITLE 108—PENITENTIARIES

Art. 6166-M-1. [Discharged convicts revolving fund created]

From and after the effective date of this Act, the State Treasurer of the State of Texas, shall set aside sufficient amount of money received by him from the General Manager of the Texas Prison System as money earned by, and belonging to the State Prison System to be kept on deposit in Huntsville, Texas, Twenty-five Thousand Dollars (\$25,000.00) to be known as the Discharged Convicts Revolving Fund, and the State Treasurer shall at all times keep said Discharged Convicts Revolving Fund up to the maximum amount out of funds above provided, and said funds shall be used for the prompt payment in cash to all discharged, pardoned or paroled convicts; such funds to be deposited in equal amount in the

Huntsville Bank and Trust Company at Huntsville, and the First National Bank at Huntsville, and said banks shall deposit with the General Manager of the Prison System, bonds and/or other securities to be approved by the Attorney General of the State of Texas, sufficient to secure said deposits. [Acts 1933, 43rd Leg., 1st C. S., p. 288, ch. 104, § 1.]

Art. 6166-M-2. [Weekly reports by depositories to State Treasurer]

It shall be the duty of the depositories of the Discharged Convicts Revolving Fund so long as they retain such deposit to make a weekly report to the State Treasurer of the State of Texas as to the condition of the fund on deposit in said depository. [Acts 1933, 43rd Leg., 1st C. S., p. 288, ch. 104, § 2.]

[Art. 6166z1. Discharge]

When a prisoner is entitled to a discharge from prison, he or she shall be furnished with a written or printed discharge from the manager, with seal affixed, signed by the manager, giving prisoner's name, date of sentence, from what County sentenced, amount of commutation received, if any, the trade he has learned, if any, his proficiency in same, and such description as may be practicable. Such discharged person shall be furnished with a decent outfit of citizen's clothing of good quality and fit, and two suits of underwear; and when a person and/or convict actually serves over one year, he shall receive Fifty Dollars (\$50.00) in money in addition to any money held to his or her credit, provided that if a person and/or convict does not actually serve one year flat time, he shall not receive Fifty Dollars (\$50.00); but in lieu thereof a person serving less than one year actual time shall receive Twenty-five Dollars (\$25.00) in money in addition to any money held to his or her credit and a decent outfit of citizen's clothing of good quality and fit and two suits of underwear, provided that if the actual time served exceeds ten (10) years, the sum of money shall be Seventy-five Dollars (\$75.00), and if the actual time served exceeds twenty (20) years, the sum of money shall be One Hundred Dollars (\$100.00). As far as may be practicable the Prison Board may authorize a creation of a Bureau for the purpose of placing discharged prisoners in connection with employment, provided such will not be an extra expense to the Prison System. [Acts 1927, 40th Leg., p. 298, ch. 212, § 28 as amended Acts 1933, 43rd Leg., p. 548, ch. 179.]

[Art. 6166z10. Liability insurance of persons operating motor vehicles used by Prison System]

Sec. 1. That the Texas Prison Board shall have the power to insure the officers and employees of the Texas Prison System from liability to third persons arising from and out of the use and operation of automobiles, motor trucks and other motor vehicles used by the Texas Prison System for the transportation of prisoners, for the transportation of the products of the Prison System or for other purposes legitimately connected with the operation of the Texas Prison System, by procuring policies for that purpose with some reliable insurance company authorized to do business in this State. All insurance taken out by the said Board for and in behalf of the benefit of the State shall be on forms approved by the Insurance Commission as to form and by the Attorney General as to liability.

Sec. 2. All policies of insurance heretofore subscribed by the Texas Prison Board for the purposes hereinabove enumerated are hereby validated, approved and are declared to be in full force and effect. [Acts 1933, 43rd Leg., p. 624, ch. 208.]

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

[Art. 6203a. Lease of oil and gas in prison lands]

House Concurrent Resolution No. 33 passed by the 42nd Leg., 2nd C. S., 1931, p. 79, omitting the preamble reads as follows:

Resolved by the House of Representatives, the Senate concurring, That the Board of Leasing of Texas Prison Lands be called upon to lease said prison lands by the first

day of January, 1932, and if said board is unable to lease said prison lands by the first day of January, 1932, then in that event the Texas Prison Board is hereby directed to use and utilize the machinery and men to explore and drill for oil on the prison farms.

[Art. 6203f. Encouraging cotton farmers to purchase planting seed from Prison System]

Resolved by the House of Representatives, the Senate concurring, That as a means toward the development of better quality cotton in Texas, the Prison System of our State, in disposing of its surplus cotton seed, give first consideration to the needs for better planting seed and that the cotton farmers be encouraged to purchase planting seed from the Prison System through their farm agents, Chambers of Commerce and other responsible mediums, and at a price above oil mill quotations sufficient to reimburse the Prison System for the added expense of handling. [Acts 1931, 42nd Leg., p. 925, H. C. R. #25.]

The resolution cited to the text contained the following preamble:

WHEREAS, By reason of the depletion of soil fertility through erosion and other causes, by the indiscriminate planting of numerous varieties of cotton in the same gin communities, by the mixing of different type and staple length cotton through what is commonly known as gin mixing, the standard of Texas cotton has been lowered to the extent that a large portion of cotton produced in Texas does not meet the requirements that the cotton markets of the world demand; and

WHEREAS, If Texas is to continue as an active competitor with other States of the Union and some fifty-one foreign countries in the production of high-grade long staple cotton, it becomes necessary to improve the cotton grown in Texas by the planting of uniform type longer staple varieties of cotton; and

WHEREAS, The Prison System of Texas, on its farms, produces a high-grade, pure breed of cotton; and

WHEREAS, The system has demonstrated, in dollars and cents, that it is profitable to concentrate on growing a uniform staple; and

WHEREAS, Cotton buyers have paid for the prison cotton, year after year, a premium over and above the market price, on account of the excellence and uniformity of the staple; and

WHEREAS, This premium in 1930 amounted to more than Sixty-five Thousand Dollars (\$65,000) on approximately ten thousand (10,000) bales, or approximately Six Dollars and Fifty Cents (\$6.50) per bale, proving beyond question the supremacy of this Cotton; and

WHEREAS, A large amount of high quality cotton seed suitable for planting is produced on the prison farms during years of normal cotton gathering conditions which has heretofore been sold to oil mills; therefore, be it

[Art. 6203g. Agreement Authorized for Penitentiary System to produce and sell farm products to State Institutions]

Therefore, be it resolved by the Senate of Texas, and the House of Representatives concurring, that the Board of Control of the State of Texas and the Board of Commissioners of the State of Texas are hereby authorized, empowered and instructed to enter into an agreement whereby the Penitentiary System will grow, produce and sell farm products to the various State Institutions at a price not to exceed the lowest bid which the Board of Control may receive from competitive bidders for the various products grown and offered for sale by the Penitentiary System of Texas. [Acts 1929, 41st Leg., p. 732, S. J. R. #26.]

The resolution cited to the text contained the following preamble: WHEREAS, The Board of Prison Commissioners of Texas now has on hand many thousands of pounds of raw cabbage, together with hundreds of barrels of cans of kraut and other farm products which can be used by the Eleemosynary Institution of Texas; and

WHEREAS, The Board of Control purchases thousands and thousands of dollars

worth of farm products annually for the Eleemosynary Institutions; and,

WHEREAS, The dormitories and cafeterias of the various Eleemosynary Institutions purchase thousands and thousands of dollars worth of farm products annually, all of which products may be profitably grown by the Penitentiary System and sold to the various State Institutions at a profit to the Penitentiary System and a great saving to the State of Texas;

TITLE 109—PENSIONS**Art. 6229. Board of trustees**

In all incorporated cities and towns having a population of two hundred eighty thousand or more according to the preceding Federal census the mayor, two aldermen or commissioners, and two citizens of said city or town to be designated by the mayor and his successors, shall constitute a Board of Trustees of the Municipal Employees' Pension Fund to provide for the disbursement of the same and to designate the beneficiaries thereof. The board shall be known as the Board of Municipal Employees' Pension Fund, Trustees of ———, Texas. The board shall hold its office until the next general election in such city for municipal officers. Said board shall organize by choosing one member as chairman and by appointing a secretary. Such board shall have charge of and administer such fund and shall order payments therefrom in pursuance of the provision of this law. It shall report annually to the governing body of such city or town the condition of the said fund and the receipts and disbursements on account of the same with a complete list of the beneficiaries of said fund and the amounts paid them. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6230. Membership in

Each fully paid municipal employee in the employment of such city or town, who desires himself or his beneficiaries to participate in said fund, shall file a written statement with the city clerk of his desire to participate in said fund, and authorize said city or town to deduct one per cent. of his wages each month to form a part of the fund known as the Municipal Employees' Pension Fund. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6231. Payments to fund

There shall be adopted¹ for such fund from the wages of each municipal employee one per cent of the wages earned by such employees when they have filed application therefor. Any donations made to such fund and rewards received by any municipal employee, and all funds received from any source for such fund shall be deposited in like manner to the credit of such fund. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6232. Conduct of meetings

The board shall hold regular monthly meetings and other meetings upon call of its chairman. It shall issue orders signed by the president or chairman and secretary to the persons entitled thereto, of the amount of money ordered paid to such persons from such fund by said board which order shall state for what purpose such payment is to be made; it shall keep a record of its proceedings, which record shall be a public record; it shall at each monthly meeting send to the city treasurer a written list of persons entitled to payment from the fund, stating the amount of such payment, and for what granted, which list shall be certified to and signed by the president or chairman and secretary of such board, attested under oath. The treasurer shall enter a copy of said list upon the book to be kept for that purpose, which book shall be known as the Municipal Employees' Pension Fund Board of ———, Texas, and the said board shall direct payment of the amounts named therein to the persons entitled thereto out of said fund. No money of said fund shall be disbursed for any purpose without a vote of a majority of the board, which shall be a no and yes vote entered upon the proceedings of the board. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

¹ "Deducted" in original act.

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

Art. 6233. Custody of funds

The Treasurer of said city or town shall be Ex-officio Treasurer of such fund. All money for said fund shall be paid over to and received by the Treasurer for the use of said fund, and the duties thus imposed upon such Treasurer shall be additional duties for which he shall be liable under his oath and bond as such city or town Treasurer, but he shall receive no compensation therefor. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6234. Who may share in fund

Any person who at the establishment of said fund, or thereafter shall have been duly appointed and enrolled as a municipal employee of any such city or town, to which application is made for participation in said fund by such person and who has filed his written application within thirty days after the organization of such board, or who shall file his application within thirty days after becoming a municipal employee and who shall have allowed said deductions from his salary, as well as the beneficiaries hereinafter named, shall be entitled to participate in said fund. [As amended Acts 1931, 42nd Leg., p. 18, ch. 18; Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6235. Retirement pensions

Whenever any municipal employee who shall have contributed a portion of his salary, as provided herein, shall have served twenty years or more as a municipal employee, he may be entitled to be retired from said service upon application, and shall, if the board approves, be entitled to be paid from such funds a monthly pension of one-half of the salary received by him at the time of his retirement. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6236. Disability pensions

Whenever any municipal employee of any such city or town, and who is a contributor to said fund as provided, shall become so permanently disabled through injury received, or disease contracted, in the line of duty, as to incapacitate him for the performance of duty, or shall for any cause, through no fault of his own, become so permanently disabled as to incapacitate him for the performance of duty, and shall make written application therefor approved by a majority of the board, he shall be retired from service and be entitled to receive from said fund one-half of the monthly wages received by him as a municipal employee at the time he became so disabled, to be paid in regular monthly installments. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6237. Death benefits, widow, etc.

In case of the death before or after retirement of any municipal employee of any city or town, resulting from disease contracted, or injury received while in the line of duty, or from any other cause through no fault of his own, and who at the time of his death or retirement was a contributor to said fund, leaving a widow or child or children under sixteen years of age, the widow shall be entitled to receive from said fund an amount not exceeding one-fourth of the monthly wages received by such member immediately preceding his death, and the children of said deceased under sixteen years of age shall receive in the aggregate one-fourth of such monthly wages to be equally divided between them. When any child shall reach sixteen years of age, then such child shall no longer participate in the division of such wages of said deceased, but the same shall be paid to his remaining children, if any, under sixteen years of age, in equal parts, until they respectively become sixteen years of age. In no case shall the amount paid to any one family exceed the amount of one-half of the wages earned by the deceased immediately prior to the time

of his death. Upon the re-marriage of any widow or the marriage of any child granted such pension, such pension shall cease. No widow or child of any such member resulting from any marriage contract subsequent to the date of retirement of said member shall be entitled to a pension under this law. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6238. Death benefits, father, etc.

If any municipal employee dies from injuries received or disease contracted while in line of duty, or from any cause through no fault of his own, who was a contributor to said fund and entitled to participate in said fund himself, leaves no wife or child, but who shall leave surviving him a dependent father, mother, brother or sister, wholly dependent upon said person for support, such dependent father, mother, brother and sister shall be entitled to receive in the aggregate one-half of the wages earned by said deceased immediately prior to his death, to be equally divided between those who are wholly dependent on said deceased, so long as they are wholly dependent. The board shall have authority to determine the facts as to the dependency of said parties and each of them, and as to how long the same exists, and may at any time upon the request of any contributor to such fund, reopen any award made to any of said parties and discontinue such pension as to all or any of them as it may deem proper, and the findings of said board in regard to said matter and as to all pensions granted under this law shall be final upon all parties seeking a pension as a dependent of said deceased, or otherwise, until such award of the trustees shall have been set aside or revoked. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6239. Investigations

The board shall consider all cases for the retirement and pension of municipal employees rendered necessary or expedient under the provisions of this law, and all applications for pensions by widows and children and of dependent relatives, and the said trustees shall give written notice to persons asking a pension to appear before said board and offer such sworn evidence as he or they may desire. Any person who is a municipal employee and who is a contributor to said fund may appear either in person or by attorney and contest the application for participation in said fund by any person claiming to be entitled to participate therein, and may offer testimony in support of such contest. The president or chairman of said board shall have authority to issue process for witnesses and administer oaths to said witnesses and to examine any witness as to any matter affecting retirement or a pension under the provisions of this law. Such process for witness shall be served by any municipal employee and upon the failure of any witness to attend and testify, he or she may be compelled to attend and testify, as in any judicial proceeding. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6240. Medical examination

Said board may cause any person receiving any pension under this law, who has served less than twenty years, to appear and undergo a medical examination, as a result of which the board shall determine whether the relief in said case shall be continued, increased, decreased or discontinued. If any person receiving relief under the provisions of this law, after due notice, fails to appear and undergo such examination, the board may reduce or entirely discontinue such relief. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6241. Who are members

All municipal employees and superintendents in the employ of any such city or town, who have filed their application for participation in

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said fund, and have contributed a portion of their salary, are hereby declared municipal employees of such city or town, and they and their beneficiaries shall have the same rights and privileges as are herein granted to other members. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6242. Use of public funds

No funds shall be paid out of the public treasury of such incorporated city or town, in carrying out any of the provisions of this law, except on a majority vote of the voters of such city or town. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

Art. 6243. Awards exempt

No amount awarded to any person under the provisions of this law shall be liable for the debts of any person; shall not be assignable and shall be exempt from garnishment or other legal process. [As amended Acts 1933, 43rd Leg., p. 206, ch. 94.]

[Art. 6243a. Pensions for firemen and policemen in cities having population of 240,000 to 275,000]

Sec. 1. **Board of Trustees.** In all incorporated cities and towns containing more than two hundred and forty thousand (240,000) inhabitants and less than two hundred and seventy-five thousand (275,000) inhabitants, according to the preceding Federal census, having a fully or partially paid fire department or police department, the mayor, two (2) aldermen or commissioners, two (2) citizens of said city or town to be designated by the mayor, the chief of police, the chief of the fire department and their successors, shall constitute a board of trustees of the Firemen, Policemen and Fire Alarm Operator's Pension Fund, to provide for the disbursement of the same and to designate the beneficiaries thereof. The board shall be known as the Board of Firemen, Policemen and Fire Alarm Operator's Pension Fund, Trustees of ———, Texas. The board shall hold its office until the next General Election in such city for municipal officers. Said board shall organize by choosing one member as chairman and by appointing a secretary. Such board shall have charge of and administer said fund and shall order payments therefrom in pursuance of the provisions of this law. It shall report annually to the governing body of such city or town the condition of the said fund and the receipts and disbursements on account of the same with a complete list of the beneficiaries of said fund and the amounts paid them.

Sec. 2. **Membership in.** Each fully paid fireman, policeman and fire alarm operator and other persons herein designated as members of either of said departments, in the employment of such city or town, who desires himself or his beneficiaries, to participate in said fund, shall file a written statement with the city clerk of his desire to participate in said fund, and authorize said city or town to deduct one per cent (1%) of his wages each month to form a part of the fund known as the Firemen, Policemen and Fire Alarm Operator's Pension Fund.

Sec. 3. **Payments to Fund.** There shall be deducted for such fund from the wages of each fireman, policeman and fire alarm operator, and other persons herein designated as members of either of said departments, one per cent (1%) of the wages earned by such employees when they have filed application therefor. Any donations made to such fund and rewards received by any members of either departments, and all funds received from any source for such fund shall be deposited in like manner to the credit of such fund.

Sec. 4. **Conduct of Meetings.** The board shall hold regular monthly meetings and other meetings upon call of its chairman. It shall issue orders signed by the president or chairman and secretary to the persons entitled thereto, of the amount of money ordered paid to such persons

from such fund by said board which order shall state for what purpose such payment is to be made; it shall keep a record of its proceedings, which record shall be a public record; it shall at each monthly meeting send to the city treasurer a written list of persons entitled to payment from the fund, stating the amount of such payment, and for what granted, which list shall be certified to and signed by the president or chairman and secretary of such board, attested under oath. The Treasurer shall enter a copy of said list upon the book to be kept for that purpose which book shall be known as the "Record Firemen, Policemen and Fire Alarm Operators Pension Fund Board", of ——— Texas, and the said board shall direct payment of the amounts named therein to the persons entitled thereto out of said fund. No money of said fund shall be disbursed for any purpose without a vote of a majority of the board, which shall be a no and yes vote entered upon the proceedings of the board.

Sec. 5. Custody of Fund. The treasurer of said city or town shall be ex-officio treasurer of said fund. All money for said fund shall be paid over to and received by the treasurer for the use of said fund, and the duties thus imposed upon such treasurer shall be additional duties for which he shall be liable under his oath and bond as such city or town treasurer, but he shall receive no compensation therefor.

Sec. 6. Who may share in Fund. Any person who at the establishment of said fund, or thereafter shall have been duly appointed and enrolled in the fire department, police department or fire alarm operator's department of any such city or town, to which application is made for participation in said fund by such person and who has filed his written application within thirty (30) days after the organization of such board, or who shall file his application within thirty (30) days after becoming a member of either of such departments and who shall have allowed said deductions from his salary, as well as the beneficiaries hereinafter named, shall be entitled to participate in said fund.

Sec. 7. Retirement Pensions. Whenever any member of said departments who shall have contributed a portion of his salary, as provided herein, shall have served twenty (20) years or more in either of said departments, he may be entitled to be retired from said service upon application, and shall, if the board approves, be entitled to be paid from such funds a monthly pension of one-half of the salary received by him at the time of his retirement.

Sec. 8. Disability Pensions. Whenever any member of the fire department, police department or fire alarm operator's department of any city or town, and who is a contributor to said fund as provided, shall become so permanently disabled through injury received, or disease contracted, in the line of duty, as to incapacitate him for the performance of duty, or shall for any cause, through no fault of his own, become so permanently disabled as to incapacitate him for the performance of duty, and shall make written application therefor approved by a majority of the board, he shall be retired from service and be entitled to receive from said fund one-half of the monthly wages received by him as a member of either of said departments, at the time he became so disabled, to be paid in regular monthly installments.

Sec. 9. Death Benefits, Widow, etc. In case of the death before or after retirement of any member of the fire department, police department or fire alarm operator's department of any city or town, resulting from disease contracted, or injury received while in the line of duty, or from any other cause through no fault of his own, and who at the time of his death or retirement was a contributor to said fund, leaving a widow or child or children under sixteen (16) years of age, the widow shall be entitled to receive from said fund an amount not exceeding one-fourth of the monthly wages received by such member immediately preceding his death, and the children of said deceased under sixteen (16) years of age shall receive in the aggregate one-fourth of such monthly wages to be

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equally divided between them. When any child shall reach sixteen (16) years of age, then such child shall no longer participate in the division of said wages of said deceased, but the same shall be paid to his remaining children, if any, under sixteen (16) years of age, in equal parts, until they respectively become sixteen (16) years of age. In no case shall the amount paid to any one family exceed the amount of one-half the wages earned by the deceased immediately prior to the time of his death. Upon the remarriage of any widow or the marriage of any child granted such pension, such pension shall cease. No widow or child of any such member resulting from any marriage contract subsequent to the date of retirement of said member, shall be entitled to a pension under this law.

Sec. 10. Death Benefits, Father, etc. If any member of the fire department, police department, or fire alarm operator's department dies from injuries received or disease contracted while in line of duty, or from any cause through no fault of his own, who was a contributor to said fund and entitled to participate in said fund himself, leaves no wife or child, but who shall leave surviving him a dependent father, mother, brother or sister, wholly dependent upon said person for support, such dependent father, mother, sister and brother shall be entitled to receive in the aggregate one-half of the wages earned by said deceased immediately prior to his death, to be equally divided between those who are wholly dependent on said deceased, so long as they are wholly dependent. The board shall have authority to determine the facts as to the dependency of said parties and each of them, as to how long the same exists, and may at any time upon the request of any contributor to such fund reopen any award made to any of said parties and discontinue such pension as to all or any of them as it may deem proper, and the findings of said board in regard to such matter and as to all pensions granted under this law shall be final upon all parties seeking a pension as a dependent of said deceased, or otherwise, until such award of the trustees shall have been set aside or revoked.

Sec. 11. Investigations. The board shall consider all cases for the retirement and pension of the members of the fire, police and fire alarm operator's department rendered necessary or expedient under the provisions of this law, and all applications for pensions by widows and the children and of dependent relatives, and the said trustees shall give written notice to persons asking a pension to appear before said board and offer such sworn evidence as he or they may desire. Any person who is a member of either of said departments and who is a contributor to said fund may appear either in person or by attorney and contest the application for participation in said fund by any person claiming to be entitled to participate therein, and may offer testimony in support of such contest. The president or chairman of said board shall have authority to issue process for witnesses and administer oaths to said witnesses and to examine any witness as to any matter affecting retirement or a pension under the provisions of this law. Such process for witness shall be served by any member of the police, fire and fire alarm operator's department and upon the failure of any witness to attend and testify, he or she may be compelled to attend and testify, as in any judicial proceeding.

Sec. 12. Medical Examination. Said board may cause any person receiving any pension under the provisions of this law, who has served less than twenty (20) years, to appear and undergo a medical examination, as a result of which the board shall determine whether the relief in said case shall be continued, increased, decreased or discontinued. If any person receiving relief under the provisions of this law, after due notice, fails to appear and undergo such examination, the board may reduce or entirely discontinue such relief.

Sec. 13. Who Are Members. All fire, police and fire alarm operators and superintendents in the employ of any such city or town, who have

filed their application for participation in said fund, and have contributed a portion of their salary, as provided for other members of such departments, are hereby declared to be members of the fire, police and fire alarm operators' department of such city or town, and they and their beneficiaries shall have the same rights and privileges as are herein granted to other members of such departments of such cities.

Sec. 14. Use of Public Funds. No funds shall be paid out of the public treasury of any such incorporated city or town, in carrying out any of the provisions of this law, except on a majority vote of the voters of such city or town.

Sec. 15. Awards exempt. No amount awarded to any person under the provisions of this law shall be liable for the debts of any such person, shall not be assignable and shall be exempt from garnishment or other legal process. [Acts 1933, 43rd Leg., 1st C. S., H. B. #30.]

[Art. 6243b. Firemen and policemen pension fund in cities of over 100,000]

Sec. 1. Board of Trustees.—In all incorporated cities and towns containing more than one hundred thousand (100,000) inhabitants and less than one hundred eighty-five thousand (185,000) inhabitants, according to the last preceding Federal Census, having a fully or partially paid fire department or police department, the mayor, two (2) aldermen or commissioners, two (2) citizens of said city or town to be designated by the mayor, the chief of police, the chief of the fire department and their successors, shall constitute a board of trustees of the Firemen, Policemen and Fire Alarm Operators' Pension Fund, to provide for the disbursement of the same and to designate the beneficiaries thereof. The board shall be known as the Board of Firemen, Policemen, and Fire Alarm Operators' Pension Fund, Trustees of ———, Texas. The board shall hold its office until the next General Election in such city for municipal officers. Said board shall organize by choosing one member as Chairman and by appointing a secretary. Such board shall have charge of and administer said fund and shall order payments therefrom in pursuance of the provisions of this law. It shall report annually to the governing body of such city or town the condition of the said fund and the receipts and disbursements on account of the same with a complete list of the beneficiaries of said fund and the amounts paid them.

Sec. 2. Membership in.—Each fully paid fireman, policeman and fire alarm operator and other persons herein designated as members of either of said departments, in the employment of such city or town, who desires himself or his beneficiaries, to participate in said fund, shall file a written statement with the city clerk of his desire to participate in said fund, and authorize said city or town to deduct one per cent (1%) of his wages each month to form a part of the fund known as the Firemen, Policemen and Fire Alarm Operators' Pension Fund.

Sec. 3. Payments to Fund.—There shall be deducted for such fund from the wages of each fireman, policeman and fire alarm operator, and other persons herein designated as members of either of said departments, one per cent (1%) of the wages earned by such employees when they have filed application therefor. Any donations made to such fund and rewards received by any member of either of said departments, and all funds received from any source for such fund shall be deposited in like manner to the credit of such fund.

Sec. 4. Conduct of meetings.—The board shall hold regular monthly meetings and other meetings upon call of its chairman. It shall issue orders signed by the president or chairman and secretary to the persons entitled thereto, of the amount of money ordered paid to such persons from such fund by said board which order shall state for what purpose such payment is to be made; it shall keep a record of its proceed-

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ings, which record shall be a public record; it shall at each monthly meeting send to the city treasurer a written list of persons entitled to payment from the fund, stating the amount of such payment, and for what granted, which list shall be certified to and signed by the president or chairman and secretary of such board, attested under oath. The treasurer shall enter a copy of said list upon the book to be kept for that purpose, which book shall be known as the "Record Firemen, Policemen and Fire Alarm Operators' Pension Fund Board," of _____, Texas, and the said board shall direct payment of the amounts named therein to the persons entitled thereto out of said fund. No money of said fund shall be disbursed for any purpose without a vote of a majority of the board, which shall be a no and yes vote entered upon the proceedings of the board.

Sec. 5. Custody of Fund.—The Treasurer of said city or town shall be ex-officio treasurer of said fund. All money for said fund shall be paid over to and received by the treasurer for the use of said fund, and the duties thus imposed upon such treasurer shall be additional duties for which he shall be liable under his oath and bond as such city or town treasurer, but he shall receive no compensation therefor.

Sec. 6. Who may share in fund.—Any person who at the establishment of said fund, or thereafter shall have been duly appointed and enrolled in the fire department, police department or fire alarm operators' department of any such city or town, to which application is made for participation in said fund by such person and who has filed his written application within thirty (30) days after the organization of such board, or who shall file his application within thirty (30) days after becoming a member of either of such departments and who shall have allowed said deductions from his salary, as well as the beneficiaries hereinafter named, shall be entitled to participate in said fund.

Sec. 7. Retirement pensions.—Whenever any member of said departments who shall have contributed a portion of his salary, as provided herein, shall have served twenty (20) years or more in either of said departments, he may be entitled to be retired from said service upon application, and shall, if the board approves, be entitled to be paid from such funds a monthly pension of one-half of the salary received by him at the time of his retirement.

Sec. 8. Disability pensions.—Whenever any member of the fire department, police department or fire alarm operators' department of any such city or town, and who is a contributor to said fund as provided, shall become so permanently disabled through injury received, or disease contracted, in the line of duty, as to incapacitate him for the performance of duty, or shall for any cause, through no fault of his own, become so permanently disabled as to incapacitate him for the performance of duty, and shall make written application therefor approved by a majority of the board, he shall be retired from service and be entitled to receive from said fund one-half of the monthly wages received by him as a member of either of said departments, at the time he became so disabled, to be paid in regular monthly installments.

Sec. 9. Death benefits, widow, etc.—In case of the death before or after retirement of any member of the fire department, police department or fire alarm operators department of any city or town, resulting from disease contracted, or injury received while in the line of duty, or from any other cause through no fault of his own, and who at the time of his death or retirement was a contributor to said fund, leaving a widow or child or children under sixteen (16) years of age, the widow shall be entitled to receive from said fund an amount not exceeding one-fourth of the monthly wages received by such member immediately preceding his death, and the children of said deceased under sixteen (16) years of age shall receive in the aggregate one-fourth of such monthly wages to be equally divided between them. When any child shall reach sixteen (16) years of age, then such child shall no longer participate in the

division of said wages of said deceased, but the same shall be paid to his remaining children, if any, under sixteen (16) years of age, in equal parts, until they respectively become sixteen (16) years of age. In no case shall the amount paid to any one family exceed the amount of one-half the wages earned by the deceased immediately prior to the time of his death. Upon the remarriage of any widow or the marriage of any child granted such pension, such pension shall cease. No widow or child of any such member resulting from any marriage contract subsequent to the date of retirement of said member, shall be entitled to a pension under this law.

Sec. 10. Death benefits, father, etc.—If any member of the fire department, police department, or fire alarm operators' department dies from injuries received or disease contracted while in the line of duty, or from any cause through no fault of his own, who was a contributor to said fund and entitled to participate in said fund himself, leaves no wife or child, but who shall leave surviving him a dependent father, mother, brother, or sister, wholly dependent upon said person for support, such dependent father, mother, sister and brother shall be entitled to receive in the aggregate one-half of the wages earned by said deceased immediately prior to his death, to be equally divided between those who are wholly dependent on said deceased, so long as they are wholly dependent. The board shall have authority to determine the facts as to the dependency of said parties and each of them, as to how long the same exists, and may at any time upon the request of any contributor to such fund, reopen any award made to any of said parties and discontinue such pension as to all or any of them as it may deem proper, and the findings of said board in regard to such matter and as to all pensions granted under this law shall be final upon all parties seeking a pension as a dependent of said deceased, or otherwise, until such award of the trustees shall have been set aside or revoked.

Sec. 11. Investigations.—The board shall consider all cases for the retirement and pension of the members of the fire, police and fire alarm operators' department rendered necessary or expedient under the provisions of this law, and all applications for pensions by widows and the children and of dependent relatives, and the said trustees shall give written notice to persons asking a pension to appear before said board and offer such sworn evidence as he or they may desire. Any person who is a member of either of said departments and who is a contributor to said fund may appear either in person or by attorney and contest the application for participation in said fund by any person claiming to be entitled to participate therein, and may offer testimony in support of such contest. The president or chairman of said board shall have authority to issue process for witnesses and administer oaths to said witnesses and to examine any witness as to any matter affecting retirement or a pension under the provisions of this law. Such process for witness shall be served by any member of the police, fire and fire alarm operators' department and upon the failure of any witness to attend and testify, he or she may be compelled to attend and testify, as in any judicial proceeding.

Sec. 12. Medical examination.—Said board may cause any person receiving any pension under the provisions of this law, who has served less than twenty (20) years, to appear and undergo a medical examination, as a result of which the board shall determine whether the relief in said case shall be continued, increased, decreased or discontinued. If any person receiving relief under the provisions of this law, after due notice, fails to appear and undergo such examination, the board may reduce or entirely discontinue such relief.

Sec. 13. Who are members.—All fire, police and fire alarm operators and superintendents in the employ of any such city or town, who have filed their application for participation in said fund, and have contributed

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a portion of their salary, as provided for other members of such departments, are hereby declared to be members of the fire, police and fire alarm operators' department of such city or town, and they and their beneficiaries shall have the same rights and privileges as are herein granted to other members of such departments of such cities.

Sec. 14. Use of Public Funds.—No funds shall be paid out of the public treasury of any such incorporated city or town, in carrying out any of the provisions of this law, except on a majority vote of the voters of such city or town.

Sec. 15. Awards exempt.—No amount awarded to any person under the provisions of this law shall be liable for the debts of any such person; shall not be assignable and shall be exempt from garnishment or other legal process. [Acts 1933, 43rd Leg., 1st C. S., p. 279, ch. 101.]

[Art. 6243c. Validating elections for pensions in cities of over 10,000]

Sec. 1. That where a majority of the resident taxpayers being qualified electors of any city or town in this State having a population in excess of ten thousand (10,000) inhabitants, having voted at an election held in such city or town in favor of the expending of public funds by such city or town in carrying out the provisions of Chapter 10, General Laws of the 36th Legislature, Regular Session, such election and all acts and proceedings had and done in connection therewith by the governing body of such city or town are hereby legalized, approved and validated and it is hereby declared that no further election shall be necessary for the expenditure of public funds to carry out the provisions of H. B. 30 [art. 6243a] and H. B. 31 [art. 6243b], of the First Called Session of the 43rd Legislature, but any election held under the provisions of Chapter 10, General Acts of the 36th Legislature, Regular Session, shall be and is hereby deemed to be sufficient to carry out the provisions of House Bill 30 [art. 6243a] and House Bill 31 [art. 6243b], of the First Called Session of the 43rd Legislature.

Sec. 2. Any other elections held in conformity with the provisions of Chapter 10, General Laws of the 36th Legislature, Regular Session, and adopting the provisions of said chapter are hereby legalized, approved and validated. Any funds now on hand and belonging to the Firemen and Policemen Fund shall remain a part of said fund and all warrants and vouchers heretofore issued are hereby legalized, approved and validated.

Sec. 3. All pensions heretofore paid by any city under the terms of Chapter 10, General Laws of the Thirty-sixth Legislature, Regular Session, including all pensions paid subsequent to the enactment of Senate Bill 139, Chapter 94 [arts. 6229-6243], Acts of the 43rd Legislature, Regular Session, making said Act applicable only to certain cities and up to November 1, 1933, are hereby in all things expressly validated and legalized, and all persons to whom such pensions have been paid shall hereafter be deemed to be proper pensioners under the terms of H. B. No. 30 [art. 6243a] and H. B. 31 [art. 6243b], Acts of the First Called Session of the 43rd Legislature.

Sec. 4. All pensioners added to the pension rolls as pensioners under the terms of Chapter 10, General Laws of the Thirty-sixth Legislature, Regular Session but subsequent to the enactment of Senate Bill No. 139, Chapter 94 [arts. 6229-6243] Acts of the 43rd Legislature, Regular Session, making said Act applicable only to certain cities, shall hereafter be deemed proper and legal pensioners on the rolls of all cities wherein a pension system has been established under the terms of H. B. No. 30 [art. 6243a] and H. B. 31 [art. 6243b], Acts of the First Called Session of the 43rd Legislature.

Sec. 5. All cities included in the population brackets of H. B. No. 30 [art. 6243a] and H. B. 31 [art. 6243b], Acts of the First Called Session of the 43rd Legislature, shall hereafter from the effective date of

this Act be deemed to have a pension system without the necessity of any election or any action on the part of the City Council, and such City Council or Governing Board shall immediately provide adequate funds for the payment of pensions under the terms of H. B. No. 30 [art. 6243a] and H. B. 31 [art. 6243b] and the terms of this Act. [Acts 1933, 43rd Leg., 1st C. S., p. 89, ch. 30.]

TITLE 112—RAILROADS

Art. 6479. [6676] [Power of Commission to relax requirement as to number of passenger trains; hearing; stopping at county seats; electric and motor cars]

It shall be the duty of the Commission to see that upon each railroad in this State carrying passengers for hire there shall be run at least one train each day, Sundays excepted, upon which passengers shall be hauled; provided, however, the Commission, may in its discretion, upon application filed and after notice and hearing, relax such requirement as to any railroad, or part, portion or branch thereof, when, in its opinion, public convenience permits of such relaxation, and shall relax such requirement when it appears upon such hearing that the running of one train each day, Sundays excepted, is not necessary in the rendition of adequate service to the public, or that on any railroad, or part, or portion or branch thereof, passenger service as frequent as one train each day, Sunday excepted, with the passenger traffic offered and reasonably to be expected, does not and will not pay the cost of such service plus a reasonable return upon the property employed in the rendition of such service; and Commission shall further regulate passenger train service so as to require the stoppage of such trains, for a time sufficient to receive and let off passengers, at such stations as may be designated by the Commission; and it may further prescribe the number of trains so operated each day which shall be required to stop at County seat stations; and if such railroad, or branch of same shall operate a gasoline or electric motor car over its line, carrying passengers for hire in this State, such motor car shall be deemed a train within the meaning of this Article and shall be subject to and included within the provisions hereof. [As amended Acts 1927, 40th Leg., p. 283, ch. 198; Acts 1933, 43rd Leg., p. 281, ch. 111.]

[Art. 6479a. Frequency of freight train service; powers of Commission; hearing; certificate; furnishing cars]

Every railroad company, receiver, trustee, lessee, agent or other person, company or association operating any line of railroad in this State shall be and hereby is required to furnish freight train service at intervals sufficiently frequent to meet the reasonable necessities of the freight traffic offered for transportation over such line of railroad. If the Railroad Commission of Texas, on application and after notice and hearing shall find that on any line of railroad in this State, or part, portion or branch thereof, the convenience of the public does not require the furnishing of freight train service at more frequent intervals than a specified number of trains each week, it shall certify such finding to said applicant, and until such certificate, after notice and hearing, shall have been modified or revoked, it shall be conclusively presumed that freight train service of the frequency specified in such certificate over the railroad, or part, portion or branch thereof, described in such certificate is fully adequate to discharge the public duty of the person, firm or corporation operating such railroad, and such person, firm or corporation shall not be subject to any penalties or liabilities whatsoever for failing to operate or furnish freight train service in excess of that specified in that certificate. The time within which cars may be required

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to be furnished for loading under any of the laws of this State shall, on the railroad, or part, or portion or branch thereof, specified in any such certificate, be extended and enlarged, in case any such certificate, be made, by multiplying the maximum number of days otherwise allowed by a fraction whose numerator shall be seven and whose denominator shall be the number of trains in any one direction which may be specified in such certificate as the maximum required in any one week. [Acts 1933, 43rd Leg., p. 280, ch. 110.]

Section 2 of Laws 1933, 43rd Leg., p. 280, ch. 110 makes the act cumulative of and in addition to all other laws of the State.

Art. 6548. Jitney lines

Any corporation authorized to operate a street or suburban railway or interurban railway and to carry passengers for hire, is hereby authorized subject in every case to the approval and consent of the governing body of the city or town where said street, suburban or interurban railway company is operated to substitute for such railway automobile motor bus lines, in whole or in part, and to maintain and operate motor buses for the purpose of carrying passengers for hire on the public roads, streets, plazas, alleys, and highways within the corporate limits of any incorporated cities or towns, under such regulations as may be prescribed by any such cities or towns, and on the public roads and highways within five (5) miles of the corporate limits of any such incorporated cities or towns, under such regulations, in territory outside of city limits, as the Commissioners Court of the county may prescribe; and such substitution of motor buses for street cars and street or interurban railways and the discontinuance of such street or interurban railways shall not in any way impair any of the corporate powers of corporations heretofore incorporated as street or interurban railways with respect to the operation of other public utilities authorized by their charters and by statutes now in force.

Provided, however, companies taking advantage of this Act shall amend their charters and pay the fees provided by law for the filing of such amendments; and, provided that this Act shall not affect any case now pending in the courts; and, provided further that nothing herein contained shall be so construed as to impair the rights of any city under any franchise it may heretofore have granted to the corporation in question, or its predecessor. [As amended Acts 1933, 43rd Leg., p. 48, ch. 22.]

[Art. 6550b. Same—purchaser of]

The title of Acts 1933, 43rd Leg., Spec. L., p. 31, ch. 25 reads as follows: "Act to authorize Panhandle and Santa Fe Railway Company to purchase, own and operate the railroad of Clinton-Oklahoma-Western Railroad Company of Texas, with its franchises and appurtenances now and hereafter owned; and the railroad of Kansas City, Mexico and Orient Railway Company of Texas, with its franchises and appur-

tenances now and hereafter owned; and the railroad of North Plains and Santa Fe Railway Company, with its franchises and appurtenances now and hereafter owned; and until such purchase or purchases is or are made, to authorize lease by the Panhandle and Santa Fe Railway Company of the railroads and other properties of said other companies, or any of them, and declaring an emergency."

TITLE 116—ROADS, BRIDGES, AND FERRIES

Art. 6673. Control of highways

Acts 1933, 43rd Leg., p. 975, H. C. R. # 21 read as follows: "WHEREAS, The State Highway Commission is charged with the duty of fixing the policies and selecting the personnel of the Highway Motor Patrol of this State; and

"WHEREAS, The State Highway Motor Patrol is charged with the duty of policing

the State Highways of this State and enforcing violations of all the highway laws; and

"WHEREAS, It is believed that many commercial motor vehicles, including those privately owned and operated as well as those operated for hire, are being used to transport loads over the highways of this State,

the weight of which is in excess of that for which they have paid license fees; and

"WHEREAS, The safety of the traveling public is being endangered by persons driving automobiles in a careless and reckless manner, without regard for the safety and welfare of others using said highways; and

"WHEREAS, Many of such automobiles are inadequately and improperly equipped with lights and brake facilities; now therefore, be it

"Resolved by the House of Representatives, the Senate concurring, That the State Highway Commission be requested to equip said Highway Patrol with facilities and instruments necessary for enforcing all of said highway laws, including scales and brake testing machines, as the Highway Commission may deem necessary and prop-

er, and that said State Highway Patrol be instructed by said State Highway Commission to enforce all of said motor vehicle laws without favor or partiality to any class or persons using the said highways; provided, however, that before any such instruments are purchased, the Legislature shall make provision therefor and the Appropriation Bills. Be it further

"Resolved, That the Board of Control cooperate with the State Highway Commission in equipping said Highway Motor Patrol so as to eliminate from the operation of said Highway Motor Patrol the rental costs in providing equipment for said Motor Patrol to transport the instruments and facilities to be used in making such test and in weighing commercial motor vehicles."

[Art. 6674c. Repealed by Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 3]

See Art. 6674q-3.

[Art. 6674e. Appropriations from Highway Fund]

Acts 1933, 43rd Leg., p. 800, ch. 234, §§ 1, 2 making appropriation for intracoastal bridges reads as follows: "Sec. 1. The State Highway Commission of Texas is hereby authorized, out of funds available for that purpose, to construct, operate and maintain highway bridges over and across the Intracoastal Waterway of Louisiana and Texas, the construction of which at the expense of

the Federal Government was authorized by the Congress of the United States in the River and Harbor Acts of March 3, 1925, and January 21, 1927.

"Sec. 2. Provided, however, that none of the moneys herein appropriated shall be spent on any roads except designated State Highways."

[Art. 6674f. Repealed by Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 3]

See Art. 6674q-3.

[Art. 6674g. Repealed by Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 3]

See Art. 6674q-3.

[Art. 6674h. Competitive bids]

All contracts proposed to be made by the State Highway Department for the improvement of any highway constituting a part of the State Highway System or for materials to be used in the construction or maintenance thereof shall be submitted to competitive bids. Notice of the time when and place where such contracts will be let and bids opened shall be published in some newspaper published in the county where the improvement is to be done once a week for at least two weeks prior to the time set for the letting said contract and in two other newspapers that the department may designate. Provided however, that on contracts involving less than Twenty-five Thousand (\$25,000.00) Dollars such advertising may be limited to two successive issues of any newspaper published in the county in which the work is to be done, and if there is no newspaper in the county in which the work is to be done then said advertising shall be for publication in some newspaper in some county nearest the county seat of the county in which the work is to be done. Provided further, that any person, firm or corporation may make application to have the name of said applicant placed upon a mailing list to receive notices of lettings of any contracts provided for herein; and notices of said lettings shall be mailed by the Highway Commission of the State of Texas to all persons, firms or corporations on said mailing list. The Highway Com-

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mission shall have the right to require all applicants to deposit with the commission a sum of not exceeding Fifteen (\$15.00) Dollars per year to cover costs of mailing notices. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 286, ch. 103, § 1.]

[Art. 6674i. Opening and rejecting bids]

The State Highway Department shall have the right to reject any and all such bids. All such bids shall be sealed, and filed with the State Highway Engineer, at Austin, Texas, and shall be opened at a public hearing of the State Highway Commission. All bidders may attend and all bids to be opened in their presence. Copies of all such bids shall be filed with the county in which the work is to be performed. Provided however, on contracts involving less than Twenty-five Thousand (\$25,000.00) Dollars bids may in the discretion of the Highway Commission be received at a public hearing by the Division Engineer at the Division Headquarters. All bids so received by the Division Engineer shall be tabulated and forwarded to the State Highway Commission, shall have the right to accept or reject same, and if accepted, award the contract to the lowest bidder. It shall be the duty of the Highway Commission to prescribe rules and regulations on all bidders on bids received by Division Engineers, but the rules and regulations required by the State Highway Commission for bids received at Austin by said Commission shall not apply to bidders submitting bids to Division Engineers. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 286, ch. 103, § 2.]

[Art. 6674n. Condemnation of right of way and materials by Commissioners' Court]

Whenever, in the judgment of the State Highway Commission, the use or acquisition of any land for road, right-of-way purposes, timber, earth, stone, gravel or other material, necessary or convenient to any road to be constructed, reconstructed, maintained, widened, straightened or lengthened, or land not exceeding one hundred feet in width for stream-bed diversion in connection with the locating, relocating or construction of a designated state highway by the State Highway Commission, the same may be acquired by purchase or by condemnation by the County Commissioners' Court. Provided that the county in which the state highway is located may pay for same out of the county road and bridge fund, or any available county funds.

Any Commissioners' Court is hereby authorized to secure by purchase or by condemnation on behalf of the State of Texas, any new or wider right-of-way or land not exceeding one hundred feet in width for stream-bed diversion in connection with the locating, relocating or construction of a designated state highway, or land or lands for material or borrow pits, to be used in the construction, reconstruction, or maintenance of state highways and to pay for the same out of the county road and bridge fund, or out of any special road funds or any available county funds. The State Highway Commission shall be charged with the duty of furnishing to the County Commissioners' Court the plats or field notes of such right-of-way or land and the description of such materials as may be required, after which the Commissioners' Court may, and is hereby authorized to purchase or condemn the same, with title to the State of Texas, in accordance with such field notes. Provided that in the event of condemnation by the county the procedure shall be the same as that set out in Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of 1925. [As amended Acts 1929, 41st Leg., 3rd C. S., p. 243, ch. 10; Acts 1930, 41st Leg., 5th C. S., p. 243, ch. 79; Acts 1933, 43rd Leg., p. 622, ch. 207.]

[Art. 6674q. Exchange of lands by State Highway Commission]

The State Highway Commission is hereby authorized and empowered at its discretion to exchange any lands or interests therein heretofore donated to the State of Texas, either for right-of-way purposes, or for the use of the people of Texas for camping accommodations and for park purposes, under and pursuant to the provisions of Chapter 37 of the General and Special Laws of the First Called Session of the Fortieth Legislature, page 110, for other lands or interests therein, located adjacent to or accessible from the state highway provided for in said Act and deemed by the Commission, in its discretion, to be more desirable for said purposes than said lands or interests heretofore donated; the State Highway Commission is authorized to execute the necessary deeds or conveyances for the purposes stated to be signed by the chairman pursuant to the order of the Commission. [Acts 1933, 43rd Leg., p. 761, ch. 224, § 1.]

[Art. 6674q—1. State assumption of county and road district highway bonds]

It is hereby expressly recognized and declared that all highways now or heretofore constituting a part of the system of State Highways which have been constructed in whole or in part from the proceeds of bonds, warrants or other evidence of indebtedness issued by counties of the State of Texas or by defined road districts of the State of Texas under the laws authorizing the same, have been and are, and will continue to be, beneficial to the State of Texas at large, and have contributed, and will contribute, substantially to the general welfare, settlement and development of the entire State, and that, by reason of the foregoing, a heavy and undue burden was placed, and still rests, upon such counties and defined road districts and their inhabitants, and both a legal and a moral obligation rest upon the State to compensate and reimburse such counties and defined road districts which, as aforesaid, have performed functions resting upon the State, and have paid expenses which were and are properly State expenses, all for the use and benefit of the State.

It is further declared to be the policy of the State to take over, acquire and/or purchase and retain the interest and equities of the various counties and defined road districts in and to the roads constituting a part of the system of designated State Highways and to reimburse said counties and districts therefor and to provide for the acquisition, establishment, construction, maintenance, extension and development of the system of designated State Highways of Texas from some source of income other than the revenues derived from ad valorem taxes. And it is hereby determined that the further provisions of this Act constitute a fair, just and equitable compensation, repayment and reimbursement to said counties and defined road districts for their aid and assistance to the State in the construction of a system of State Highways, and fully discharges the legally implied obligations of the State to compensate, repay and reimburse the agencies of the State for expenses incurred at the instance and solicitation of the State, as well as for expenses incurred for the benefit of the State. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 1.]

[Art. 6674q—2. Road districts defined]

By the expression "defined road district" or "road district" or "district," used in this Act, is meant any defined road district of the State or any Justice or Commissioner's precinct acting as a road district or any road district located in one, or more than one, county. By the expression "road" or "roads," as used in this Act, is meant roads, road beds, bridges, and culverts; but same shall not be construed to include the cost of right of way of any road within the terms of this Act. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 2.]

[Art. 6674q-3. Repeals]

That Sections 3, 6 and 7 of Senate Bill No. 74, Chapter 186 of the General Laws of the Regular Session of the 39th Legislature, be and the same are hereby in all things repealed; but this shall in no wise affect the carrying out of any binding contracts now existing between the State Highway Department and the Commissioners Court of any county, for such county, or for any defined road district. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 3.]

[Art. 6674q-4. Improvements under control of State Highway Department]

All further improvement of said State Highway System shall be made under the exclusive and direct control of the State Highway Department and with appropriations made by the Legislature out of the State Highway Fund. Surveys, plans and specifications and estimates for all further construction and improvement of said System shall be made, prepared and paid for by the State Highway Department. No further improvement of said System shall be made with the aid of or with any moneys furnished by the counties except the acquisition of rights of way which may be furnished by the counties, their subdivisions or defined road districts. But this shall in no wise affect the carrying out of any binding contracts now existing between the State Highway Department and the Commissioners Court of any county, for such county, or for any defined road district. In the development of the System of State Highways and the maintenance thereof, the State Highway Commission shall, from funds available to the State Highway Department, provide:

(a) For the efficient maintenance of all highways comprising the State System.

(b) For the construction, in cooperation with the Federal Government to the extent of Federal Aid to the State, of highways of durable type of the greatest public necessity.

(c) For the construction of highways, perfecting and extending a correlated system of State Highways, independently from State Funds. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 4.]

[Art. 6674q-5. Appropriations from State Highway Fund]

All moneys now or hereafter deposited in the State Treasury to the credit of the "State Highway Fund," including all Federal Aid money deposited to the credit of said Fund under the terms of the Federal Aid Highway Act, shall be subject to appropriation by the Legislature for the specific purpose of the improvement of said System of State Highways by the State Highway Department. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 5.]

[Art. 6674q-6. Allocation of funds from gasoline tax]

Each month the Comptroller of Public Accounts, after computing and ascertaining the maximum amount of refunds that may be due by the State on the business of selling gasoline, as provided in Section 17, Chapter 88, General Laws, Acts of the 2nd Called Session of the 41st Legislature, as amended by Chapter 104, General Laws, Acts of the Regular Session of the 42nd Legislature, shall deduct same from the total occupation or excise tax paid on the business of selling gasoline, as imposed by Section 17, Chapter 98, General Laws, Acts of the Regular Session of the 42nd Legislature; and, beginning with said taxes collected on and after October 1st, 1932, shall, after deducting the said maximum amount of refunds, allocate and place the remainder of said occupation or excise tax on the business of selling gasoline, in the State Treasury as provided by law, in the proportion as follows: One-fourth ($\frac{1}{4}$) of such occupation

or excise tax shall go to, and be placed to the credit of, the Available Free School Fund; one-fourth ($\frac{1}{4}$) of same shall go to, and be placed to the credit of, a fund to be known as the "County and Road District Highway Fund"; the remainder of such occupation or excise tax shall go to, and be placed to the credit of, the State Highway Fund, for the construction and maintenance of the public roads of the State, constituting and comprising the system of State Highways of Texas, as designated by the State Highway Commission of Texas. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 6.]

[Art. 6674q—7. Administrative provisions]

(a) All bonds, warrants or other evidences of indebtedness heretofore issued by counties or defined road districts of the State, which mature on or after January 1, 1933 and in so far as amounts of same were issued for, and the proceeds actually expended in, the construction of roads that constituted and comprised a part of the system of designated State Highways on September 17, 1932, or that theretofore constituted a part of said system, and which has either been changed, relocated, or abandoned, whether said indebtedness is now evidenced by the obligations originally issued or by refunding obligations, or both; and all bonds, warrants or other evidences of indebtedness which have been issued and sold since September 17, 1932, or which may be hereafter issued and sold by any county or district for the purpose of constructing any designated State Highway pursuant to a contract existing on or before September 1, 1932, between the State Highway Department and any such county or district, shall be eligible to participate as of January 1, 1933, in the distribution of the moneys coming into said County and Road District Highway Fund subject to the provisions of this Act, less, however, the amount of the sinking funds which was required to be accumulated in such funds of the respective counties and districts under existing laws, and under the provisions of the Statutes and order of the Commissioners' Courts authorizing the issuance of said eligible obligations, and the tax levy authorized at the time of issuance thereof, for the time such obligations have run, regardless of whether the full amount of said funds are actually on hand and to the credit of the sinking funds of the several counties and defined road districts.

It being expressly provided in this connection that the term "sinking funds" shall include only those funds accumulated, and required to be accumulated, under now existing laws for the retirement of bonds, and shall not include any excess or surplus which may have been accumulated by any county or road district above the legal requirements. The amount of such eligible indebtedness is to be determined as hereinafter provided. In the event the State Highway Commission has, on a date prior to September 17, 1932, indicated its intention of designating as State Highways the public roads of any county or road district in this State, and has recorded such intention in its official records, then the provisions of this Act shall apply.

(b) The Board of County and District Road Indebtedness, created by Chapter 13 [Arts. 6674q—1 et seq.], Acts of the Third Called Session of the Forty-second Legislature, consisting of the State Highway Engineer, State Comptroller of Public Accounts and State Treasurer, is hereby continued and charged with the duties of administering this Act. The State Comptroller of Public Accounts shall be the Secretary of said Board and said Board shall elect its own chairman from its membership. The Board shall adopt its own rules consistent with this Act for the proceedings held hereunder and shall have authority to call to its assistance, in arriving at the amount of bonds, warrants or other evidences of indebtedness eligible to participate in the County and Road District Highway Fund, any official or employee of this State. The Board of County and Road District Indebtedness shall have access to all county and State records pertinent to

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its inquiry in arriving at the amounts of the bonds, warrants or other evidences of indebtedness eligible to participate in the County and Road District Highway Fund.

(c) Said Board shall avail itself of all data and information assembled in the administration of Chapter 13 [Arts. 6674q—1 et seq.], Acts of the Third Called Session of the Forty-second Legislature, and said Board is hereby authorized to call on any County Judge or any of the county or State officials or employees, and shall have full access to all the records, books and public documents for the purpose of obtaining any information which they may deem necessary to a proper administration of the provisions of this Act.

(d) It shall be the duty of the Board of County and District Road Indebtedness, from the data and information furnished by the County Judges of the State, and by the Chairman of the State Highway Commission, and by the State Comptroller, and from such further investigation as said Board may deem necessary, to ascertain and determine the amount of indebtedness eligible under the provisions of this Section of this Act to participate in the moneys coming into said County and Road District Highway Fund. Whenever in the case of any particular issue of obligations the proceeds thereof have been expended partly on designated State Highways, or highways heretofore constituting designated State Highways, and partly on roads which never have been designated State Highways, said Board shall ascertain and determine the amount of said obligations, the proceeds of which were actually expended on State Highways or on roads heretofore constituting State Highways, and said obligations to said amount and extent shall be eligible for participation in the moneys coming into the County and Road District Highway Fund, and said ascertainment and determination shall be certified to the County Judge by said Board, and all of the unmatured outstanding obligations of said issue shall ratably have the benefit of said participation in said moneys. The ascertainment and determination by the Board of County and District Road Indebtedness after reasonable notice and hearing, of the amount of any county or district obligations eligible under the provisions of this Act to participate in any moneys coming into the County and Road District Highway Fund, or as to the amount of any obligations the proceeds of which were actually expended on State Highways, or on roads heretofore constituting State Highways, shall be final and conclusive and shall not be subject to review in any other tribunal. But said Board of County and District Road Indebtedness shall have the right at any time to correct any errors or mistakes it may have made.

(e) The Comptroller shall make and keep a record of all county and defined road district eligible obligations, issue by issue, and a book shall be prepared and kept in which shall be recorded all eligible issues, maturity dates of principal and interest, rates of interest, and places of payment for each county and each defined road district; each issue and the data pertaining to same shall be listed separately. The Comptroller shall keep a record of all vouchers issued.

(f) The State Treasurer shall keep a separate account, for each county and defined road district, of any moneys received for the credit of said county or district pursuant to the provisions hereof.

(g) A list shall be compiled by the Board of County and District Road Indebtedness showing the amount ascertained and determined by it to be the eligible indebtedness of each county and each defined road district, and a copy thereof shall be furnished to each County Judge in this State.

(h) From year to year, and not later than July 15 of each year, said Board shall ascertain and determine the sum necessary to pay the interest and principal maturing and sinking fund requirements, on all eligible obligations for the next succeeding calendar year and shall

estimate the sum which shall be applicable to the same, and the Board in each instance shall certify the sums so ascertained and determined to the State Treasurer. After the Board shall estimate the amount applicable to interest, principal and sinking fund requirements, the Comptroller shall, not later than August 1 of each year, give notice to the County Judge of each county of the estimated amount available for application to said interest, principal and sinking fund requirements. In the event the amount so estimated to be applied to the payment of eligible obligations for any County or Road District is sufficient to meet all maturing interest, principal and sinking fund requirements, the Commissioners' Court may dispense with the collection of ad valorem levies for such calendar and/or fiscal year for such interest, principal or sinking fund requirements. In the event the amount of payments so estimated to be applied is not sufficient to meet the maturing interest, principal and sinking fund requirements, the County Commissioners' Court shall collect, from taxes on the property in said respective counties and districts, an amount of money equal to the difference between the amount of such requirements and the amount available for application. In this connection it is declared to be the intent of the Legislature that all contractual duties and obligations which may exist between any county and/or district and the owner or holder of the present outstanding indebtedness of any such county and/or defined road district, shall not be in any manner disturbed or impaired and shall remain inviolate. Any tax heretofore provided to be levied in support of any present outstanding indebtedness affected by the provisions of this Act shall continue to be assessed, levied and collected as originally provided; however, the collection of said tax may, by order of the Commissioners' Court, be lessened and reduced by the payments made, and to be made, thereon and in behalf of such indebtedness out of the Special County and Road District Highway Fund, as herein provided, and as succeeding Legislatures shall, by appropriation, make provision therefor. The entire proceeds of all taxes collected on any eligible issue of bonds shall be remitted by the County Treasurer of each County collecting the same, together with a statement of the amount collected, to the State Treasurer and shall be held by the State Treasurer as Ex-officio Treasurer of said county or road district for the benefit of the County or District remitting the same, and be disbursed to meet the principal and interest requirements on the eligible obligations of said county or district. In the event the amount of funds available to be applied to meet the maturing interest, principal and sinking fund requirements in any calendar or fiscal year is not sufficient to satisfy such requirements, the moneys available in the County and Road District Highway Fund, as estimated and determined by the Board, shall be, for that calendar or fiscal year first applied to the payment and satisfaction of interest maturing on all eligible obligations during the particular calendar and/or fiscal year, and this payment is to be made ratably upon the interest on eligible obligations of the various counties or districts; and if there is more of said moneys available than necessary to pay all of said interest, then such balance over the required interest payment for each year shall be distributed ratably to each issue of eligible obligations on the basis of the principal of eligible obligations and sinking fund requirements thereon maturing each year.

(i) The County Commissioners' Court of any county may exercise the authority now conferred by law to issue refunding obligations for the purpose of refunding any eligible debt of the county or of any defined road district; and such refunding obligations, when validly issued, shall be eligible obligations within the meaning of this Act, if said Board of County and Road District Indebtedness shall approve the maturities of said refunding obligations and the rate of interest borne by them. In any instance where, in the opinion of said Board, the existing maturities

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of any issue of eligible obligations or any part thereof are such as to give the county or defined road district which issued them an inequitable or disproportionate participation in the moneys coming into the County and Road District Highway Fund in any particular period, said Board, in its discretion, may require said issue or any part thereof to be refunded into refunding obligations bearing such rate of interest and having such maturities as may be satisfactory to the Board. And if said county or road district shall fail or refuse to effectuate such refunding within a reasonable time to be fixed by said Board said obligations so required to be refunded shall cease to be eligible for participation in said County and Road District Highway Fund until the requirements of said Board with respect to refunding the same shall be complied with. Provided that no commission, bonus or premium shall be paid by any county or road district for the refunding of such obligations and no County Treasurer shall receive any commission for the handling of the funds derived from the refunding of such obligations. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, as amended 1933, 43rd Leg., p. 347, ch. 136.]

(j) All moneys deposited to the credit of the County and Road District Highway Fund, with the State Treasurer, up to September 1, 1933, are hereby appropriated to said respective counties and road districts, and shall be received, held, used and applied by the State Treasurer, as Ex-officio Treasurer of said respective counties and road districts, to the payment of the interest, principal and sinking fund requirements on all eligible obligations maturing on and from January 1, 1933, to September 1, 1933. All moneys remaining in said fund after payment of all eligible obligations maturing on and from January 1, 1933, to September 1, 1933, and sinking fund requirements, are hereby appropriated to said respective counties and road districts, and shall be received, held, used and applied by the State Treasurer, as Ex-officio Treasurer of said respective counties and road districts, to the payment of principal, interest and sinking fund requirements on all eligible obligations maturing from September 1, 1933, to December 31, 1933, both inclusive. And each year thereafter until all of such eligible obligations are fully paid, all moneys coming into the credit of the County and Road District Highway Fund with the State Treasurer and all moneys remaining therein from the previous year shall be received and held by him as Ex-officio Treasurer of said counties and districts, and shall be subject to appropriation for the payment of interest, principal and sinking fund maturing from time to time on said eligible obligations. As payment of principal or interest becomes due upon any such eligible obligation, the State Comptroller of Public Accounts shall issue his warrants to the State Treasurer for the payment thereof; and the State Treasurer shall pay same at his office in Austin, Texas, or by remitting same to the bank or trust company or other place of payment designated in the particular obligation. Such warrants shall state on their face that the proceeds of the same are to be applied by the State Treasurer or other paying agent to the payment of certain specified obligations or interest therein described, giving the name of the county or district by which they were issued, numbers, amounts and dates of maturities of the obligations and interest to be paid with instructions to the State Treasurer or the paying agent, bank or trust company to return to the Comptroller such obligations and interest coupons when same are paid, and the Comptroller shall, upon receipt of said obligations and coupons, credit same on his records and send them, duly cancelled, to the Commissioners' Court of the appropriate county, which shall cause to be duly entered a record of such cancellation. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, as amended Acts 1933, 43rd Leg., p. 347, ch. 136.]

This subd. was also amended by Acts 1933, 43rd Leg., p. 34, ch. 14, effective Feb. 27, 1933.

(k) Expense necessary to be incurred in the determination of the indebtedness of the counties and defined road districts of the State in the construction of designated State Highways, and in the discharge of the duties required for the payment of such obligations, shall be paid from the County and Road District Highway Fund by warrant approved by the State Comptroller and one other member of said Board. The Chief Accountant shall receive a salary not to exceed Two Hundred Fifty (\$250.00) Dollars per month; Auditors shall receive a salary not to exceed Two Hundred (\$200.00) Dollars per month; and the Bookkeepers and/or Bond Clerks not to exceed One Hundred Fifty (\$150.00) Dollars per month; Stenographers and/or Clerks not to exceed One Hundred (\$100.00) Dollars per month, said salaries to be fixed by said Board. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, as amended Acts 1933, 43rd Leg., p. 347, ch. 136.]

(l) All of the securities now on hand in which sinking funds collected for the benefit of outstanding eligible issues are invested and all funds and securities hereafter acquired for the benefit of the entire outstanding balance of all eligible bond issues, shall be forwarded within thirty days from the effective date of this Act, and thereafter within thirty days of the acquisition of such fund or securities, to the State Treasurer as Ex-officio County Treasurer of the various counties and road districts. Provided that the cash now on hand in the sinking fund created for the benefit of outstanding eligible obligations may also be remitted as above set forth at the option of such county or road district. Any county, the Commissioners' Court of which fails or refuses to comply with the provisions of this Act in all things including the levy, assessment and collection of a tax of and at a rate sufficient to pay all sums due, or to become due, which the State is unable to pay or to provide each year the proportionate amount of sinking fund required to redeem its outstanding bonds at their maturity shall not participate in any of the benefits of this Act so long as such county fails or refuses to comply with all the provisions hereof.

The Board of County and Road District Indebtedness shall have and possess full authority to invest all such sinking funds, including all future sinking funds acquired in any manner whatsoever, in any eligible obligations of the various political subdivisions of this State, and where there is on hand a sufficient amount of money or securities to the credit of any one political subdivision to retire some of its outstanding obligations, whether then due or not, the Board of County and Road District Indebtedness may, if it deem it advisable, purchase and cancel said obligations of such particular political subdivision.

(m) All moneys deposited to the credit of the County and Road District Highway Fund with the State Treasurer up to September 1, 1935, are hereby appropriated to said respective counties and road districts and shall be received, held, used and applied by the State Treasurer as Ex-officio Treasurer of said respective counties and road districts to the payment of the interest, principal and sinking fund requirements on all eligible obligations maturing on and from September 1, 1933, to and including August 31, 1935, and each year thereafter until all of such eligible obligations are fully paid and moneys coming in to the credit of the County and Road District Highway Fund with the State Treasurer and all moneys remaining therein from the previous year shall be received and held by him as Ex-officio Treasurer of said counties and districts and shall be subject to the appropriation for the payment of interest, principal and sinking funds maturing from time to time, on said eligible obligations. As payment of principal and/or interest becomes due upon any such eligible obligations the State Comptroller of Public Accounts shall issue his warrant to the State Treasurer for the payment thereof, and the State Treasurer shall pay the same at his office in Austin, Texas, or by remitting to the Bank or Trust Company or other

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place of payment designated in the particular obligation. Such warrants shall show on their face that the proceeds of the same are to be applied by the paying agent to the payment of certain specified obligations or interest therein described, giving the name of the county or district by which they were issued, numbers, amounts and dates of maturities of the obligations and interest to be paid with instructions to the State Treasurer, paying agent, bank or trust company to return to the Comptroller such obligations and interest coupons when same are paid, and the Comptroller shall, upon receipt of said obligations and coupons, credit same on his records and send them, duly cancelled, to the Commissioners' Court of the appropriate county, which shall cause to be duly entered a record of such cancellation.

(n) House Bill No. 263 being an Act amending Section 7-j of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, which was passed by the Regular Session of the Forty-third Legislature and approved by the Governor on February 27, 1933, is hereby in all things repealed. [Acts 1933, 43rd Leg., p. 347, ch. 136.]

[Art. 6674q—7A. Additional administrative provisions]

Sec. 7A. (1) The Board of County and District Road Indebtedness shall keep adequate minutes of its proceedings and semi-annually within sixty days after February 28th, and after August 31st, of each year shall make itemized reports to each county with respect to the receipt, disbursement, and investment of the funds credited to such county. The minutes shall disclose all investments made and transfers or exchanges of securities made, the parties at interest, and the price paid, and shall disclose all essential information concerning the retirement of bonds. The commissioners' court of any county, and/or its accredited representatives, shall have the right to inspect the records of said Board of County and District Road Indebtedness and of the State Treasurer at any reasonable time for the purpose of making any investigation or audit of the accounts affecting its county.

The Board of County and District Road Indebtedness shall, within thirty days after the close of each calendar year, make a complete accounting for the preceding year to the Governor of this State showing in such report its acts, investments, changes in investments, and sinking fund status of each county, and shall file copies of such report with the President of the Senate and with the Speaker of the House of Representatives.

(2) Should Chapter 13 [Art. 6674q-1 et seq.], Acts of the Third Called Session of the Forty-second Legislature, as amended by Chapter 136, Acts of the Regular Session of the Forty-third Legislature, and as here now amended, be repealed or be or become inoperative as to any county, then it shall be the duty of the Board of County and District Road Indebtedness to ascertain immediately the amount of moneys and securities remaining on hand with it or with the State Treasurer belonging to the county or counties affected, and forthwith to return the same to the county treasurer of the county entitled thereto, accompanied by an itemized statement of the account of the county.

(3) All funds on hand belonging to, and hereafter credited to, the several counties shall, for the purpose of said Chapter 13, as amended, be considered State funds and as such shall be deposited at interest in the depositories provided for by the State laws and all interest earned on such funds and on the securities in which the sinking funds are invested shall belong to said counties and shall be credited to them by the State Treasurer as earned and collected.

(4) Any county which has selected a depository according to law and in which county such depository has qualified by giving surety bonds or by the deposit of adequate securities of the kind provided by law, which in the opinion of the Board of County and District Road Indebtedness is

ample to cover the county deposits, and in which county there has been no default by any county depository for a period of three years and which county has not defaulted in the payment of any installment of principal and/or interest on any county bonds for a period of five years next preceding the date of the filing of its application for exemption as hereinafter provided and in which county all sinking funds of all bond issues are in excess of the standard required by law and which county has levied for the current tax year adequate rates in support of outstanding bond issues as required by the Constitution and statutes of this State, shall be exempted from such of the provisions of Section 7, of Chapter 136 Acts of the Regular Session of the Forty-third Legislature as require counties to forward to said Board of County and District Road Indebtedness or to the State Treasurer (1) the securities in which the sinking funds of eligible road bond issues are now invested and (2) the residue in said sinking funds and (3) taxes levied and collected for the payment of interest and principal of eligible road bond issues. Any such county may obtain an exemption in the manner and under the conditions herein provided and thereupon shall be authorized to administer the matters pertaining to such eligible issues in the manner hereinafter set out.

(5) The county judge of any county of this State desiring to obtain an allowable exemption from any of the provisions of said Section 7 for his county may make written application to the Board of County and District Road Indebtedness for an inspection of the accounts of such county by said Board of County and District Road Indebtedness, setting out the facts which bring said county within the exemption claimed under the preceding section.

The application shall bear the certificate of the county auditor of the county, or of the county clerk if such county have no county auditor, as to the correctness of the matters set out therein. It shall be the duty of the Board of County and District Road Indebtedness through its members, or through an accredited employee, forthwith to inspect the records of said county to ascertain whether or not the conditions herein required to exempt it from the provisions of said Section 7 with request to the matters and conditions herein set out have been met and do exist, and said Board of County and District Road Indebtedness shall be given access to the records of the applicant county for the purpose of making said inspection. The Board of County and District Road Indebtedness may also require documentary proof under oath and shall make its findings within thirty days from the date of the filing of such application.

Should the Board of County and District Road Indebtedness find the applicant county not entitled to the exemption under the proof submitted, such application shall be denied, but the applicant county may file its application for relief in the District Court of Travis County, and the same shall be docketed, tried, and disposed of under the rules applicable to civil causes generally. The Board of County and District Road Indebtedness shall be represented by the Attorney General, and the county shall be entitled to be represented by the district attorney or criminal district attorney of ¹ the county attorney of the county affected or by other counsel appointed by it.

(6) The Board of County and District Road Indebtedness shall immediately upon the grant to any county of the exemption herein provided or upon the grant of such exemption by any court of competent jurisdiction direct the return by the State Treasurer to such county of all of the securities and cash then on hand belonging to such county and said Board shall furnish to such county a complete statement of the receipts, disbursements, and balances shown by its records, or by the records of the State Treasurer. During the period in which any county so exempted shall continue to meet the requirements of Subdivision 4 of this Section which exempted said county from the certain named provisions

¹ "of" should be "or"

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herein referred to, such county shall not be required to forward the securities in which the sinking funds of its eligible road bond issues have been invested, the cash on hand in the depository to the credit of its sinking funds, or any subsequent tax collections other than the funds necessary to meet the interest and principal due on its bonded indebtedness as shown by notices given to such county from the Board of County and District Road Indebtedness from time to time as is elsewhere provided herein. Said Board of County and District Road Indebtedness may inspect the records of such county at any subsequent date to ascertain whether or not the facts warrant the continuation of the exemption. If at any time, in the opinion of the Board of County and District Road Indebtedness, counties that have been granted an exemption under this Act, shall cease to comply with all of the conditions under which the exemption has been granted, the Board shall notify the county to return the securities in which the sinking fund of eligible road bond issues are invested, and the residue in said sinking fund and to begin immediately forwarding taxes levied and collected for the payment of interest and the payment on eligible road bond issues. Such counties shall be given 30 days in which to comply with the demands of the Board but shall have the same right and privileges granted in Section 5 of this Act.

(7) Upon notice from the Board of County and District Road Indebtedness of the amount that such county shall be required to pay toward any installment of interest or maturing principal, such county shall, not later than twenty days prior to the maturity date of such interest or principal, forward to the State Treasurer the amount fixed by the Board of County and District Road Indebtedness as being necessary to supplement the amounts previously placed to the credit of eligible issues by said Board of County and District Road Indebtedness under the provisions of this Act.

(8) The Commissioners' Court of any county which may come within the exemption herein provided, shall use the sinking funds of eligible issues solely for the purpose of retiring bonds of that issue for which the sinking fund was created for a period of 3 years after the return of the securities by the Board of County and District Road Indebtedness, or the State Treasurer, as specified in Section 5 of this Act, unless such county is unable to purchase any of those particular bonds in which case the Board of County and District Road Indebtedness may grant said county permission by letter for such county or road district to invest in other securities eligible by law. The Board of County and District Road Indebtedness shall retain the right to exchange any of the securities thus returned to the county, for bonds of that issue for which the sinking fund was created and shall give notice to the County Judge of the county involved that such an exchange shall be made; the County Judge shall immediately instruct the County Treasurer to perfect such exchange as is set out in a registered letter of instructions by the Board of County and District Road Indebtedness. The Board of County and District Road Indebtedness shall have no power to instruct the county to make the exchange mentioned above where the bonds secured bear a lower interest rate than those bonds which the Board had instructed the county to exchange except that the difference in the interest rate be fully adjusted by a cash settlement. [Acts 1933, 43rd Leg., 1st C. S., p. 322, ch. 117, § 1.]

[Art. 6674q—8. Restrictions as to extending State credit]

No provision of this Act shall be construed to authorize the giving or lending of the credit of the State to any county or district or to pledge the credit of the State in any manner whatever for the payment of any of the outstanding road indebtedness herein referred to of the counties or districts of the State. It is hereby declared that all eligible obligations, as herein defined, shall remain obligations of the respective counties

or defined road districts which issued them and said counties or districts shall remain liable on said obligations according to their terms and tenor; and it is not the purpose or intention of this Act, or any part hereof, to obligate the State of Texas directly or indirectly or contingently, for the payment of any such obligations or that the State of Texas should assume the payment of any of said obligations, and this Act is not to be construed as obligating the State of Texas to the holders of any of said obligations to make any payment of the same, or any part thereof, nor shall such holders have any rights to enforce the appropriations of any of the moneys hereinabove provided for, but the provisions hereof are intended solely to compensate, repay and reimburse said counties and districts for the aid and assistance they have given to the State in furnishing, advancing and contributing money for building and constructing State Highways, and to provide for the use and application by said counties and districts of the moneys to which they shall become or be entitled under the provisions of this Act. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, as amended Acts 1933, 43rd Leg., p. 347, ch. 136.]

[Art. 6674q—9. Legislative policy; State title to roads]

If succeeding Legislatures shall carry out the policy herein defined by authorizing a similar appropriation of County and Road District Highway Funds, from time to time, then whenever the interest and principal necessary to retire the outstanding bond indebtedness owing for designated State Highways shall have been fully paid as herein provided, for any county or defined road district according to the provisions of this Act, then and in that event, the title and possession of all roads, roadbeds, bridges and culverts, in such county or defined road district which are included in the system of designated State Highways, shall automatically vest in fee simple in the State of Texas, and in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; provided that when the right of way, or any part thereof, has been abandoned because of the abandonment of such road for all public road purposes, and such right of way, or any part thereof, was donated by the owner of the land for right of way purposes, then and in that event the fee simple title shall vest in said owner, his heirs or assigns; provided, however, that nothing in this Act shall prevent the State Highway Commission from changing or abandoning any State Highway or part thereof; but, in the event the State Highway Commission shall change or abandon any State Highway in any county, the Commissioners Court of such county shall have the right to assume jurisdiction over such portion of such highway so abandoned by the State Highway Commission. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 9.]

[Art. 6674q—10. Partial invalidity]

If any provision, part, section, sub-section, 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. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 10.]

[Art. 6674q—11. Repeals]

That all laws and parts of laws in conflict herewith be and the same are hereby repealed. [Acts 1932, 42nd Leg., 3rd C. S., p. 15, ch. 13, § 11.]

[Art. 6675a—6A. Reduction of registration fee on trucks used by farmers]

Sec. 6A. When a commercial motor vehicle sought to be registered is of gross weight and pounds of from one to six thousand pounds, or from six thousand and one to eight thousand pounds, and consists of a truck

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without a trailer or semi-trailer, and is to be used by the owner thereof only in the transportation of his own poultry, dairy, livestock, and farm products to market, or to other points for processing, or the transportation by the owner thereof of supplies, from the place of purchase, to his own farm or ranch, exclusively for his own use, the registration license fee, for the weight classifications herein mentioned, shall be fifty per cent (50%) of the registration fee prescribed for these weight classifications in Section 6, of the Act hereby amended; provided further, that it shall be the duty of the Highway Commission to provide license plates of different color or size, so as to distinguish them from license plates issued for other commercial motor vehicles using the highways; provided further, if the owner of any commercial motor vehicle, coming within the provisions of this Act shall use or permit to be used any such vehicle for any other purpose than those provided for in this Act, he shall be guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00), and each use of such vehicle and each permission for such use of such vehicle shall constitute a separate offense; provided, however, that all commercial motor vehicles, truck-tractors, road tractors, trailers and semi-trailers as defined in Section 1 of Chapter 23 of the General Laws of the Fifth Called Session of the Forty-first Legislature, not coming within the provisions of this Act shall be required to pay all registration and license fees prescribed by the other provisions of Chapter 88 [Arts. 6675a-1 et seq.], General Laws, Forty-first Legislature, Second Called Session. [Acts 1933, 43rd Leg., 1st C. S., p. 82, ch. 27, § 1.]

[Art. 6675a—13. Number plates]

The Department shall issue or cause to be issued, one license number plate for each motorcycle, road-tractor, trailer or semi-trailer, and two license number plates for any other vehicle registered under this Act. In case one number plate is assigned to a vehicle, it shall be attached thereto at the rear thereof; and in case two are assigned, one shall be attached at the front and one at the rear. Said plates shall be kept clearly visible and securely attached during the year for which they are issued. License number plates issued for vehicles required to be registered under the provisions of this Act shall not be attached thereto before the beginning of the calendar year for which they are issued; and provided that said license number plates shall be manufactured and produced at the State Penitentiary at Huntsville, Texas. Provided further, that the State Penitentiary shall be authorized to manufacture all steel or metal road signs, and provided further, that, at the discretion of the State Highway Commission, the State Penitentiary may make or manufacture road signs made of wooden material. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 13, as amended Acts 1933, 43rd Leg., p. 547, ch. 178, § 1.]

[Art. 6675a—13 $\frac{1}{2}$. Penitentiary to furnish license plates and road signs]

On proper requisition from the State Highway Department, the State Board of Control shall order the designated quantity of license plates and road signs from the State Penitentiary. The State Board of Control shall determine and set the price to be charged for each item. [Acts 1933, 43rd Leg., p. 547, ch. 178, § 2.]

[Art. 6694a. Premiums on bonds securing funds advanced by Federal Government payable out of State Highway Fund]

The State Highway Commission is hereby authorized and empowered to pay out of any available funds to the credit of the State Highway Fund the premium or premiums on surety or assurance bonds that the Federal

Government may require to be given by the State Treasurer to secure a fund or funds advanced by the Federal Government to the State of Texas under the recent National Industrial Recovery Act for expenditure by the State Highway Department in the construction and improvement of state highways. [Acts 1933, 43rd Leg., 1st C. S., p. 74, ch. 21, § 1.]

[Art. 6701c. Additional Legislation Acts 1925, pp. 135-145. Sections 14 to 25 inclusive repealed by Acts 1933, 43rd Leg., p. 50, ch. 23.]

Art. 6717. [6905] [4716] Road precincts

Acts 1933, 43rd Leg., p. 17, ch. 12, relates to the establishment of a public system of public roads and bridges in all counties having a population of more than 160,000 and

less than 230,000 and having a city with a population in excess of 100,000, and being applicable only to Tarrant County is a special law.

[Art. 6812a. Ferries connecting state highways, acquisition by State Highway Department]

Sec. 1. That the State Highway Department is hereby authorized to acquire by purchase, and/or to construct, maintain, operate and control ferries, out of the Highway Fund of the State of Texas, over and across any bay, arm, channel or salt water lake emptying into the Gulf of Mexico, or any inlet of the Gulf of Mexico, any river or other navigable waters of this State where such ferries connect designated State highways, and which may be made self-liquidating or partially self-liquidating by the charging of tolls for the use thereof.

Sec. 2. That the provisions of this Act shall not apply in any instance where any State adjoining the State of Texas has not enacted a Statute making provisions for the acquirement, construction and maintenance of ferries as between such state and the State of Texas, and for the use of such ferries by the public with or without charge as both States may agree, but such ferries must connect designated highways of the adjoining State and the State of Texas. [Acts 1933, 43rd Leg., 1st C. S., p. 228, ch. 87.]

TITLE 117—SALARIES

[Art. 6819a. Salaries of judges]

That from and after August 31, 1933, the Judges of the Supreme Court, Judges of the Court of Criminal Appeals of this State, shall each be paid an annual salary of Six Thousand Dollars (\$6,000.00), payable in equal monthly installments; Judges of the Supreme Court Commission of Appeals, Judges of the Commission in aid of the Court of Criminal Appeals, shall each be paid an annual salary of Five Thousand Five Hundred Dollars (\$5,500.00), payable in equal monthly installments; the Judges of the several Courts of Civil Appeals of this State shall each be paid an annual salary of Five Thousand One Hundred Sixty Dollars (\$5,160.00), payable in equal monthly installments; and the Judges of the District Courts and Judges of the Criminal District Courts of this State shall each be paid an annual salary of Four Thousand Dollars (\$4,000.00), payable in equal monthly installments. [Acts 1927, 40th Leg., p. 411, ch. 273, as amended Acts 1933, 43rd Leg., p. 377, ch. 148, § 1.]

Art. 6824. [7086] [4853] Change in salary

Act 1933, 43rd Leg., p. 59, ch. 30, relating to salaries for biennium 1933 to 1935 reads as follows: "Sec. 1. The salaries of all state officers and all state employees, except judges of the district and appellate courts, judges of the Supreme Court Commission of Appeals, judges of the Commission in aid of the Court of Criminal Appeals, Attorney

General and those constitutional state officers whose salaries are specifically fixed by the Constitution, shall be, for the period beginning September 1, 1933, and ending August 31, 1935, such sums or amounts as may be provided for by the Legislature in the general appropriation bills.

"Sec. 2. All laws and parts of laws fixing

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the salaries of all state officers and employees, except judges of the district and all appellate courts, judges of the Supreme Court Commission of Appeals, judges of the Commission in aid of the Court of Crim-

inal Appeals, Attorney General and those constitutional state officers whose salaries are specifically fixed by the Constitution, are hereby specifically repealed in so far as they are in conflict with this Act."

TITLE 118—SEAWALLS

Art. 6834. [5589] Election: [Commissioners' court to secure list of voters]

For the purpose of ascertaining whether two-thirds majority of the qualified voters voting thereon who are resident property taxpayers in said county or city have voted in favor of said proposed taxation, the Commissioners Court or governing body shall secure from the Tax Collector of the county a list of all the qualified voters in said county or city, as the case may be, and in addition to any other notice required by law, the Commissioners Court or governing body shall mail to each qualified voter therein a copy of such proposition as submitted at least ten (10) days before the date of such election. Before any bonds shall be issued hereunder, the proposition to levy a tax to pay the interest and sinking fund on such bonds shall be submitted to the qualified voters who are property taxpayers of such county or city; said election to be held and said bonds issued and sold as provided in Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925. The ballots in said election shall contain the words in substance: "In Favor of the Proposed Tax," or "Against the Proposed Tax." [As amended Acts 1930, 41st Leg., 5th C. S., p. 160, ch. 28; Acts 1933, 43rd Leg., p. 375, ch. 146.]

Art. 6835. [5590] Result of election

The Commissioners Court or governing body, as soon as practicable after said election, shall meet and canvass the returns thereof and ascertain and record in the Minutes the result as shown by said returns. If said Commissioners Court or governing body shall find that due notice of said election and submission of said question has been made to all of the qualified voters who are taxpayers in said county or city as herein provided and that in said election two-thirds majority of the qualified voters who are resident property taxpayers voting thereon in said election voted in favor of the said tax, such Commissioners Court or governing body shall find that two-thirds majority of the qualified voters who are resident property taxpayers of said county or city voting thereon in said election, voted in favor of the tax and thereupon said Commissioners Court or governing body shall be authorized to issue the bonds and levy the tax for the purposes provided in this Title. [As amended Acts 1930, 41st Leg., 4th C. S., p. 73, ch. 35; Acts 1933, 43rd Leg., p. 375, ch. 146.]

[Art. 6839d. Validation of county or municipal sea wall bonds]

Sec. 1. That wherever the Commissioners Court of any county, or the governing body of any city, district or political subdivision of this State has ordered an election for the issuance of sea wall bonds, pursuant to Section 7 of Article 11 of the State Constitution, and a two-thirds majority of the qualified property taxpaying voters of such county, city, district, or political subdivision, voting at such election, authorize the issuance of said bonds and the levy of the tax in payment thereof, and the Commissioners Court of such county, or the governing body of such city, district or political subdivision, has canvassed the returns of the election held for such purpose, and by order, ordinance or resolution, duly passed and entered of record, has found and declared that such bonds were authorized by a two-thirds majority of the property taxpaying voters, voting at such election, and, thereupon, by proper order, ordinance or resolution,

has authorized the issuance of bonds for the construction of such sea walls and levied an ad valorem tax to pay the principal and interest thereof at maturity, and has prescribed the date, maturity, rate of interest such bonds are to bear, the place of payment of principal and interest, each such election and all Acts and proceedings had and taken in connection therewith by such Commissioners Court or the governing body of any city, district, or political subdivision in this State, the levy of taxes and the provision made for the payment of the interest, and the sinking fund for the payment of the principal of such bonds, are hereby legalized, approved and validated; and such bonds so authorized are hereby validated and constituted the legal obligations of such county, city, district or political subdivision, and all acts of such bodies in respect to the issuance of such bonds are hereby legalized and validated, and the Commissioners Court, or the governing body of any such city, district or political subdivision, is hereby expressly authorized and directed to provide for the payment of the interest and principal of any such bonds by the levy of taxes and appropriations of revenues in the time and manner prescribed by Statute.

Sec. 2. The Legislature hereby specifically exercises the power vested in it by Section 7 of Article 11 of the State Constitution to provide for the authorization upon a two-thirds vote of the taxpayers in counties and cities bordering on the coast of the Gulf of Mexico, and hereby finds that the manner in which any such county, city, district or political subdivision has ascertained that a two-thirds vote of such taxpayers was had, is legal and valid. The Legislature specifically finds that where two-thirds of the taxpayers voting at such election voted for the levy and collection of such taxes and the issuance of bonds, said taxes and bonds have been validly and legally authorized. [Acts 1933, 43rd Leg., p. 173, ch. 80.]

TITLE 120—SHERIFFS AND CONSTABLES

Art. 6881. [7141] [4911] Bond and oath

Each person who may be elected to the office of Constable shall, before entering upon the duties of the office, give a bond with two or more good and sufficient sureties, to be approved by the Commissioners Court of his county, for such sum as may be directed by said Court, not less than Five Hundred Dollars (\$500.00) nor more than Fifteen Hundred Dollars (\$1,500.00); payable to the Governor and his successors in office, conditioned for the faithful performance of all the duties required of him by law; and shall also take and subscribe the oath of office prescribed by the Constitution, which shall be indorsed on said bond, together with the certificate of the officer administering the same; which bond and oath shall be recorded in the office of the Clerk of the County Court, and deposited in said office; said bond shall not be void on the first recovery, but may be sued on from time to time in the name of the party injured until the whole amount thereof is recovered. [As amended Acts 1933, 43rd Leg., p. 287, ch. 115.]

TITLE 121—STOCK LAWS

Art. 6954. [7235] Petition

Upon the written petition of one hundred (100) freeholders of any of the following Counties: Anderson, Aransas, Armstrong, Atascosa, Austin, Archer, Bastrop, Baylor, Bandera, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazos, Brewster, Brisco, Brown, Brooks, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Castro, Chambers, Cass, Clay, Cherokee, Childress, Collingsworth, Coleman, Collin, Colorado, Cooke, Comanche, Concho, Crockett, Coryell, Cottle, Crosby, Cochran,

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Crane, Dallas, Dawson, Deaf Smith, Delta, Dallam, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, Erath, El Paso, Falls, Fannin, Fayette, Floyd, Foard, Fort Bend, Franklin, Fisher, Freestone, Gaines, Galveston, Goliad, Gray, Gregg, Guadalupe, Garza, Glasscock, Gillespie, Gonzales, Grimes, Grayson, Hale, Hamilton, Hansford, Harris, Harrison, Hays, Haskell, Hall, Hardeman, Hartley, Henderson, Hidalgo, Hill, Hood, Hopkins, Howard, Hockley, Hudspeth, Hunt, Hutchinson, Jeff Davis, Jim Hogg, Jim Wells, Jack, Jackson, Jones, Jefferson, Johnson, Karnes, Kaufman, Kimble, Knox, Kerr, Kendall, Kleberg, Lamar, Lampasas, Lavaca, Lamb, Lee, Leon, Limestone, Lynn, Lipscomb, Llano, Live Oak, Liberty, Lubbock, Madison, Mason, McLennan, Matagorda, McCulloch, Menard, Moore, Marion, Martin, Maverick, Medina, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Navarro, Nacogdoches, Nolan, Nueces, Ochiltree, Oldham, Palo Pinto, Parker, Parmer, Pecos, Potter, Panola, Polk, Rains, Randall, Red River, Reagan, Reeves, Real, Refugio, Robertson, Rockwall, Runnels, Rusk, San Patricio, San Saba, San Jacinto, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Stephens, Sterling, Starr, Sutton, Swisher, Tarrant, Tom Green, Taylor, Terrell, Throckmorton, Titus, Travis, Upshur, Uvalde, Victoria, Val Verde, Van Zandt, Washington, Walker, Waller, Webb, Williamson, Wilson, Wise, Ward, Wharton, Wood, Wheeler, Winkler, Wichita, Wilbarger, Young, Zapata, and Zavala, or upon the petition of fifty (50) freeholders of any such subdivision of a county as may be described in the petition, and defined by the Commissioners Court of any of the above named counties, Commissioners Court of said county shall order an election to be held in such county or such subdivision of a county as may be described in the petition and defined by the Commissioners Court on the day named in the order for the purpose of enabling the freeholders of such county or subdivision of a county as may be described in the petition and defined by the Commissioners Court to determine whether horses, mules, jacks, jennets, and cattle shall be permitted to run at large in such county or such subdivision of a county as may be described in the petition and defined by the Commissioners Court. [As amended Acts 1926, 39th Leg., 1st C. S., p. 17, ch. 11, § 1; 1927, 40th Leg., p. 363, ch. 245, § 1; 1929, 41st Leg., p. 9, ch. 5, § 1; 1929, 41st Leg., 1st C. S., p. 185, ch. 71, § 1; 1929, 41st Leg., 3rd C. S., p. 240, ch. 8, § 1; 1930, 41st Leg., 4th C. S., p. 25, ch. 15; Acts 1931, 42nd Leg., p. 781, ch. 313; Acts 1933, 43rd Leg., Spec. L., p. 57, ch. 48.]

Art. 7005. [7305] [5043] Counties exempt

The Counties of Anderson, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Borden, Bowie, Bosque, Brazoria, Brazos, Brewster, Brown, Burleson, Burnet, Caldwell, Callahan, Calhoun, Camp, Carson, Cass, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Collin, Collingsworth, Colorado, Comal, Comanche, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Delta, Denton, DeWitt, Dickens, Donley, Eastland, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Galveston, Garza, Gillespie, Goliad, Gonzales, Gray, Grayson, Gregg, Guadalupe, Hall, Hamilton, Hardeman, Harris, Harrison, Hartley, Hays, Hemphill, Henderson, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Irion, Jackson, Jack, Jasper, Jeff Davis, Jim Hogg, Johnson, Kernes, Kaufman, Kendall, Knox, Kinney, Lamar, Lamb, Lampasas, Lavaca, Leon, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Marion, Mason, Matagorda, Maverick, Medina, McLennan, Midland, Milam, Mills, Mitchell, Montague, Morris, Motley, Nacogdoches, Navarro, Newton, Nueces, Oldham, Orange, Palo Pinto, Penola, Parker, Parmer, Pecos, Polk, Rains, Reagan, Red River, Refugio, Robertson, Rockwell, Rusk, Reeves, Sabine, San Augustine, San Patricio, Schleicher, Shelby, Smith, Shackelford, Somervell, Starr, Scurry, Stephens, Sterling, Tarrant, Terrell, Terry, Throckmorton, Titus, Tom Green, Trinity, Tyler, Uvalde, Up-

shur, Upton, Val Verde, Van Zandt, Victoria, Ward, Washington, Whar-
ton, Wheeler, Williamson, Wilson, Wise, Winkler, and Young are hereby
exempted from the provisions of this chapter, and from all laws regulating
the inspection of hides and animals. [As amended Acts 1927, 40th Leg.,
p. 156, ch. 105; Acts 1931, 42nd Leg., p. 755, ch. 299, Acts 1931, 42nd Leg.,
p. 852, ch. 360; Acts 1933, 43rd Leg., p. 14, ch. 10; Acts 1933, 43rd Leg.,
Spec. L., p. 59, ch. 49; Acts 1933, 43rd Leg., p. 636, ch. 213.]

TITLE 122—TAXATION

Art. 7047. [7355] [5049] Occupation taxes

23. Coin Operated Vending Machines.—From every owner, manager,
or exhibitor of every coin operated phonograph, electrical piano, electri-
cal batter, graphophone, weighing machines, target pistol, miniature golf
machine, miniature football machine, miniature baseball machine, minia-
ture race track, stereoscopic machine, gum machine, candy machine, ciga-
rette machine, handkerchief machine, sandwich machine, or any other
class or kind of machine, whether enumerated or not, where a fee is charg-
ed, which is used for the purpose of amusement, entertainment or for
vending commodities, merchandise, confections, or service of any kind and
which is operated by coins or metal slugs or tokens similar to coins, where
such fee is in excess of five (5) cents, an annual tax of Ten Dollars (\$10-
00), on each machine; where such fee is five (5) cents, an annual tax of
Five Dollars (\$5.00), on each machine; and where such fee is one (1)
cent, an annual occupation tax of One Dollar (\$1.00) for each machine;
provided that from every owner, manager, or exhibitor of every coin oper-
ated marble machine, marble table machine, marble shooting table, or
marble machine of any description, whether enumerated or not, where a
fee is charged, whether used for the purpose of amusement, entertain-
ment, or for vending commodities, merchandise, confections, or services
of any kind, and which is operated by coin or metal slugs or tokens similar
to coins or metal slugs where such fee is one (1) cent or more, an an-
nual occupation tax of Ten Dollars (\$10.00) for each machine; provided
that the provisions of this subdivision shall not apply to pay telephones
and gas meters which are operated with coins. It shall be unlawful to
operate, show or exhibit any of the machines or instruments covered by
this subdivision without having annexed or attached thereto where same
is plainly visible, the tax receipt covering such machine or instrument for
the current year for which same is operated, shown or exhibited; provid-
ed that all funds derived from the occupation tax on such marble ma-
chines shall be placed to the credit of the State Available School Fund.
[As amended Acts 1931, 42nd Leg., p. 355, ch. 212; Acts 1933, 43rd Leg.,
p. 409, ch. 162, § 11a.]

39. [Repealed by Acts 1933, 43rd Leg., p. 383, ch. 153, § 23; Acts
1933, 43rd Leg., 1st C. S., p. 234, ch. 90, § 23.]

Prior to its repeal subd. 39 was Acts 1931,
42nd Leg., p. 355, ch. 212, as amended Acts
1931, 42nd Leg., 2nd C. S., p. 55, ch. 33.

See note to Penal Code, art. 131cc.

Subd. 39 of art. 7047 was repealed by
Acts 1931, 42nd Leg., p. 111, ch. 73, § 12 (ef-
fective 90 days after May 23, 1931, date of
adjournment).

Art. 7047a—1. Occupation tax on coin operated vending and amuse- ment machines; penalty]

Sec. 1. That there is hereby levied an Annual Occupation Tax upon,
and which shall be collected from and paid by, every owner, manager,
or exhibitor of every coin operated phonograph, electrical piano, elec-
trical batter, graphophone, weighing machine, target pistol, miniature
golf machine, miniature football machine, miniature baseball machine,
miniature race track stereoscopic machine, gum machine, candy machine,
cigarette machine, handkerchief machine, sandwich machine, or any

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other class or kind of machine, whether enumerated or not, where a fee is charged, which is used for the purpose of amusement, entertainment or for vending commodities, merchandise, confections, or service of any kind and which is operated by coins or metal slugs or tokens similar to coins, where such fee is in excess of five cents (5¢), an annual occupation tax of Ten Dollars (\$10.00) on each machine; where such fee is five cents (5¢), an annual occupation Tax of Five Dollars (\$5.00), on each machine; and where such fee is one cent (1), an Annual Occupation Tax of One Dollar (\$1.00) for each machine; provided that from every owner, manager, or exhibitor of every coin operated marble machine, marble table machine, marble shooting table, or marble machine of any description, whether enumerated or not, where a fee is charged, whether used for the purpose of amusement, entertainment, or for vending commodities, merchandise, confections, or services of any kind, and which is operated by coin or metal slugs or tokens similar to coins or metal slugs where such fee is one cent (1) or more, an Annual Occupation Tax of Ten Dollars (\$10.00) for each machine; provided that the provisions of this subdivision shall not apply to pay telephone, gas meters, pay toilets and/or sanitary drinking cup vending machines which are operated with coins. It shall be unlawful to operate, show or exhibit any of the machines or instruments covered by this subdivision without having annexed or attached thereto where same is plainly visible, the tax receipt covering such machine or instrument for the current year for which same is operated, shown or exhibited; provided that all funds derived from the occupation tax on such marble machines shall be placed to the credit of the State Available School Fund.

Sec. 2. Every person, firm, or corporation violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof fined in any sum not less than Ten Dollars (\$10.00), nor more than Fifty Dollars (\$50.00). [Acts 1933, 43rd Leg., 1st C. S., p. 320, ch. 116.]

[Art. 7047c. Cigarette tax]

Secs. 12, 13. [Repealed by Acts 1933, 43rd Leg., p. 383, ch. 153, § 22; Acts 1933, 43rd Leg., 1st C. S., p. 234, ch. 90, § 24.]

Those sections before their repeal were Acts 1931, 42nd Leg., p. 111, ch. 73.

See note to Penal Code, art. 131cc.

[Art. 7047cc. Repealed and re-enacted by Acts 1933, 43rd Leg., 1st C. S., p. 234, ch. 90, § 1. For re-enacted article, see Art. 7047cc—1, following]

Prior to its repeal, this article was Acts 1933, 43rd Leg., p. 383, ch. 153, §§ 1-10.

[7047cc—1. Cigarette Tax; definitions]

Sec. 1. The following words, terms and phrases, as used in this Act are hereby defined as follows:

(a) The term "Cigarette" as used in this Act, shall include any roll for smoking made wholly or in part, of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material, except where such wrapper is wholly, or in greater part, made of tobacco.

(b) "Individual Package of Cigarettes" as used in this Act, shall mean the smallest package containing one, or more cigarettes ordinarily sold at retail.

(c) The term "Dealer" shall include every person, firm, corporation, or association of persons who manufacture cigarettes for distribution, sale or barter, in the State of Texas; and/or any person, firm, corporation, or

association of persons who has cigarettes in his possession, or under his control for distribution, sale, or barter, in the State of Texas.

The term "Dealer" is further defined to mean any person, firm, corporation, or association of persons who imports cigarettes from any State or foreign country for distribution, sale, or barter, in the State of Texas. Provided, however, that the provisions hereof shall not include the warehousemen distributing any such cigarettes having theretofore been sold and shipped to such warehousemen in bulk shipments to be distributed.

(d) The term "Wholesale Dealer" as used herein shall include only those dealers who sell any cigarettes to retail dealers for the purpose of resale.

(e) The phrase "Retail Dealer" as used herein shall include every dealer other than "Wholesale Dealer" as defined above, who shall sell or offer for sale or possess for purpose of sale, cigarettes irrespective of quantity or amount or the number of sales.

The term "Comptroller" as used in this Act shall mean the Comptroller of Public Accounts for the State of Texas and/or his duly authorized assistants and employees.

(f) The term "Stamp" as herein used shall mean the stamp or stamps, by the use of which, the tax levied hereunder is paid.

(g) The term "Treasurer" as used in this Act shall mean the State Treasurer and/or his duly authorized assistants and employees.

[Amount of tax; stamps]

Sec. 2. There is hereby levied a tax on sales in intra-state commerce in this State, of cigarettes weighing not more than three (3) pounds per thousand, of One Dollar and Fifty Cents (\$1.50) per thousand, and on those weighing more than three (3) pounds per thousand of Three Dollars and Sixty Cents (\$3.60) per thousand. Such tax shall be paid only once on account of any cigarettes so sold by the person, firm or corporation making the first sale thereof in intrastate commerce in this State, and payment of such tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to the top of each individual package of cigarettes covering the tax thereon as levied by this Act; provided that such stamps may be purchased and affixed to such individual package of cigarettes by a manufacturer or distributor outside this State, in which case no further payment of tax shall be required.

All cigarette stamps shall be purchased from and sold by the Treasurer. Any person, firm, corporation, or association of persons other than the Treasurer who sells cigarette stamps shall be guilty of a misdemeanor and punishable as set out in Section 13 of this Act; provided, nevertheless, that when the Comptroller deems it proper to accept the compromise provided for in Section 19 and the offender does not hold sufficient unused stamps to cover his unstamped stock of cigarettes, then and in that event the offender may purchase the required stamps from any dealer through a requisition from the Comptroller in order that his unstamped stock of cigarettes may be stamped immediately and under the direction of the Comptroller and any dealer making a sale of cigarette tax stamps as authorized herein shall be required to hold such requisition open to the inspection of the Comptroller for a period of two (2) years.

[Sale of stamps; disposition of revenue]

Sec. 3. The Treasurer is authorized and required to design and have printed and/or manufactured stamps of such size and denominations as may be determined by the Treasurer, so manufactured as to render said stamps easy to be securely attached to the top of each individual package of cigarettes subject to tax according to this Act; that said stamps shall be affixed by the dealer on each individual package of cigarettes that will be handled, sold or distributed to the consumer, to permit the Comptroller to readily ascertain by an inspection of any dealer's stock on hand

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whether or not said tax has been paid as provided in this Act; that said stamps shall be supplied by said Treasurer to all licensed dealers in the State of Texas at a discount of five per cent (5%) from the face value, when purchased in quantities not less than One Hundred Dollars (\$100.00) face value; that said stamps shall be sold by said Treasurer in any less quantity at face value to any and all persons, firms, partnerships, corporations, and associations of persons, whether they may or may not be dealers in cigarettes subject to tax in this Act; that every person, firm, partnership, corporation or association of persons shall cause to be affixed on every individual package of cigarettes as defined in this Act on which a tax is due, stamps of an amount equaling the tax due thereon before any such person, firm, partnership, corporation or association of persons sells, offers for sale, or otherwise distributes or transports the same.

The Treasurer is hereby authorized and empowered in his discretion to sell said stamps in any amount or quantity not less than Three Hundred Dollars (\$300.00) face value and not exceeding Two Thousand, Five Hundred Dollars (\$2,500.00) face value at any licensed dealer upon credit, provided that such licensed dealer shall have, before such sale, executed and delivered to said Treasurer a surety bond or bonds in the principal sum of not less than double the amount of face value of the stamps purchased of said Treasurer guaranteeing to said Treasurer the prompt payment of all such stamps on or before the 20th day of the month after such stamps are purchased, said bond or bonds to be payable to the State of Texas, and shall be of the tenor required and as provided by said Treasurer.

Provided that all the revenue derived from this tax shall be credited to the Available School Fund for the years ending August 31, 1934, and August 31, 1935, and thereafter one-half shall be credited to the General Fund and one-half to the Available School Fund.

Such stamps shall be of such design as the State Treasurer shall prescribe and shall state the amount of tax, the payment of which is evidenced thereby, and shall contain the words: "State tax paid." In the event the Treasurer has, or shall at any time change the design of the cigarette tax stamp, he is hereby authorized to redeem at face value any unused cigarette tax stamps lawfully issued prior to such change in such design, which are in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps of the new design.

Provided that if and whenever the State Treasurer makes a change in the design of the cigarette tax stamps every person, firm, corporation, or association of persons holding stamps of the old design shall be required to exchange them at face value with the Treasurer for stamps of the new design; provided that after sixty (60) days from the date of issue of stamps of a new design, the stamps of the old design shall be good only for exchange for stamps of the new design, and that the sale of cigarette stamps of the old design or the sale of cigarettes to which stamps of the old design are affixed after sixty (60) days from the date of issue of the new design shall be deemed a misdemeanor and punishable as set out in Section 13 of this Act. It shall be the duty of the Treasurer to designate the date of issue of a new design of stamps by the issuance of a proclamation and the date of such proclamation shall be the date of issue of the new design of stamps. The provisions of this Section shall apply to cigarette tax stamps of the first design issued by the Treasurer thirty (30) days after the effective date of this Act.

Provided that any cigarette tax stamps may be exchanged only when proof satisfactory to said Treasurer is furnished that any stamps offered to said Treasurer in exchange were properly purchased and paid for by the person, firm, corporation or association of persons offering to exchange such stamps.

The Treasurer shall keep a record of all stamps sold by him or under his direction.

[Permits]

Sec. 4. Every person, firm, corporation, or association of persons in this State who sells or is about to engage in the business of either a retail dealer or a wholesale dealer in cigarettes shall, before engaging in such business, apply to and obtain from the Comptroller a permit or permits to engage in the business of wholesale dealer or retail dealer, as the case may be, and shall obtain a separate permit for each place of business of such dealer; and where such person, firm, or corporation or association of persons in this State has both retail and wholesale business in the same business house, such person, firm, corporation, or association of persons shall be required to make application for permit for each character of business and shall pay to the Comptroller a fee of Five Dollars (\$5.00) for each permit. "Place of business" as used in this Section is construed to include the place where orders for cigarettes are received, or where cigarettes taxed under this Act are sold, or if sold from any vehicle, the vehicle on which or from which such cigarettes are sold shall constitute a place of business.

Applications for permits must be subscribed and sworn to by the person owning the business or having an ownership interest therein, or witnessed by the Comptroller. If the applicant is a corporation, a duly authorized agent shall execute the application. The application shall be made on blanks to be provided and furnished by the Comptroller, and shall, in addition to such other information as the Comptroller may require, show the name of such dealer, and in case of partnerships, the name of each partner thereof, the dealer's post office address, whether the application is for a permit as a wholesale dealer or as a retail dealer and a statement giving the location of the place of business as to which the permit shall apply; and in case of retail dealers the nature of any business (such as drug store, hotel, general store, etc.) carried on at the same place. Permits shall expire twelve (12) months from the date issued, but may be renewed on like application and upon payment of another fee of Five Dollars (\$5.00). If the business changes hands during the period the permit runs, a new permit must be applied for and paid for. Should the place of business be changed during the period the permit runs, the permit must be sent to the Comptroller so that proper change may be noted thereon. A permit cannot be transferred from one dealer to another. The permit or license shall at all times be publicly displayed by the dealer in his place of business so as to be easily seen by the public. Permits may be refused to any dealer previously convicted for having been involved in any violation of this Act. Provided that any person, firm, or corporation, or association of persons that is the lawful owner and possessor of any occupation tax receipt, as provided by subdivision 39 of Section 1 of House Bill Number 251, Chapter 212, Acts of the Regular Session of the Forty-second Legislature, or permit as now provided by House Bill Number 578, Chapter 153 of the Acts of the Regular Session of the Forty-third Legislature lawfully issued by the proper authority at any time within twelve (12) months prior to the taking effect of this Act shall not be required to make application for or obtain from the Comptroller the permit as required by this Act prior to the expiration of the twelve (12) months for which said occupation tax or permit fee was paid.

The funds derived from the issuance and sale of the permits as provided by this Section shall be delivered to the Treasurer, and one-half thereof shall be placed to the credit of the State Available School Fund, and one-half thereof to the General Fund.

[Revocation of permit]

Sec. 5. The Comptroller, after notice and opportunity to be heard, under regulations to be made by him shall have jurisdiction, power and authority to revoke the permit of any wholesale dealer or any retail dealer for violation of this law, or for wilful or persistent violation of regula-

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tions made under this law. No new permit shall be issued to any one whose permit has been revoked, except in the discretion of the Comptroller.

[Affixing stamps by wholesalers; interstate stock kept separate; bond; record]

Sec. 6. Every wholesale dealer in this State shall immediately after receipt of any unstamped cigarettes cause the same to have the requisite denominations and amount of stamp or stamps affixed to represent the tax as stated herein. Provided, however, that any wholesale dealer engaged in interstate business who shall furnish surety bond in the principal sum of Two Hundred Fifty Dollars (\$250.00) and of tenor and solvency satisfactory to the Comptroller shall be permitted to set aside such a part of his stock as may be necessary for the conduct of such interstate business without affixing the stamps required by this Act. Said interstate stock shall be kept in an entirely separate part of the building, separated and apart from stamped stock. Every wholesale dealer shall at the time of shipping or delivering any cigarette make a true duplicate invoice of the same which shall show full and complete details of the sale or delivery of the taxable article, and shall retain the same subject to the use and inspection of the Comptroller for a period of two (2) years.

Wholesale dealers shall keep a record of purchases and sales of all cigarettes purchased and sold by them and they shall keep a record also of all purchases of stamps purchased by them, and hold all books, records, and memoranda pertaining to the purchase and sale of cigarettes and the purchase of stamps open to the inspection of the Comptroller for a period of two (2) years.

Every wholesale dealer shall furnish to the Comptroller a semi-monthly report on the 1st and 15th of each respective calendar month of all orders for cigarettes purchased through said wholesale dealer from without this State on a drop shipment and consigned direct from without this State to the person, firm, corporation or association of persons ordering such cigarettes through such wholesale dealer.

Every wholesale dealer shall furnish to each person, firm, corporation or association of persons ordering such cigarettes through such wholesaler, a duplicate invoice of all such purchases or receipts. Failure to furnish such duplicate invoice or failure to furnish aforementioned semi-monthly report as required shall be deemed a misdemeanor and punishable as set out in Section 13 of this Act.

[Presumption of violation of Act; record and report of purchases and sales; penalty]

Sec. 7. Every retail dealer shall, except as to cigarettes on which the tax has been paid by the proper affixing of stamp or stamps by a wholesale dealer, as provided for herein, affix the stamp or stamps for the denominations and amount necessary to represent the tax on each individual package of cigarettes, the same to be done, in all cases, immediately upon receipt by the retail dealer of the unstamped cigarettes.

If and whenever any cigarettes taxed in this Act are found in the place of business of any retail dealer, wholesale dealer, or any other person, firm, corporation or association of persons, except bonded interstate wholesale dealers, without the stamps affixed as herein provided, the prima facie presumption shall arise that such articles are kept therein in violation of the provisions of this Act.

Retail dealers shall keep a record of purchases of all cigarettes purchased by them and they shall keep a record also of all purchases of stamps purchased by them, and hold all books, records, and memoranda pertaining to the purchase of such cigarettes and cigarette tax stamps open to the inspection of the Comptroller for a period of two (2) years.

Every retail dealer in cigarettes as set out in this Act purchasing or

receiving any cigarettes from without the State, whether the same shall have been ordered through a wholesale dealer or jobber within this State or by drop shipment, or otherwise, shall within twenty-four (24) hours after receipt of same, mail a duplicate invoice of all such purchases, or receipts to the Comptroller. Failure to furnish such duplicate invoice as required shall be deemed a misdemeanor and punishable as set out in Section 13 of this Act.

[Purpose of Act]

Sec. 8. It is the intent and purpose of this Act to levy a sales tax on all cigarettes sold or distributed in this State and to collect same from the dealer who first distributes or sells same in the State of Texas.

It is further the intent and purpose of this Act that where a dealer gives away cigarettes for advertising or any other purpose whatsoever the same shall be taxed in the same manner as if they were sold in this State.

[Collection of taxes and penalties; rules]

Sec. 9. It is hereby made the duty of the Comptroller to collect, supervise and enforce the collection of all taxes and penalties that may be due under the provisions of this Act, and to that end the said Comptroller is hereby vested with all of the power and authority conferred by this Act.

The Comptroller is further authorized and empowered to promulgate rules and regulations to provide for the collection of the amount of tax due on all cigarettes taxable under the provisions of this Act in possession of dealers, on the effective date of this Act, so as to prevent any cigarettes being sold within this State, without the tax herein provided being paid.

The Treasurer may promulgate rules and regulations providing for the refund to dealer for the cost of stamps affixed to goods which by reason of damage become unfit for sale and are destroyed by dealer or returned to manufacturer or jobber.

[Comptroller to make rules]

Sec. 10. Said Comptroller shall have the power to make and publish rules and regulations, not inconsistent with this Act or the other laws or the Constitution of this State or of the United States, for the enforcement of the provisions of this Act and the collection of revenues hereunder. [Acts 1933, 43rd Leg., 1st C. S., p. 234, ch. 90.]

Sections 11-21, 25, 26 of said Acts 1933, provisions are published as Penal Code, 43rd Leg., 1st C. S., p. 234, ch. 90 being penal art. 131cc.

[Art. 7057a. Occupation tax on oil produced; definitions]

Sec. 1. (1) For the purpose of this Act "producer" shall mean any person or persons, corporation, partnership, individual, trustee, receiver, trust estate or administrator owning, controlling, managing or leasing any oil well or any person who produces in any manner any oil by taking it from the earth or waters in this State.

(2) "Purchaser" shall mean any individual, person or persons, partnership, corporation, refinery, pipe line, or agent purchasing crude oil for any purpose or use within this State.

(3) "Carrier" shall mean the operator or owner of any means of transporting oil or any instrumentality that may now be used or come into use.

(4) "Oil" as used herein shall mean petroleum oil, mineral oil, or other oil taken from the earth.

(5) "Reports" shall mean any reports required to be furnished in this Act or that may be required by the Comptroller in the administration of this Act.

(6) "Person" shall mean and include any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association,

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partnership, company, corporation, and persons acting under declarations of trust as well as the trustees acting under such declarations of trust.

(7) "Production" or "total oil produced" shall mean the total gross amount of oil produced including all royalty or other interest; that is, the amount for the purpose of the tax imposed by this Article shall be measured or determined by tank tables compiled to show one hundred per cent (100%) of the full capacity of tanks without deductions for base sediment, overage, losses in handling, or for any other purpose; or, if amount of oil produced has been measured or determined by tank tables compiled to show less than one hundred per cent (100%) of the full capacity of tanks, then such amount shall be raised to a basis of one hundred per cent (100%) for the purpose of the tax imposed by this Article.

(8) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

(9) "Commission" as used in this Act shall mean the Railroad Commission of Texas. [Acts 1933, 43rd Leg., p. 409, ch. 162.]

Sec. 2. (1) There is hereby levied an occupation tax on oil produced within this State of two (2) cents per barrel of forty-two (42) standard gallons. Said Tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions, and shall be based upon tank tables showing one hundred per cent (100%) of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be two per cent (2%) of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1.00) per barrel of forty-two (42) standard gallons. The market value of oil, as that term is herein used, shall be the actual market value thereof, plus any bonus or premium, or other thing of value paid therefor or which such oil does or will reasonably bring, if produced in accordance with the laws, rules and regulations of the State of Texas.

(2) The tax hereby levied shall be a liability of the producer of oil and it shall be the duty of such producer to keep accurate records of all oil produced, making monthly reports under oath as hereinafter provided.

(3) The purchaser of oil shall pay the tax on all oil purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasury.

Provided, that if oil produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the manner as if said oil were sold.

(4) The tax herein levied shall be paid monthly on the 25th day of each month on all oil produced during the month next preceding by the purchaser or the producer as the case may be, but in no event, shall a producer be relieved of responsibility for the tax until same shall have been paid; and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action.

(5) Provided that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the 25th of the month immediately following, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests; and producers and/or purchaser of oil

are hereby authorized and required to withhold from any payment due interested parties, the proportionate tax due.

(7) The taxes herein provided for, when paid shall be, and hereby are, allocated as follows, to-wit:

One-half of said tax when and as received by the Comptroller shall be paid to the State Treasurer of Texas and be placed to the credit of the Public School Fund, and one-half of such taxes when and as received by the Comptroller shall be paid to the State Treasurer to be placed to the credit of the General Fund of the State. [Acts 1933, 43rd Leg., p. 409, ch. 162, as amended Acts 1933, 43rd Leg., 1st C. S., p. 43, ch. 12, § 1.]

[Records and reports]

Sec. 3. (1) Producers and/or purchasers of oil shall keep in Texas a complete record of all oil produced and a record of all oil sold; reports shall be filed with the Comptroller monthly by producers and purchasers, not later than the 25th of each calendar month, showing the amount of oil produced and the amount of oil sold during the month preceding, upon forms furnished by the Comptroller.

(2) All railroads, barges, trucks or pipe lines, carrying or transporting oil for hire, for themselves or their owners shall keep in Texas a complete and accurate record of all oil so handled by months, showing date received, number of barrels, by whom received, point of delivery, to whom delivered and manner of transportation and such records shall be open to the inspection of the duly authorized agents of the Comptroller or the Attorney General at all times, and, if requested by the Comptroller, shall furnish information and reports of movements as often as required by the Comptroller. [Acts 1933, 43rd Leg., p. 409, ch. 162, as amended Acts 1933, 43rd Leg., 1st C. S., p. 43, ch. 12, § 2.]

[Purchasers to deduct amount of tax]

Sec. 4. Purchasers buying oil from properties in litigation or in receivership, bankruptcy, or any other legal proceedings, or covered by assignments, are required to deduct the amount of the taxes levied by this Act, before payment is made to the producers, trustees, assignees or to any person who claims ownership of said funds, or before the proceeds of said purchase of oil is impounded or escrowed by said purchaser pending such litigation or tenure of assignments, and shall remit said tax deducted in the same manner as if said oil had been purchased from any other source, and providing that said purchaser shall not be liable to any claimant of said funds on account of payment of said tax. [Acts 1933, 43rd Leg., p. 409, ch. 162.]

[Reports to Comptroller]

Sec. 5. (1) Monthly reports by producers shall be filed with the Comptroller upon such forms as may be designated by that official, showing the total number of barrels of oil produced monthly, the name of the county from which produced, the name of the lease from which produced, the disposition made of such oil if sold, the name and correct address of the purchaser, and if not sold, the location of storage, if owned by such operator, or if stored with a pipe line or a refinery, the correct name and address of such pipe line or refinery. All reports so made shall be duly sworn to by the producer or his authorized agent.

(2) Purchasers of oil shall accompany the remittance for taxes deducted from settlements as provided herein, with a statement or report in a form to be prescribed by the Comptroller, showing complete information requested in such form, including name and address of producer from whom oil was purchased; name of the county from which such oil was produced; name of the lease and the total number of barrels purchased. [Acts 1933, 43rd Leg., p. 409, ch. 162, as amended Acts 1933, 43rd Leg., 1st C. S., p. 43, ch. 12, § 3.]

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

[Prior lien of state for taxes, penalties and interest]

Sec. 6. For the occupation tax, penalties and interest herein provided for, the State shall have a prior and preferred lien on any leasehold interest, ownership of the oil rights, or interest, including oil produced and oil runs owned by the person owing any tax herein, and in addition thereto such lien shall include equipment, tools, tanks, and all other implements used on said lease from which oil is produced. [Acts 1933, 43rd Leg., p. 409, ch. 162.]

[Collection of delinquent taxes; venue]

Sec. 7. It shall be the duty of the Attorney General to bring legal action for the collection of delinquent taxes herein levied, and a suit instituted shall attach to oil in storage, in transit, or being produced by such operator, and venue for such suits herein provided shall be in the District Court of Travis County, Texas. [Acts 1933, 43rd Leg., p. 409, ch. 162.]

[Duties of Comptroller, appropriation for expenses]

Sec. 9. It shall be the duty of the Comptroller to promulgate rules and regulations governing the detail administration of the terms and requirements of this Act not specifically mentioned herein; to employ auditors or tax supervisors for the purpose of verifying reports and investigating the affairs of producers and/or purchasers to determine whether the tax is being properly reported and paid; to provide the necessary office help and equipment for the proper execution of the provisions of this Act, and for the purpose of defraying the necessary expense of said administration, including salaries of supervisors, auditors, office help, filing equipment, typewriters and supplies, printing of forms, publication of regulations, postage, telephone and telegraph, traveling expenses of employees, and traveling expenses of witnesses not otherwise paid; that the following sums of money, or as much thereof as may be necessary, be and the same are hereby appropriated out of said amount of taxes collected as herein set out for the support and maintenance of the gross production tax division of the Comptroller's office for the two (2) year period beginning September 1, 1933, and ending August 31, 1935.

	For the Years Ending	
	August 31, 1934	August 31, 1935
One Gross Production Tax office Supervisor	\$2,500.00	\$2,500.00
Four Assistant Gross Production Tax Supervisors, \$1,800.00 each	7,200.00	7,200.00
Filing Equipment, Typewriters and Supplies, Printing of Forms, Postage, Telephone, Telegraph, Additional Help, and Traveling Expenses of Gross Production Tax Supervisors	7,000.00	7,000.00

[Acts 1933, 43rd Leg., p. 409, ch. 162, as amended Acts 1933, 43rd Leg., 1st C. S., p. 43, ch. 12, § 4.]

[Partial unconstitutionality]

Sec. 13. It is hereby provided that in event that any provision, section or subdivision of this Act is declared unconstitutional that it shall not affect the remaining provisions of this Act and they shall be in full force and effect. [Acts 1933, 43rd Leg., p. 409, ch. 162.]

Sections 8, 9a, 9b being a penal provision are published as Penal Code, art. 1111a.

The Governor in approving H. B. # 154 (p. 409, ch. 162) cited to the text and H. B. # 844, (p. 422, ch. 165) states:

"To the Forty-Third Legislature:

"I beg to advise that I have this day approved House Bill No. 844 and House Bill No. 154. Both of these bills cover the mat-

ter of enforcing the proration laws of the State by criminal penalties provided. There are separate provisions in each bill covering the same subject matter, and I suggest that you give consideration to same so as to prevent any possibility of conflict in the two bills.

"I have been advised by able attorneys that there is serious doubt as to the form of

the legislation proposed by House Bill No. 154, especially the provisions relating to intangible taxation. It has been suggested to me that only slight corrections are necessary to insure the validity of the bill. As the tax hoped to be raised by this bill involves millions, I suggest that you consider the

question of such changes or corrections in the bill as will leave no doubt as to the regularity of its form and provisions.

"Respectfully submitted,

"Miriam A. Ferguson,

"Governor of Texas."

[Art. 7057b. Payment of license or privilege taxes under protest]

Sec. 1. Any person, firm or corporation who may be required to pay to the head of any department of the State Government any occupation, gross receipt, franchise, license or other privilege tax or fee, and who believes or contends that the same is unlawful and that such public official is not lawfully entitled to demand or collect the same shall, nevertheless, be required to pay such amount as such public official charged with the collection thereof may deem to be due the State, and shall be entitled to accompany such payment with a written protest, setting out fully and in detail each and every ground or reason why it is contended that such demand is unlawful or unauthorized.

[Suits for recovery of taxes or fees]

Sec. 2. Upon the payment of such taxes or fees, accompanied by such written protest, the taxpayer shall have ninety (90) days from said date within which to file suit for the recovery thereof in any court of competent jurisdiction in Travis County, Texas, and none other. Such suit shall be brought against the public official charged with the duty of collecting such tax or fees, the State Treasurer and the Attorney General. The issues to be determined in such suit shall be only those arising out of the grounds or reasons set forth in such written protest as originally filed. The right of appeal shall exist as in other cases provided by law. Provided, however, where a class action is brought by any taxpayer all other taxpayers belonging to the class and represented in such class action who have properly protested as herein provided shall not be required to file separate suits but shall be entitled to and governed by the decision rendered in such class action.

[Lists remitted to State Treasurer]

Sec. 3. It shall be the duty of such public official to transmit daily to the State Treasurer all money so received, with a detailed list of all those remitting same, and he shall inform the State Treasurer in writing that such money was paid under protest as hereinabove provided. A deposit receipt shall be issued by the Comptroller for the daily total of such remittances from each department; and the cashier of the Treasury Department shall keep a cash book to be called "Suspense Cash Book," in which to enter such deposit receipts. Upon the receipt of such money by the State Treasurer it shall be his duty and he is hereby required to immediately and forthwith place the same in State depositories bearing interest in the same manner as any other funds of the State required to be placed in such depositories at interest, and the State Treasurer shall further be required to allocate whatever interest is earned on such funds and to credit the amount thereof to such suspense account until the status of such money is finally determined as herein provided.

[Refunds and warrants]

Sec. 4. If suit is not brought within the time and within the manner herein provided, or in the event it finally be determined in such suit that the sums of money so paid or any portion thereof, together with the pro rata interest earned thereon, belong to the State, then and in that event it shall be the duty of the State Treasurer to transfer such money from the suspense account to the proper fund of the State by placing the portion thereof belonging to the State in such fund by the issuance of a de-

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

posit warrant. When such deposit warrant or warrants are issued, they shall be entered in the cash book, and the proper fund to which such money is so transferred shall be properly credited therewith. In the event, however, that suit is brought by such taxpayer within the time and within the manner hereinabove provided, and it be finally determined that such money so paid by such taxpayer, or any part thereof, was unlawfully demanded by such public official and that the same belongs to such taxpayer, then and in that event it shall be the duty of the State Treasurer to refund such amount, together with the pro rata interest earned thereon, to such taxpayer by the issuance of a refund warrant, the same to be issued in separate series and to be used for making such refunds, to be styled and designated "Tax Refund Warrants" and such warrants shall be written and signed by the Comptroller and countersigned by the State Treasurer and charged against the suspense account, as hereinabove provided, and shall then be returned to the Comptroller and delivered by him to the persons entitled to receive the same.

[Extension to prior taxpayers]

Sec. 5. Any taxpayer who has heretofore paid any taxes or fees of the character embraced herein to such public official, accompanied by some form of protest, and which moneys are now being held in the suspense account, and who has not brought suit under the suspense account law for the recovery of same, and who is not embraced within or protected by any action which may now be pending for the recovery of same, shall have ninety (90) days from the effective date of this Act within which to bring suit in the manner hereinabove provided. It is further provided and so directed that the head of department having heretofore received any such sums of money under protest which have not been disposed of, shall immediately, upon this law become * effective, notify said corporation having paid the same of the provisions of this law by mailing a copy of the same to such corporation or corporations.

[Application to moneys in suspense account]

Sec. 6. The provisions of this law directing the State Treasurer to place in the State depositories any taxes or fees paid under the provisions hereof and authorizing the State Treasurer to refund the principal, together with pro rata interest earned thereon, to any taxpayer who may be successful in recovering any sum of money in a suit as hereinabove provided, shall apply to such sums of money as have heretofore been paid by such taxpayer to the State Treasurer and which are now being held in the suspense account, where such taxpayer has brought suit or may bring suit as provided in Section 5 hereof or is embraced within and protected by any suit or cause of action which may now be pending for the recovery thereof, and in the event any such taxpayer should be successful in any such litigation, then and in that event the State Treasurer shall be required to return to such taxpayer the principal amount so recovered, together with the pro rata interest earned thereon from the effective date of this law; and provided further that such taxpayer who is successful in such suit and who has heretofore paid any such taxes or fees which are now held in the suspense account shall be entitled to the principal sum of the amount awarded to him by the court, together with the pro rata interest earned thereon, from the date of the deposit of such principal sum of money to the effective date of this law, and there is hereby appropriated out of any interest earned from the General State Depository Funds a sum of money which shall be sufficient to pay the pro rata amount of interest earned on the taxes or fees so recovered and it shall be the duty of the State Treasurer to allocate to and pay from the interest earned upon the General State Depository Funds such amount of interest as shall have been earned thereon.

* Should be "becoming."

[Credit on amount of taxes previously erroneously paid]

Sec. 6a. Where it shall appear that any taxpayer to whom the provisions of this Act shall apply has erroneously paid more taxes than were due during any previous taxpaying period for the payment of such taxes, either on account of an invalid statute or by reason of mistake of fact or law, such tax collecting officer shall have the authority, and it is hereby made his duty, to credit the total amount of taxes due by such taxpayer for the current period with the total amount of taxes so erroneously paid.

[Law as cumulative]

Sec. 7. The provisions of this law shall be cumulative of all laws relating to the payments of taxes or fees of undetermined status and for the holding thereof in the suspense account fund of the State Treasurer.

[Partial invalidity]

Sec. 8. The provisions of this law are severable and if any part thereof should be declared unconstitutional it shall not affect the remaining part or parts thereof, which shall remain in full force and effect, notwithstanding such invalid part or parts. [Acts 1933, 43rd Leg., p. 637, ch. 214.]

Arts. 7065a to 7065q. [Repealed by Acts 1933, 43rd Leg., p. 75, ch. 44, § 18]

See arts. 7065a—1 to 7065a—18.
The articles repealed were Acts 1929, 41st
Leg., 2nd C. S., p. 172, ch. 88, as amended

by Acts 1931, 42nd Leg., p. 163, ch. 98; Acts
1931, 42nd Leg., p. 177, ch. 104.

[Art. 7065a—1. Definitions]

The following words, terms and phrases as used in this Act are hereby defined as follows:

(a) "Motor Fuel" shall mean and include any volatile or inflammable liquid by whatever name such liquid may be known or sold, which is used or usable, either alone or when mixed or compounded, for the purpose of generating power for the propulsion of motor vehicles including crude petroleum if so used. The term "motor fuel," however, shall not include the product commonly known as kerosene, nor any other distillate of, or condensate from petroleum, or any other product with a flash point about 112 degrees Fahrenheit according to the United States official closed testing cup method of the United States Bureau of Mines, except when such kerosene, distillate, condensate, or any other product, either alone or blended with motor fuel, is used in operating motor vehicles on the public highways.

(b) "Motor Vehicle" shall mean and include every vehicle operated upon the highways of this State which is propelled by the use of motor fuel.

(c) "Distributor" shall mean and include every person in this State who refines, manufactures, produces, blends or compounds motor fuels, and makes the first sale distribution or use of the same in this State; and it shall also include every person in this State who ships, transports or imports any motor fuel into this State and makes the first intrastate sale distribution or use of the same in this State.

(d) "First Sale" shall mean and include the first sale distribution or use in intrastate commerce of motor fuel refined, blended, imported into or otherwise produced in or brought into this State.

(e) "Person" shall mean and include every individual, firm, association, joint stock company, syndicate, co-partnership, corporation, trustee, agency or receiver.

(f) "Dealer" shall mean and include every person other than a distributor who engages in the business in this State of distributing or selling motor fuel within this State.

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

(g) "Public Highway" shall mean and include every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel.

(h) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 1.]

[Art. 7065a—2. Occupation or excise tax; rate; reports by distributors to Comptroller]

(a) There is hereby imposed an occupation or excise tax of four (4) cents on each gallon of motor fuel or fractional part thereof. The said tax shall be paid as hereinafter provided upon the first sale distribution or use in Texas.

(b) The tax shall accrue on the first sale distribution or use, so that a single tax only will be collected on the same gallon of motor fuel, it being intended to impose the tax at its source in Texas, or as soon thereafter as such motor fuel may be subject to being taxed. No person, however, shall be required to pay a tax on motor fuel imported into this State in the tank of a motor vehicle, connected with and which feeds the carburetor or substitute therefor, in quantities of thirty (30) gallons or less, when such motor fuel is actually used in said vehicle, and is not extracted from said tank for sale, distribution or use. Provided, however, that any manufacturer or refiner in this State may, at his option, transfer the tax herein imposed upon the sale of casinghead or natural gasoline to any distributor holding a permit under the terms of this Act by reporting each and every such sale the Tax upon which is so transferred, to the Comptroller within five (5) days after making the same, giving full details of such sale, as provided to be given in the form of manifest prescribed in Section 8 (b) of this Act.

(c) No tax shall be imposed on any motor fuel, the imposing of which would constitute an unlawful burden on interstate commerce and which is not subject to be taxed under the Constitution of the State of Texas and the United States; and provided, that the tax imposed herein shall be in lieu of any other excise or occupation tax imposed by the State or any political subdivision thereof, on motor fuel.

(d) Every distributor selling motor fuel shall pay to the State of Texas an occupation or excise tax equal to four (4) cents per gallon or fractional part thereof, so sold, distributed or used, and such tax shall be due and payable at the Office of the Comptroller at Austin, Texas, on the 20th day of each month, the same to be based on such sales or use made during the calendar month next pro[e]ceding, and at the same time, such distributor shall make and deliver to the Comptroller, a report properly sworn to and executed by such distributor or his representative in charge, on such forms as the Comptroller shall prescribe, which among other things, shall give the number of gallons of motor fuel sold, distributed or used, in intrastate and interstate commerce, and exported during the preceding calendar month, and the number of gallons of motor fuel used, distributed or lost by fire or otherwise upon which no tax is paid.

(e) Provided, however, that the tax on one per cent (1%) of the taxable gallonage shall be deducted by the distributor to cover losses and the expense of complying with the provisions hereof.

(f) If any distributor, or other person, shall export or lose by fire, or other accident, any motor fuel, so that the same may never be made use of within this State, after the tax has been paid on such motor fuel, claim for refund may be made in the manner hereinafter provided, or as the Comptroller may direct. However, no claim shall be made for such loss due to any one accident or export of less than one hundred (100) gallons. Provided, however, that showing must be made that said tax was paid, and the Comptroller shall deduct from such refund made under the provisions of this Act, the one per cent (1%) allowed above.

(g) The tax herein imposed shall be posted separately from the price

of the motor fuel, wherever sold in this State. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 2.]

[Art. 7065a—3. Distributor's application for permit]

All distributors of motor fuel in this State now engaged, or who desire to become engaged, in the sale or use of motor fuel upon which such tax is required to be paid, shall, within thirty (30) days from the date this law becomes effective, file a duly acknowledged Application for Motor Fuel distributor's permit with the Comptroller on a form prescribed upon written request, the failure to furnish which shall be no excuse for the failure to file the same unless an absolute refusal is shown. Said form shall set forth the name under which such distributor transacts or intends to transact such business as distributor, the principal office, residence or place of business in Texas, and if other than an individual the principal officers or members thereof not to exceed three (3), and their office, street, or post office addresses. The Comptroller may require any other such information as he may desire in said application. No distributor shall sell any motor fuel until such application has been filed, together with bond and the obtaining of a permit. Provided that nothing in this Act shall be construed to require the filing of any application or securing of any permit where any sales are not subject to the tax. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 3.]

[Art. 7065a—4. Permits issued by Comptroller]

Upon receipt of the application and the bond hereinafter provided for, the Comptroller shall issue to every distributor a non-assignable consecutively numbered permit authorizing the sale of motor fuel or its substitute in this State from the date of the issuance of said permit, until and including the following December 31. On or before January 1st of each year, and before any distributor shall engage in selling motor fuel after January 1st, an application shall be filed and a permit obtained for the calendar year, where such sale would be subject to the tax. Said permit shall provide that the same is revocable and shall be suspended upon violation of any provision of this Act or any reasonable rule or regulation adopted by the Comptroller. If such permit is revoked or suspended said distributor shall not sell any motor fuel until a new permit is granted or the suspension of the old permit removed. Provided, however, that no permit shall be issued if the applicant is delinquent for any taxes imposed by the provisions of this Act. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 4.]

[Art. 7065a—5. Forfeiture or suspension of permits]

If any distributor has violated any provision of this Act and the Comptroller desires to forfeit or suspend his permit, he shall give notice by registered mail, deposited in the United States mails, stating the reasons justifying forfeiture or suspension of such permit, and that the same shall be forfeited fifteen (15) days from said date unless said distributor purge himself of such violation and pay any penalties that may be due. Provided, however, that if the Comptroller illegally attempts to revoke or suspend said permit, said distributor, by giving at least two (2) days notice to the Comptroller, may file a suit in equity in any Court of Travis County, Texas, having jurisdiction to enjoin the Comptroller's act and at any time after the expiration of said period the Comptroller may suspend or forfeit said permit unless enjoined. Any notice required to be given by the Comptroller may be mailed to the distributor at any place disclosed by the application required in Section 3 [art. 7065a—3] hereof. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 5.]

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

[Art. 7065a—6. Bond of distributor; approval by Comptroller; deposits in lieu of bond]

(a) Before any permit shall be issued, and before engaging in the sale of motor fuel in Texas every distributor shall execute and file with the Comptroller a good and sufficient surety bond which shall run concurrently with the permit heretofore provided for in this Act. The said bond shall be signed by said distributor, and a good and sufficient surety company or companies authorized to do business in this State, to be approved by the Comptroller in an amount not less than One Thousand Dollars (\$1,000.00), nor more than Twenty-five Thousand Dollars (\$25,000.00), payable to the State of Texas, and conditioned for the full, complete and faithful performance of all the conditions and requirements of this Act, on a form to be prescribed by the Comptroller, with the approval of the Attorney General, expressly providing for the payment of all taxes, costs, penalties and interest at Austin, Texas. The amount of the bond required of any distributor shall be fixed by the Comptroller, and, subject to the limitations herein provided, additional bond shall be required by the Comptroller at any time an existing bond becomes insufficient. However, the distributor may demand a reduction of his bond after six (6) months from the effective date hereof in a sum to be not more than three times the highest tax said distributor has paid for any month during *[the highest tax said distributor has paid for any month during] the preceding six (6) months, but which shall never be less than the minimum nor more than the maximum aforesaid. Provided that the Comptroller shall have the authority at his discretion to permit any distributor to make reports and payments at shorter intervals than one (1) month, and in such cases to permit bonds based on the shorter intervals.

(b) The Comptroller shall have the right, if in his opinion any surety on a bond shall become unsatisfactory or unacceptable, to require the filing of a new bond. Should the distributor fail or refuse to supply a new bond within thirty (30) days after demand, the Comptroller shall forthwith cancel said distributor's permit. When said new bond has been furnished, the Comptroller shall cancel the bond for which said new bond is substituted. No recoveries on any bond or execution or any new bond or renewal of a permit shall invalidate any bond. A new bond may be demanded when any new permit is issued or revived, but no revocation or revival shall affect the validity of any bond.

(c) Any surety on any bond furnished by any distributor as above provided shall be released and discharged from any and all liability to the State of Texas accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the Comptroller written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue, before the expiration of said thirty (30) day period. The Comptroller shall promptly on receipt of notice of such request notify the distributor who furnished such bond, and unless such distributor shall on or before the expiration of such thirty (30) day period, file with the Comptroller a new bond with a surety company duly authorized to do business under the laws of the State, in the amount and form hereinbefore in this Act provided, the Comptroller shall forthwith cancel the license of said distributor. If such new bond shall be furnished by said distributor as above provided, the Comptroller shall cancel and surrender the bond for which such new bond is substituted.

(d) That in lieu of giving a bond, any distributor may deposit in the Suspense Account of the State Treasury, money in the amount of the bond that may be required, which shall never be released until securities are substituted for the same or a bond executed in lieu thereof, or until the Comptroller has made a complete and thorough investigation and au-

*Brackets inserted by compiler for duplicate matter.

thorized the same to be released; and provided, in lieu of cash or the bond required by this Act, such distributor may deposit securities with the Comptroller, that shall be acceptable to him. Said securities shall be placed in the Treasury as other securities, but in all events shall be of the same class as the funds of the University of Texas may be invested in. Provided, however, that if, in the opinion of the Comptroller, the securities so deposited should become insufficient for the purpose for which they were deposited, he shall demand additional securities. Providing when default of payment of taxes is made by any distributor who has money and/or collateral deposited with the State Treasurer in lieu of a bond as herein provided, suit shall be instituted by the State and, after the State has established its debt for delinquent taxes by judgment of Court, money on deposit in Suspense Account shall be withdrawn therefrom and shall be used to pay off and satisfy said judgment, and provided further, if collateral is on deposit with the State Treasurer such collateral shall be sold by the Comptroller, and the proceeds of sale shall be used in paying off and satisfying said judgment. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 6.]

[Art. 7065a—7. State's lien on property of distributor for taxes, fines, etc.]

All taxes, fines, penalties and interest due by any distributor to the State shall be a preferred lien, first and prior to any and all other existing liens, upon all of the property of any distributor, devoted to or used in his business as a distributor, which property shall include refinery, blending plants, storage tanks, warehouses, office buildings and equipment, tank trucks or other motor vehicles or any other property devoted to such use, and each tract of land on which such refinery, blending plant, tanks or other property is located, or which is used in carrying on such business. If any distributor shall fail to remit proper taxes due, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly remitted, the distributor shall pay the reasonable expenses incurred in such investigation and audit as additional penalty. Provided, however, that all funds paid to the auditor of the Comptroller as expenses incurred in making audits, shall be placed in a special fund in the State Treasury, which shall be used until exhausted, for making other audits, and said sums are hereby appropriated for that purpose. Provided, that nothing herein shall prevent the Comptroller, when said fund is exhausted, from using other funds available for that purpose. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 7.]

[Art. 7065a—8. Records required by distributors; suits by Attorney General to enforce tax and penalties]

(a) Every distributor shall keep in Texas for a period of two (2) years for the inspection at all times of the Comptroller and the Attorney General, or their authorized representatives, a complete record of all crude oil and other oil or products from which such distributor may refine or blend any motor fuel that is sold or used by him, and this record shall show the date of receipt and source of all such crude oil and other oil or products; also it shall show all sales of the same as and when made from stocks on hand, the quantities refined or blended, and inventories on the first of each month.

(b) He shall keep also in Texas for a period of two (2) years a complete record of each and every sale, distribution or use of motor fuel, regardless of whether or not a tax is due upon said motor fuel under the provisions of this Act, upon a form of manifest to be prescribed by the Comptroller and furnished by the distributor, which manifest shall be issued in duplicate and numbered consecutively. Said manifest shall show the date of sale, distribution or use, the purchaser and his address, the

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quantity sold, the means of delivery, including the license number and description if delivered in motor vehicle or trailer, the number and initials if delivered by tank car and the name or description if delivered by boat or barge. The said manifest shall reflect separately the tax involved in the sale, apart from the cost of the motor fuel less the tax. Provided, however, that rail shipments shall be supported by regular bills of lading. Provided further, that in all deliveries of motor fuel, other than those for rail or water transportation, the said manifest shall show the time the motor fuel was delivered into the motor vehicle or trailer. Provided further, with the exception of rail shipments, every person receiving said motor fuel or any part of the same shall receipt upon the reverse side of said manifest for the quantity received by him. The manifest shall be signed by the distributor and the duplicate manifest shall be delivered to the person receiving the motor fuel from said distributor, who shall carry the same with said motor fuel. Provided further, however, that where a distributor markets his products through his own service stations, that as to said service stations, it will be sufficient to keep the records hereinafter required by this Act to be kept by dealers.

(c) For the purposes of enabling the authorized officers under this law to determine the tax liability of a distributor or refinery they shall have the right to go upon the premises of said distributor or refinery, examine all of the foregoing described records and all other accounts pertinent to the inquiry and incident to the conduct of the business of said distributor or refinery. The said authorized agents shall also have the right, as an incident to determining said tax liability, to gauge or measure the contents of all storage tanks, containers and other equipment and to take samples therefrom. For the foregoing purposes, said authorized officers shall also have the right to remain upon said premises for such length of time as will be necessary to fully determine said tax liability.

(d) If any distributor fails or refuses to pay any tax, penalties or interest within the time and manner provided by this Act, and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim, in any judicial proceedings, any report filed in the office of the Comptroller by such distributor or his representative, or a certified copy thereof certified to by the Comptroller or Chief Clerk, showing the amount of motor fuel sold by such distributor or his representative, on which such tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said distributor, when signed and sworn to by such representative as being made from the records of said distributor or person from whom such distributor has bought, received or delivered motor fuel whether from a transportation company or otherwise, such report or audit shall be admissible in evidence in such proceedings, and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown.

(e) In the event the Attorney General shall file suit or claim for taxes, provided for in the foregoing Section, and attach or file as an exhibit any report or audit of said distributor, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid, that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas of 1925, as amended by Chapter 239, Acts of the Regular Session of the 42nd Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said article are hereby made applicable to suits to collect taxes hereunder. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 8.]

[Art. 7065a—9. Penalties for violation of rules and regulations]

If any distributor shall (a) sell any motor fuel upon which a tax is required to be paid by this Act without at the time having a valid permit, or (b) fail to keep any of the records required to be kept by the provisions of this Act, or (c) fail to make the report or remittance required by Section 2 hereof, or (d) if any distributor or other person affected by this Act shall fail or refuse to abide by the provisions hereof, and the rules and regulations promulgated hereunder, or violate the same, he shall forfeit to the State as a penalty, the sum of not less than Ten Dollars (\$10.00), nor more than Five Hundred Dollars (\$500.00). Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid, shall be recovered in a suit by the Attorney General in a Court of Competent jurisdiction in Travis County, Texas, or any other Court having jurisdiction. Provided, however, that in addition to the penalties above, if the distributor does not make the remittance within the time prescribed by law, he shall forfeit two per cent (2%) of the amount of the tax due. And if not paid within twenty (20) days from the due date, he shall forfeit an additional eight per cent (8%) penalty. All past due taxes and penalties shall draw interest at the rate of ten per cent (10%) per annum. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 9.]

[Art. 7065a—10. Remittance of tax]

Every distributor at the time of making the report required by Section 2(d) shall attach legal tender or make proper form of money order or exchange thereto payable to the State Treasurer in the amount of tax for the period covered by such report, provided, however, that in computing the tax a deduction for evaporation and loss of motor fuels reported as herein provided, shall be allowed, which shall be deducted from the amount of the tax remitted. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 10.]

[Art. 7065a—11. Records open for inspection of Comptroller, Attorney General or representatives; contents of records]

Every dealer shall keep at each place of business for a period of two (2) years for the inspection at all times of the Comptroller and the Attorney General or their authorized representatives the manifest furnished by the distributor as required herein and such other information as will provide a complete record of all motor fuels, kerosene, naphtha, distillate and casinghead or natural gasoline, purchased or received by them at such place of business. Such record shall show the date, name and address of the person from whom purchased or received, the number of gallons, the designation by name of the particular kind of motor fuel purchased or received, the point from which shipped or delivered, the point at which received, the number and initials of car if shipped by rail, the name of the boat or barge if shipped by water, and the license number and description if received by motor vehicle or trailer, and in addition, the total daily sales, designating the particular kind of motor fuel, kerosene, naphtha, distillate and casinghead or natural gasoline sold or delivered whether the same be taxable or not under the provisions of this Act.

Upon each sale, distribution or use of any motor fuel in quantities of fifty gallons or more, every dealer shall be required to issue and deliver to the purchaser or carrier, as the case may be, a manifest made up as required by Section 8(b) of this Act. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 11.]

[Art. 7065a—12. Access to records of common carriers; officers authorized to stop motor fuel carriers for examination of manifests]

(a) Every common carrier in this State having the custody of books or records showing the transportation of motor fuel both interstate and

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intrastate shall give and permit the Comptroller or his duly authorized representative free access to such books and records.

(b) All persons operating railroads, trucks, pipe lines and other conveyances as common carriers in the transportation of motor fuel into and from this State, shall render a sworn report to the Comptroller not later than the 20th of each month, showing a description of the tank car, truck or other conveyances in which the same was transported on such forms as shall be prescribed by Comptroller, which was transported by such persons during the preceding month. There shall also be included in said report full data concerning the diversion of shipments enroute as amount to a change from interstate to intrastate and intrastate to interstate commerce. Provided, that no report be made by any such persons transporting motor fuel in quantities of less than twenty (20) gallons. Such report shall show the points of origin and destination, the number of gallons shipped, the date, the consignee and the consignor and the kind of motor fuel.

(c) All carriers, excepting railroads and pipe lines, shall carry manifest issued by distributors or dealers in compliance with Section 8(b). All records provided for in this Act shall be kept by said carriers in Texas for a period of two (2) years, and shall at all times be subject to the inspection of the Comptroller or Attorney General or their authorized representatives.

In order to enforce the provisions of this Act every State Tax Supervisor, Highway Patrolman, Sheriff, Constable and his deputies and all other peace officers are empowered to stop any motor vehicle which might appear to be transporting motor fuel as cargo for the purpose of examining the manifest required to be carried, for examination of the commodity in transit, to take samples of the cargo, and for such other investigations as could reasonably be made to determine whether the cargo was motor fuel and whether the manifest indicated that the State Tax was a part of the consideration involved in the sale or distribution of any motor fuel carried. If, upon said examination, it is found that the driver of any such motor vehicle transporting motor fuel does not possess or refuses to exhibit a manifest required herein, he shall stand the said motor vehicle and its contents aside, reporting said action to the Sheriff or Constable, of the county in which the examination is made, who will impound the same. The said impoundment shall continue not to exceed seventy-two (72) hours, during which time proof shall be produced that the motor fuel has been sold with the State Tax as a part of the consideration therefor. If said proof is not produced within said time, the Sheriff or Constable shall proceed to sell the said motor fuel in the manner provided by law for the sale of personal property under execution in this State. Upon said sale the Sheriff or Constable shall first pay to the Comptroller or his authorized representative the State Tax due upon said motor fuel. The Sheriff or Constable shall receive such fees as are now allowed by law for the services rendered by him. The balance of said sum shall be turned over to the rightful owner of said motor fuel after deducting the reasonable expenses incurred in impounding and selling the same. Provided further, in the event a distributor or dealer in transporting motor fuel from his own storage under circumstances in which no sale is involved, the manifest of said motor fuel shall be exhibited showing such fact.

(d) Any person violating any provision of this Section shall be liable for the penalty prescribed in Section 9. Provided no report or information is required herein, the requiring of which would be a violation of the laws and Constitution of the United States or Texas, or an unlawful burden on interstate or foreign commerce. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 12.]

[Art. 7065a—13. Exemptions and refunds; payments into Highway Motor Fuel Tax Fund]

(a) Any person who purchases motor fuel in the State of Texas and any distributor who appropriates motor fuel for use, when such motor fuel purchased by such person or used by such distributor for operating or propelling any stationary gas engine or tractor used for agricultural purposes, motor boats, air craft or for any other purpose other than use in a motor vehicle operated or intended to be operated in whole or in part upon any of the public highways, roads and streets of the State of Texas, on which motor fuel tax has been paid either directly or indirectly, shall be refunded the amount of such taxes so paid by the distributor, exclusive of the deduction for evaporation and loss in the manner and subject to the limitations and conditions described herein. Provided, however, that no greater amount shall be refunded than has been paid into the State Treasury on any motor fuel. The tax actually paid by any distributor or person shall be refunded as provided herein on motor fuel not subject to the tax.

(b) Upon each purchase by such person, and upon each appropriation for use of motor fuel by a distributor, on [an] invoice of exemption shall be made out at the time, which shall state the number of gallons of motor fuel thus appropriated or purchased, the purpose for which it will be used, or is intended to be used, the date and place of the purchase or appropriation, the name of the purchaser or user, and the name of the agent or employee actually making the purchase or appropriation, if any, the seller and place of business of seller, the manner of delivery, the place of delivery, and that the tax was then and there paid upon the sale, if a sale, and the price of the motor fuel and the tax stated separately, and give such other information as the Comptroller may require, and no refund shall be allowed unless the seller at the time, and not thereafter, executes such an invoice or ticket as provided above. Provided further, that the records heretofore prescribed shall be kept for a period of two (2) years.

(c) When a claimant purchases or acquires for use motor fuel upon which a refund of the tax may be due, he shall within six (6) months from the date of purchase of motor fuels, upon which a refund is claimed, and not thereafter, file with the Comptroller an affidavit on such forms as may be prescribed by the Comptroller. Said affidavit shall include a statement as to the source or place of purchase or acquisition of such motor fuel used for purposes other than in propelling motor vehicles over the highways of this State, that the information stated in the attached invoice or ticket is true and correct, and the manner in which said motor fuel was used, and that no part of said motor fuel was used in propelling motor vehicles over the highways of this State. Provided further, that no refund shall be made until the claimant, in addition to the above requirement shall present to the Comptroller along with said affidavit, a written signed receipt from the seller of said motor fuel showing that the said motor fuel, together with the tax thereon, has been paid. Said affidavit shall be accompanied by the invoice or ticket above referred to, and the Comptroller may require other affidavits in such form and time as he may deem advisable, and if he finds that such claims are just, and that the taxes claimed have actually been paid by the claimant, then he shall within sixty (60) days issue warrant or warrants for the amounts due claimant, but no warrant shall be paid by the State Treasurer after twelve (12) months from the date thereof, and if such warrant is not presented within twelve (12) months from the date thereof, claimant shall forfeit his right to the refund. No refund shall be made where motor fuel is used later than six (6) months from the date of purchase or appropriation and no refund shall ever be made where it appears from the invoice or from the affidavits or other evidence submitted that the sale or purchase was made more than six (6) months prior to the date of the filing of the application for refund in the office of the Comptroller. No refund of the tax shall be allowed on motor fuel used in

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any registered or licensed motor vehicle or in any motor vehicle operated or intended to be operated in whole or in part upon any of the highways, roads and streets of this State.

(d) All filing fees shall be paid into the State Treasury and be paid out on vouchers and warrants on appropriations made by the Legislature as prescribed by law.

(e) All the moneys paid into the Treasury under the provisions of this Act, except the filing fees above, shall be set aside in a special fund to be known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer, showing the total maximum amount of refunds that may be required to be paid by the State out of said funds. The Comptroller shall on the 20th day of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the State on sale of motor fuel during the preceding month, upon which a refund may be due, and shall certify to the Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds, and shall not distribute that part of said fund until the expiration of the time in which a refund can be made out of said fund, but as soon as said report has been made by the Comptroller, and the maximum amount of refunds determined, he shall deduct said maximum amount from the total taxes paid for such month, and apply the remainder of such as provided in Section 6, Chapter 13, Acts of the 3rd Called Session of the 42nd Legislature. If claimant has lost or loses, or for any reason failed or fails to receive warrant after warrant was or has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue claimant duplicate warrant as provided for in Article 4365, Revised Civil Statutes of Texas, but in no event shall a duplicate warrant be issued after one year from expiration date of original warrant.

(f) So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided for herein, and if a specific amount be necessary then there is hereby appropriated and set aside for said purpose the sum of Two Hundred Thousand Dollars (\$200,000.00) or so much thereof as may be necessary. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the amount deducted originally by the distributor shall be deducted in computing the refund. The Treasurer shall deduct One Dollar (\$1.00) from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 13.]

[Art. 7065a—14. Comptroller to publish and enforce rules and regulations]

The Comptroller shall have the power and it shall be his duty from time to time, to adopt, publish and enforce reasonable rules and regulations not inconsistent herewith for the purpose of carrying out the provisions of this Act. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 14.]

[Art. 7065a—15.]

Section 15 of said Acts 1933, 43rd Leg., p. 75, ch. 44 being a penal provision is published as Penal Code, art. 141a—1.

[Art. 7065a—16. Administration by Motor Fuel Tax Division; officers, assistants, etc., and compensation]

Before any diversion or allotment of the motor fuel tax collected under the provisions of this Act is made, two-thirds ($\frac{2}{3}$) of one per cent (1%) of the gross amount of said tax shall be set aside in the State Treasury, subject to the use of the Comptroller in the administration and enforcement of the provisions of this Act, and so much of the said proceeds of two-thirds

(2/3) of one per cent (1%) of the motor fuel tax paid monthly as may be needed in such administration and enforcement be, and is hereby appropriated for said purposes. Any unexpended portion of said fund so specified shall at the end of the fiscal year revert to the respective funds or accounts in proper proportions to which the motor fuel tax fund is proportioned at the end of each fiscal year.

Provided further, that the Comptroller shall create a Motor Fuel Tax Division and at his discretion, appoint a Director and assistant of such Motor Fuel Tax Division so created and this appropriation or so much thereof as shall be absolutely necessary, and no more, shall be used exclusively in the administration and enforcement of the terms and requirements of this Act, which shall include: the salaries of the present force and of a Director not to exceed Three Thousand Dollars (\$3,000.00) per year, Assistant Director, Auditors and Tax Supervisors, none exceeding Two Thousand, Four Hundred Dollars (\$2,400.00) per year; Assistant Auditors, Accountants and investigators none to exceed One Thousand, Eight Hundred Dollars (\$1,800.00) per year; Bookkeepers, none to exceed One Thousand, Five Hundred Dollars (\$1,500.00) per year; Stenographers and Typists, none to exceed One Thousand, Three Hundred and Twenty Dollars (\$1,320.00) per year, basis One Thousand, Two Hundred Dollars (\$1,200.00) per year; File Clerks, none to exceed One Thousand, Two Hundred Dollars (\$1,200.00) per year; and so much thereof as may be necessary for a Chemist and necessary testing equipment or laboratory fees, Postage, Telephone, Telegraph, Express, Drayage, Office Equipment and Supplies, Stationery, Court Costs and Witness Fees, Bond Premiums, Traveling Expenses including three cents per mile for Automobile transportation of Tax Supervisors and Auditors, and Contingent expenses not otherwise specified.

There shall also be assigned by the Attorney General Two Assistant Attorneys General to the Motor Fuel Tax Division who shall give their entire time to the legal duties of said department and whose salaries and necessary traveling expenses shall be paid out of said appropriation at the prevailing rate fixed for Assistant Attorneys General. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 16.]

[Art. 7065a—17. Repeals and reservations]

Chapter 93, Acts of the Regular Session of the 40th Legislature, Sections 17, 18 and 19 of Chapter 88, Acts of the 2nd Called Session of the 41st Legislature; and Chapter 98, Acts of the Regular Session of the 42nd Legislature are hereby repealed. Provided, however, that all occupation or excise taxes accruing to the State of Texas by virtue of the above repealed Acts, before the effective date of this Act, shall be and remain valid and binding obligations due the State for all taxes accruing under the provisions of prior or existing gasoline tax laws, and all such taxes now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State and the liens and other obligations created and bonds executed to secure their payment are hereby declared to be and shall remain in full force and effect. And further provided, that no offense committed and no fine, forfeiture or penalty incurred under such above repealed Acts before the effective date of this Act, shall be affected by the repeal herein of any such laws, but the punishment of such offense and the recovery of such fines and forfeitures shall take place as if the law repealed had remained in force. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 17.]

[Art. 7065a—18. Construction]

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

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hereby declares that it would have passed this Act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 18.]

Art. 7071. [Repealed by Acts 1933, 43rd Leg., p. 409, ch. 162, § 10]

Acts 1933, 43rd Leg., p. 409, ch. 162, § 10, reads as follows: "Article 7071, Revised Civil Statutes of 1925 and all laws in conflict herewith are hereby repealed. Provided, however, that all occupation taxes accruing to the State of Texas by virtue of the above repealed Article shall be and remain valid and binding obligations due the State for all taxes accruing under the provisions of

prior or existing occupation tax laws, and all such taxes now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State, and the liens created to secure their payment are hereby declared to be and shall remain in full force and effect."

Art. 7073. [7385] Tax paid when business is begun after beginning of quarter

Payment under protest, see art. 7057a.

Art. 7076. [7388] Penalties recovered by suit

The penalties provided for by this Chapter shall be recovered by the Attorney General in a suit brought by him in the name of the State of Texas; and it is further provided that should any taxes or penalties provided for by this Chapter be found at any time to be delinquent, the State Tax Board, consisting of the Comptroller of Public Accounts, the Secretary of State, and the State Tax Commissioner, shall be authorized to bring suit for the recovery of same in the name of the State of Texas. The State Tax Commissioner is hereby authorized to appoint and employ investigators, attorneys, auditors, and/or other assistants as may be necessary to carry out the provisions of this Act as said State Tax Commissioner may deem advisable; providing further, that in no event shall said State Tax Board or the State Tax Commissioner make any contract of employment for the collection of delinquent taxes on a contingent fee basis. The State Tax Commissioner is further authorized to request and receive the assistance of the Attorney General and the heads and employees of all other Departments of the State Government to aid in the speedy recovery of such money or penalties due the State under the terms of this Chapter; and it shall be the duty of the Comptroller of Public Accounts, the Secretary of State, and other officials and heads of all State Departments and Agencies of the State Government, which are now, or may be charged with the administration and collection of State taxes and license fees, to certify to the State Tax Commissioner, within thirty (30) days after any State taxes or license fees become delinquent, the fact of such delinquency; and the State Tax Commissioner or his authorized representative shall have full and complete authority to investigate, inquire into, and examine the records of the various departments of the State Government charged with the collection of State taxes or license fees, for the purpose of ascertaining whether delinquencies in the payment of State taxes and license fees exist. The venue and jurisdiction of all suits arising hereunder is hereby conferred upon the courts of Travis County. It is further provided that for the purpose of carrying out the terms of this Act said State Tax Commissioner and said State Tax Board shall have the authority to examine at the principal or any other office in the United States of any person, firm, agent or corporation permitted to do business in this State, all books, records and papers and also any officers or employees thereof, under oath and failure or refusal of any person, firm, agent or corporation to permit such examination shall, upon certification of such refusal by the State Tax Commissioner to the Secretary of State, immediately forfeit the charter or permit to do busi-

ness in this State until such examination as is required to be made is completed. The State Tax Board or any authorized agent thereof shall not make public or use said information derived in the course of said examination of said books, records and papers and/or officers or employees except for the purpose of some judicial proceeding for the collection of delinquent taxes in which the State of Texas is a party. [As amended Acts 1933, 43rd Leg., p. 581, ch. 192, § 1.]

See note, article 7144a.

[Art. 7076a. Delinquent franchise and other taxes than ad valorem taxes on property]

It is further specifically provided that all of the provisions of this Act shall apply and be applicable to all delinquent State taxes due and owing to the State of Texas, of every kind and character whatsoever, including all franchise, occupation, gross receipts, gross production, gross premiums tax on insurance companies, inheritance, gasoline; excise and all other State taxes which become delinquent other than State ad valorem taxes on property. It is hereby declared to be one of the purposes hereof to impose upon the State Tax Board the additional duty of collecting and aiding in the collection of all delinquent taxes enumerated and referred to herein, and all laws now applicable to the collection of such delinquent taxes, and all powers and authority now possessed by existing officers and agencies of the State Government are hereby, in addition, conferred upon said State Tax Board, as far as the same may be applicable, but this provision shall not in any manner lessen, transfer, interfere with or impair the rights or duties of existing agencies of government to collect such delinquent taxes; provided further, that said State Tax Commissioner shall, after the passage hereof, be the chief administrative officer of this Act, and said State Tax Commissioner shall have full and exclusive power and authority to employ such clerical personnel as may be necessary for the proper and efficient prosecution of delinquent tax suits, and all actions which may arise hereunder, which shall be in addition to such assistance as may be required by the State Tax Board or the State Tax Commissioner from the Attorney General of Texas, and the State Board of Control shall provide said State Tax Board with proper and sufficient office space and quarters. [Acts 1933, 43rd Leg., p. 581, ch. 192, § 2.]

See note, article 7144a.

Art. 7084. Amount of tax

Payment under protest, see art. 7057a.

Art. 7105. [7414] Tax on intangible assets

Each incorporated railroad company, ferry company, bridge company, turnpike or toll company, oil pipe line company, and all common carrier pipe line companies of every character whatsoever, engaged in the transportation of oil, doing business wholly or in part within this State, whether incorporated under the laws of this State, or of any other State, territory, or foreign country, and every other individual, company, corporation or association doing business of the same character in this State, in addition to the ad valorem taxes on tangible properties which are or may be imposed upon them respectively, by law, shall pay an annual tax to the State, beginning with the first day of January of each year, on their intangible assets and property, and local taxes thereon to the counties in which its business is carried on; which additional tax shall be assessed and levied upon such intangible assets and property in the manner provided in this chapter. The county or counties in which such taxes are to be paid, and the manner of apportionment of the same, shall be

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determined in accordance with the provisions of this chapter. [As amended Acts 1933, 43rd Leg., p. 409, ch. 162, § 12.]

Section 13 of Acts 1933, 43rd Leg., p. 409, ch. 162 provides as follows: "The purpose hereof is to place all common carrier oil pipe line companies under all of the provisions of the Intangible Asset Tax Laws of this State; and, for the purpose of placing under said act all taxpayers similarly situated, and to bring about a better classification and a wider distribution of the burdens of taxation, as far as this class of taxpayers is concerned.

by the present State Tax Board as now constituted, provided that said State Tax Board shall have full authority to promulgate all reasonable and necessary rules and regulations governing the administration hereof as may be reasonable and necessary in the carrying out of the purposes of this section; provided further that said State Tax Board may employ such auditors, counsel, and tax supervisors as may be necessary for the proper administration and enforcement of the provisions of this section or portion of this Act."

"It is the further intention hereof that this particular portion or provision of this measure shall be administered and enforced

Art. 7122. Class E—Foreign bequest

If passing to or for the use of the United States, to or for the use of any other person or religious, educational or charitable organization or institution, or to any other person, corporation or association not included in any of the classes mentioned in the preceding portions of the original Act known as Chapter 29 of the General Laws of the Second Called Session of the Thirty-eighth Legislature, the tax shall be:

5%	on any value in excess of \$	500 and not exceeding \$	10,000
6%	" " " " " "	10,000 " " "	25,000
8%	" " " " " "	25,000 " " "	50,000
10%	" " " " " "	50,000 " " "	100,000
12%	" " " " " "	100,000 " " "	500,000
15%	" " " " " "	500,000 " " "	1,000,000
20%	" " " " " "	1,000,000	

Provided, however, that this Article shall not apply on property passing to or for the use of the United States or any religious, educational or charitable organization when such bequest, devise or gift is to be used within this State. [Acts 1927, 40th Leg., p. 87, ch. 62; Acts 1931, 42nd Leg., p. 109, ch. 72; Acts 1933, 43rd Leg., p. 581, ch. 192, § 2b, subsec. 20.]

Subsec. 21, § 2b, Acts 1933, 43rd Leg., p. 581, ch. 192 repeals all conflicting laws and parts of laws and provides that if any part

of the act is held invalid, such holding shall not affect any other part or provision. See note, art. 7076.

[Art. 7140. Repealed by Acts 1933, 43rd Leg., p. 581, ch. 192, § 2b subsec. 18]

See note, art. 7144a.

Art. 7141. Attorney's fees

For the services performed under the provisions of this chapter, the County Judge shall be allowed two (2) per cent of the taxes collected, not to exceed Thirty (\$30.00) Dollars in any one estate. If suit be brought, the county or district attorney prosecuting same shall receive as compensation therefor, five (5) per cent on the amount of taxes payable hereunder, not to exceed in any one case the sum of Two Hundred (\$200.00) Dollars, which fee shall be added to and collected from said estate in addition to the taxes and penalties herein provided for, and such compensation shall be in addition to all other fees and compensation provided by this law. The aggregate of fees received under this law shall not exceed in any one year Two Thousand (\$2,000.00) Dollars, and any fees earned in addition to said sum shall be considered a portion of the tax and penalties collected, and be distributed in the same manner. [As amended Acts 1933, 43rd Leg., p. 581, ch. 192, § 2b, subsec. 19.]

See note, art. 7144a.

Art. 7142. Tax collector's fees

The collector of taxes of each county shall, on or before the fifteenth day of each month, transmit to the State Treasurer at Austin, Texas, all taxes received before the first day of the month by him under the provisions of law relating to the assessment and collection of inheritance taxes, deducting therefrom all lawful disbursements made by him under the law and also his compensation at the rate of One (\$1.00) Dollar, for each estate on which he collected the inheritance tax. [As amended Acts 1933, 43rd Leg., p. 581, ch. 192, § 2b, subsec. 17.]

See note, art. 7144a.

[Art. 7144a. Imposition of additional inheritance tax]

[Sub] Sec. 1. In addition to the inheritance tax already levied by this State under existing laws, an inheritance and transfer tax is hereby levied upon the net estate of every decedent dying after this Act shall take effect, and whose estate, or any portion thereof, is, or hereafter shall be, made taxable under the inheritance tax laws of this State, or that may be subject to such taxes under any law of this State that may be hereafter enacted. Said tax shall be, and is, levied upon the entire net value of the taxable estate of the decedent situated and taxable in the State of Texas, and the tax on each such estate shall be equal to the difference between the sum of such taxes due this State as inheritance or transfer taxes and eighty (80) per cent of the total sum of the estate and transfer taxes imposed on such estate by the United States Government under the Revenue Act of 1926, by reason of the property of such estate which is situated in this State and taxable under the laws of this State.

[Additional tax as lien on entire estate]

[Sub] Sec. 2. The additional tax aforesaid shall be a lien upon the entire estate of the deceased and collectable out of said entire estate, or any part thereof, regardless of exemptions and deductions; and, in event two (2) or more persons succeed to or become the owners of taxable interests in such estate, and in event inheritance or transfer taxes are assessed under the law against portions thereof or interests therein severally, then said additional tax levied and collected under this Act shall be apportioned between or among such part owners in proportion to the amount of the tax assessed against each share or interest in said estate.

[When additional tax not imposed]

[Sub] Sec. 3. In the event the amount of inheritance and transfer taxes assessed against any certain estate under the inheritance tax laws of this State shall equal or exceed eighty (80) per cent of the estate or transfer taxes assessed and computed by the United States under the Revenue Act of 1926, against said estate or property belonging thereto and situated within the State of Texas, then no additional taxes shall be collected hereunder, it being the purpose and intention of this Act to collect only a sufficient additional tax, when necessary, for the State to get the full benefit of the eighty (80) per cent credit to the States provided for by Section 301, Chapter 27 of the Federal Revenue Act of 1926.

[Imposition of tax sufficient to equal eighty per cent of Federal tax]

[Sub] Sec. 4. Where no inheritance tax is imposed on an estate, which is situated in this State, under the laws of this State, by reason of its value not exceeding in value the amount of exemptions, and an estate tax is imposed on such estate by the Federal Government, then there shall be, and is hereby, levied, and shall be collected from such estate, as inheritance or transfer tax sufficient in amount to equal eighty (80%) per cent of said tax imposed by the Federal Government under the Revenue Act of 1926, on that portion of said estate which is situated in the

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State of Texas. In computing and determining the rate of the tax in such cases named in this Section, the State Comptroller, or other officers, whose duty it is to calculate and determine the amount of inheritance taxes, shall compute the same upon the net valuations of said estate as determined and used by the United States in computing the amount of the Federal Government tax due upon said estate, and said tax shall be paid from the whole of such estate before partition and distribution among the joint or several owners of same, and the said tax shall be due and payable, and shall be subject to the same interest and penalties for non-payment, as are other inheritance taxes under the provisions of the inheritance tax laws of the State.

[Computation of eighty per cent of Federal tax]

[Sub] Sec. 5. In determining what is eighty (80%) per cent of the United States estate tax mentioned in the preceding sections, the same shall be computed as eighty (80%) per cent of such taxes actually assessed and determined by the Federal Government under the Revenue Act of 1928, against every estate situated wholly in this State, or in case an estate is situated partly in this State and partly outside of this State, then such eighty (80%) per cent shall be computed as eighty (80%) per cent of the total amount of Federal taxes finally determined and assessed by the Federal Government under the Revenue Act of 1926, on and against that part of the estate situated in the State of Texas, and said amount of Federal Tax shall be determined by multiplying the total Federal estate tax on the entire estate by a percentage which shall be the same percentage as the percentage of the net estate located in Texas is to the total net estate of the decedent, wherever located, before deducting specific exemptions. In every case, it shall be the duty of the executor, administrator, or other officer, whose duty it is under the law to file reports of property with the County Court for inheritance tax purposes, to file with the County Court which has jurisdiction of such estate, and with the Comptroller of Public Accounts at Austin, a report showing the values placed on such estate and the amount of the estate tax assessed against the same by the Federal Government; and in case the Federal Government adds to or increases the net or taxable value of any estate and levies an additional tax in accordance therewith, after having already determined and assessed a tax against said estate, then such officer shall report, as aforesaid, the amount of said increased value and the amount of the added tax levied by reason thereof, this requirement applying only to an estate, or to the portion of an estate, which is situated in the State of Texas; and upon such report the additional taxes due this State shall be calculated and determined.

[Notice to county judge of assessment of additional tax]

[Sub] Sec. 6. In every case in which additional taxes have been assessed against an estate under the provisions of this Act, notice of the assessment of such additional tax shall be given by the County Judge, at once, to the owners or coparceners of said property against which said additional taxes have been assessed, and said tax shall become due in thirty (30) days after such notice, or within thirty (30) days after such owner or coparcener shall have had actual notice of the assessment of such additional taxes, and said tax shall bear interest at the rate of six (6%) per cent per annum from the date of such notice, formal or actual, and if said tax is not paid within three (3) months from the date of such notice, a penalty of two (2%) per cent per month shall accrue on said taxes from the date same were due, which said penalty shall be in lieu of interest after said penalty begins to accrue. Nothing in this Act shall prevent any part owner or coparcener of property, against which such additional taxes have been assessed, from paying his pro rata

of such taxes and thus relieving his property from interest or penalties after such payment.

[Law governing assessment and collection]

[Sub] Sec. 7. The notice, the date for maturing, payment, interest and penalties provided for in this Act shall govern in every case of additional taxes assessed by virtue hereof, but the methods and means of collection and enforcement, by suit or otherwise, shall be governed by the provisions of the inheritance tax laws of this State.

[Construction of Act]

[Sub] Sec. 8. Sections 1 to 7, inclusive, of this Chapter shall always be construed so as not to increase the total amount of taxes payable to the State and the Federal Government combined upon the estates of decedents, the only purpose of said additional tax being to take full advantage of the eighty (80%) per cent credit allowed by the Federal Revenue Act of 1926, to those who have paid any estate, inheritance, legacy, or succession tax to any State or territory or to the District of Columbia, in respect to any property included in the decedent's gross estate. [Acts 1933, 43rd Leg., p. 581, ch. 192, § 2a.]

[Sub] Sec. 10. If the value of any estate taxes under Chapter 5 of Title 122 or the Revised Civil Statutes of 1925, with amendments, shall have been assessed and fixed by the Federal Government for the purpose of determining the Federal estate taxes due thereon, prior to the time the report which is required under the inheritance tax laws of this State is made to the State Comptroller, the value of the estate so fixed by the Federal Government shall be stated in such report. If the assessment of the estate by the Federal Government is made after the filing of such report to the State Comptroller, the officer or person whose duty it is to file the report which is required under the inheritance tax laws of this State, shall, within thirty (30) days after receiving notice or information of the final assessment and determination of the value of the estate as assessed and determined by the Federal Government for the purpose of fixing Federal estate taxes thereon, make to the State Comptroller a report of the value of said estate as so fixed and determined, said report to be made under oath.

[Sub] Sec. 11. Upon receipt of any report provided to be made to the State Comptroller under the preceding section and upon consideration thereof, if that official deems it advisable, he may take into consideration said report in determining the value of any estate for inheritance tax purposes, and may value or revalue such estate for such purpose after giving each beneficiary, or person at interest in said estate, thirty (30) days written notice of such Federal valuation and of his said purpose to value or revalue said estate, and shall give such beneficiary, or person at interest, an opportunity to be heard and to present evidence touching the value of such estate, and, after such notice and hearing, if any is had, the State Comptroller may finally fix the value of any such estate for inheritance tax purposes, and, if he deems the same just and true, he may accept the valuation as fixed by the Federal Government in any case in calculating and determining the amount of State inheritance taxes due; and if any additional taxes are assessed under this or the next two preceding sections, written notice thereof shall be given to the executor, administrator or other legal representatives, and to every person who owns a taxable part or share in such estate, which notice may be given by letter directed to the last known address of such owner; and said taxes shall become due and payable within three (3) months from the date of such notice, and all such taxes shall bear interest at the rate of six (6%) per cent per annum from the date of such notice, and on all such taxes not paid within three (3) months after the date of such notice, there shall be collected as a penalty for non-payment, interest at the rate of two (2%) per cent

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per month from the expiration of said three (3) month period until paid, which said penalty shall be in lieu of interest after said penalty begins to accrue; and if said taxes, penalty and interest are not paid in full within nine (9) months from the date said taxes were so determined and assessed, suit shall be brought to collect the same in accordance with the provisions of Article 7134, Chapter 5, Title 122, of the Revised Civil Statutes of 1925.

[Sub] Sec. 12. In the event the valuation of any estate is decreased under the next preceding sections, and the amount of the taxes is determined by the State Comptroller to be less than same had previously been calculated and determined, and if the over-payment of such taxes had been made, then the State Comptroller shall refund said taxes to the extent of the overpayment, out of any subsequent inheritance tax collections made by him before same is deposited to the general revenue fund of the State. [Acts 1933, 43rd Leg., p. 581, ch. 192, § 2b.]

[Sub] Sec. 14. The inheritance tax that is hereby imposed upon every beneficiary's share of the estate of a non-resident decedent shall be a tax which, in amount, bears the same ratio to the entire tax for which the beneficiary's interest would be liable if the entire estate were situated in Texas, as the total value of the beneficiary's share of the decedent's estate which is situated in Texas, before allowable beneficiary deductions are made, bears to the total value of the beneficiary's entire share in the estate of the non-resident decedent wherever situated, before allowable beneficiary deductions are made.

[Sub] Sec. 15. In the event a resident of this State dies, leaving any estate subject to an inheritance tax, situated partly within and partly without this State, the inheritance tax imposed upon the share of any beneficiary of said estate situated in Texas shall be a tax which shall bear the same ratio to the amount such tax would be if his entire share and interest were situated in Texas, before allowable beneficiary deductions, bears to the total value of such beneficiary's share in such decedent's estate, wherever situated, before allowable beneficiary deductions are made.

[Sub] Sec. 16. (a) No safe deposit company, trust company, corporation, bank or other institution, person or persons, having in possession or under control securities, deposits, or other assets belonging to a decedent who was a resident or non-resident, or belonging to such a decedent and one or more persons, shall deliver the same to the executors, administrators, heirs or legal representatives of said decedent, or to the survivor or survivors when held in the joint names of a decedent and one or more other persons, or upon their order or request, unless notice of the time and place of such intended delivery or transfer be served upon the Comptroller at least ten days prior to said delivery or transfer, and delivery to be made only in the presence of the Comptroller or his duly authorized agent, who may be the County Judge of the county in which said transfer transpires, unless the Comptroller in writing consents to the transfer without his presence. And it shall be lawful for the said Comptroller or his representative to examine all of said securities, deposits or assets at the time of such delivery or transfer. Failure to serve such notice or failure to allow such examination shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons liable to the payment of the amount of the tax or interest due or thereafter to become due upon said securities, deposits or other assets delivered or transferred, and in addition thereto, a penalty of not less than one thousand or more than five thousand dollars; and the payment of such tax and interest thereon, or the penalty above prescribed, or both, may be enforced in an action brought by the Comptroller in any court of competent jurisdiction.

(b) When it is made to appear to a County Judge in this State that a safe deposit company, trust company, bank, person or corporation has in its possession, or under its control papers of a decedent or [of] whose estate such court has jurisdiction, or that the decedent has leased from such a

corporation a safe deposit box, and that such papers or such safe deposit box may contain a will of the decedent, or a deed to a burial plot in which the decedent is to be interred, or a policy of insurance issued in the name of the decedent and payable to a named beneficiary, he may make an order directing such deposit company, trust company, bank, person, or corporation to permit a person named in the order to examine such papers or safe deposit box in the presence of himself, or his duly authorized representative, or a representative of the Comptroller, and an officer of such safe deposit company, trust company, bank or corporation, or agent of such person, and if such documents are found among such papers, or in such box, to deliver said will to the Clerk of the Probate Court of such county or said deed to such persons as may be designated in such order, or said policy of insurance to the beneficiary named therein. The Clerk of said court shall furnish a receipt upon the delivery of the will to him. [Acts 1933, 43rd Leg., p. 581, ch. 192, § 2b.]

Section 2a of Laws 1933, 43rd Leg., p. 581, ch. 192 makes an appropriation of \$50,320.00 for the years 1934 and 1935 respectively for the Support of the State Tax Commissioner's Office.

Section 17 amends article 7142.

Section 18 repeals article 7140.

Section 19 amends article 7141.

Section 20 amends article 7122.

Section 2a, subsecs. 9, 13 being penal provisions are published as Penal Code art. 107a and art. 107b.

Arts. 7177-7180. [Repealed by Acts 1933, 43rd Leg., p. 598, ch. 197, § 6]

See article 7181a and note to article 7246.

[Art. 7181a. Construction of "assessor" and "collector"]

Hereafter, whenever the words "Assessor," "Assessor of Taxes," "Collector," "Collector of Taxes," or "Tax Collector" are used, either in Articles 7181 to 7359, inclusive, of Title 122 of the 1925 Revised Civil Statutes of Texas, including all amendments thereto, as well as the Revised Code of 1925, including all amendments, being known as the 1925 Revised Civil Statutes of Texas, same shall be applicable to and mean the one office or officer of Assessor and Collector of Taxes, and shall be so construed as to accomplish the object and intent and carry out the purpose of Sections 14 and 16 of Article 8, of the Texas Constitution, as the same was amended on November 8, 1932. [Acts 1933, 43rd Leg., p. 598, ch. 197, § 5.]

Section 7 of Acts 1933, 43rd Leg., p. 598, ch. 197 makes the act effective January 1, 1935 and provides that in the Regular Election held in November, 1934, there shall be elect-

ed in all counties having over ten thousand (10,000) inhabitants an Assessor and Collector of Taxes in the manner prescribed by the General Election Laws.

Article 7245. [7605] [5154] [4729] Election and term

In each county having ten thousand (10,000) or more inhabitants, to be determined by the preceding Federal Census, there shall be elected at the regular biennial election an Assessor and Collector of Taxes, who shall hold his office for two years. [As amended Acts 1933, 43rd Leg., p. 598, ch. 197, § 1.]

Section 7 of Acts 1933, 43rd Leg., p. 598, ch. 197 makes the act effective Jan. 1, 1935,

and section 6 repeals arts. 7177-7180 and 7249. See art. 7181a.

Art. 7246. [7607] [5156] [4731] Sheriff a collector

In each county having less than ten thousand (10,000) inhabitants, the sheriff of such county shall be the Assessor and Collector of Taxes, and shall have and exercise all the rights, powers and privileges, be subject to all the requirements and restrictions, and perform all the duties imposed by law upon assessors and collectors; and he shall also give the same bonds required of an assessor and collector of taxes elected. [As amended Acts 1933, 43rd Leg., p. 598, ch. 197, § 2.]

Section 7 of Acts 1933, 43rd Leg., p. 598, ch. 197 makes the act effective Jan. 1, 1935, and

section 6 repeals arts. 7177-7180 and 7249. See art. 7181a.

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Art. 7247. [7608] [5157] [4732] Bond for State taxes

Each assessor and collector of taxes, within twenty (20) days after he shall have received notice of his election or appointment, and before entering upon the duties of his office, shall give bond based upon unincumbered real estate of the sureties, subject to execution, payable to the Governor and his successors in office, in a sum which shall be equal to ten per cent (10%) of the whole amount of the State Tax of the County as shown by the last preceding assessment, provided said bond shall not exceed Fifty Thousand Dollars (\$50,000.00), with at least three (3) good and sufficient sureties, to be approved by the Commissioners Court of his county, which shall be further subject to the approval of the Comptroller, and his official oath together with said bonds shall be recorded in the office of the County Clerk of said County, and be forwarded by the County Judge of the county to the Comptroller, to be deposited in his office. Said bond shall be conditioned for the faithful performance of the duties of his office as assessor and collector of taxes for and during the full term for which he was elected or appointed. In the event the bonds required in this Article are executed by a satisfactory surety company or companies or by any private parties, as surety or sureties thereon in counties with a total taxable valuation of Thirty Million Dollars (\$30,000,000.00) or more, the county of which the principal in said bond or bonds is assessor and collector of taxes shall pay a reasonable amount as premium on said bond or bonds, which amount shall be paid out of the General Revenue of the county upon presentation of the bill therefor to the Commissioners Court of the county properly authenticated as required by law in other claims against the county. If there be any controversy as to the reasonableness of the amount claimed, as such premium, such controversy may be determined by any Court of competent jurisdiction.

Whenever the assessor and collector of taxes of any county is required to give a separate bond to cover district taxes collected by him, such bond shall be approved by the governing board, or commission, of such districts, and the premium on same shall be paid out of first collections for such districts. [As amended Acts 1932, 42nd Leg., 3rd C. S., p. 30, ch. 16; Acts 1933, 43rd Leg., p. 598, ch. 197, § 3.]

Section 7 of Acts 1933, 43rd Leg., p. 598, ch. 197 makes the act effective Jan. 1, 1933, and section 6 repeals arts. 7177-7180 and 7249. See art. 7181a.

Art. 7248. [7609] [5158] [4733] New bond

The assessor and collector of taxes may be required to furnish a new bond or additional security whenever, in the opinion of the Commissioners Court or the Comptroller, it may be advisable. Should any assessor and collector of taxes fail to give a new bond and additional security when required, he shall be suspended from office by the Commissioners Court of his county, and immediately thereafter be removed from office in the mode prescribed by law. [As amended Acts 1933, 43rd Leg., p. 598, ch. 197, § 4.]

Section 7 of Acts 1933, 43rd Leg., p. 598, ch. 197 makes the act effective Jan. 1, 1935 and section 6 repeals articles 7177-7180 and 7249. See art. 7181a.

Art. 7249. [Repealed by Acts 1933, 43rd Leg., p. 598, ch. 197, § 6]

Prior to its repeal this art. was amended by Acts 1932, 42nd Leg., 3rd C. S., p. 30, ch. 16. See also note to article 7245.

Art. 7249a. [Weekly payments by tax collector to county and state treasurers]

On Monday of each week each County Tax Collector shall pay over to the County Treasurer ninety per cent (90%) of all taxes collected for the County during the preceding week, and pay over to the State Treasurer

ninety per cent (90%) of all taxes collected for the State during the preceding week.

The Commissioners' Court of any County, or the Comptroller of Public Accounts, may at any time in their discretion call upon the Tax Collector for a sworn statement as to the amount of his collections made during the current month, and for a report as to the amount of taxes in the County Depository belonging to the County or State, and direct that ninety per cent (90%) of those funds be transferred to the County or State Treasury. The Commissioners' Court or the Comptroller may at any time require a sworn report from the Depository as to the amount of funds in their hands under the control of the Tax Collector. Failure or refusal of a Tax Collector to make the remittances as provided in this Act within three (3) days from the date due, or to render the statements required herein, within three (3) days after receiving notice to do so, shall constitute a misdemeanor and shall be punished by a fine not to exceed Two Hundred Dollars (\$200.00). [Acts 1932, 42nd Leg., 3rd C. S., p. 30, ch. 16, § 3.]

Art. 7256. Office at county seat [deputy collectors in certain towns and cities; bond; compensation]

Each tax collector shall keep his office at the county seat of his county; and it shall be the duty of every person who failed to attend and to pay his taxes at the times and places in his precinct named by the collector, as provided in the preceding Article, to call at the office of the collector and pay the same before the last day of December of the same year, for which the assessment is made; provided, however, that in all counties containing a city or town, other than the county seat, which has in excess of seven thousand inhabitants according to the 1930 Decennial Census, said tax collector, with the consent and approval of the Commissioners' Court may appoint a deputy tax collector in 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 collector and Commissioners' Court of the county may require. From each person from whom said deputy may collect taxes and issue a receipt therefor, said deputy is authorized to receive a fee of not exceeding twenty-five cents when receipt covers property taxes, and he shall receive no other compensation for his services; and further provided he shall not retain more than One Thousand Two Hundred (\$1,200.00) Dollars for any one calendar year, and the balance, if any, shall be deposited to the credit of the General Fund of the County. 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. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 50, ch. 16, § 1.]

Art. 7283. [7641] [5187] [4758] Redemption

The owner of the real estate sold for the payment of taxes, or his heirs or assigns or legal representatives, may within two (2) years after the date of filing for record of the purchaser's deed, have the right to redeem the land on the following basis:

(1) Within the first year of the redemption period upon the payment of the amount of money paid for the land, including One Dollar (\$1.00) tax deed recording fee and all taxes, penalties, interest and costs thereafter paid thereon plus ten per cent (10%) of the aggregate total.

(2) Within the last year of the redemption period upon the payment of the amount of money paid for the land, including One Dollar (\$1.00) tax deed recording fee and all taxes, penalties, interest and costs thereafter paid thereon plus twenty per cent (20%) of the aggregate total.

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Provided, that, subject to the owner's right to redeem as aforesaid, any lien holder or party interested may within the time above specified redeem said property under the same provisions.

Sec. 2. This Act is intended to apply to and govern the amount necessary to be paid for redemption from all State, County, municipal and/or district tax sales of real estate heretofore or hereafter made regardless of the legal method used in making such sales.

Sec. 3. In addition to redeeming direct from the purchaser, redemption may also be made as provided in Articles 7284 and 7285 of the Revised Civil Statutes of Texas of 1925. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 91, ch. 31, § 1.]

Section 4 provides that if any section, subsection, sentence, clause or word of the act shall be held to be unconstitutional, the remaining part thereof shall remain in full force.

[Art. 7336a. Releasing interest and penalties on ad valorem and poll taxes]

Sec. 1. That all interest and penalties that have accrued or that may accrue on ad valorem and poll taxes that are delinquent on or before December 31, 1932, due the State, any county, special school district, school district, road district, levee improvement district, water improvement district and water control and improvement district, irrigation district and other defined subdivisions of the State (and, subject to the provisions hereinbefore and hereinafter contained, such interest and penalties on delinquent ad valorem and poll taxes due cities, towns, and villages), shall be and the same are hereby released, provided, said ad valorem and poll taxes are paid on or before December 31, 1932. It is provided that the provisions hereof shall not apply to cities, towns and villages unless and until the governing body of any such city, town, or village finds that unusual or excessive default in the payment of ad valorem and poll taxes has occurred, and that an extension of time for the payment of such delinquent ad valorem and poll taxes will promote and accelerate the collection thereof, whereupon such governing body shall adopt a resolution, or ordinance, evidencing such finding, and upon the recording of such findings of fact, the provisions of this Act shall be in full force and effect as to any such city, town or village.

Sec. 2. All laws and parts of laws in conflict herewith are hereby expressly suspended during the term of this Act so far as they may affect this Act.

Sec. 2a. It is provided further that in case any section, clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent or final jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, sentence, paragraph, or part thereof directly involved in the controversy in which said judgment shall have been rendered. [Acts 1932, 42nd Leg., 3rd C. S., p. 114, ch. 46.]

Section 3 of Acts 1932, 42nd Leg., 3rd C. S., p. 114, ch. 46, repeals Acts 1932, 42nd Leg., 3rd C. S., p. 5, ch. 4, effective Sept. 10, 1932, relating to the same subject matter of this act.

[Art. 7336b. Repealed by Acts 1933, 43rd Leg., 1st C. S., p. 211, ch. 79, § 6]

Prior to its repeal, this art. was Acts 1933, 43rd Leg., p. 521, ch. 169.

[Art. 7336c. Release of interest and penalties on ad valorem and poll taxes]

Sec. 1. That all interest and penalties that have accrued on all ad valorem and poll taxes that were delinquent on or before July 1, 1933, due to the State or to any county, common school district, road district, levee

improvement district, water improvement district, water control and improvement district, irrigation district and other defined subdivisions of the State, (except such cities, towns, villages, special school districts and independent school districts which do not adopt the provisions of this Act in the manner hereinafter provided), shall be and the same are hereby released provided said ad valorem and poll taxes are voluntarily paid on or before December 31, 1933, with an addition of two per cent (2%) penalty on said taxes; and shall be and the same are hereby released provided said taxes are voluntarily paid after December 31, 1933, and before March 31, 1934, with an addition of four per cent (4%) penalty on said taxes; and shall be and the same are hereby released provided said ad valorem and poll taxes are voluntarily paid after March 31, 1934, and on or before June 30, 1934, with an addition of six per cent (6%) penalty on said taxes; but it is especially provided that the penalties herein provided for shall not be cumulative. The provisions hereof shall not apply to delinquent ad valorem and poll taxes due to cities, towns, villages, special school districts or independent school districts unless and until said provisions are adopted by resolution or ordinance of the governing body of any such city, town, village, special school district or independent school district.

Sec. 2. Nothing contained in Section 1 of this Act shall be construed as postponing, delaying or extending the time for the payment of delinquent taxes covered by this Act, nor as prohibiting, postponing or delaying the filing or prosecution of any suit or suits for the enforced collection of the same, and unless such delinquent taxes are paid within the time allowed in Section 1 hereof and prior to final judgment entered in any suit now pending or which may be hereafter filed to enforce the payment of such taxes, said taxes shall not be deemed to have been voluntarily paid under the terms of this Act and judgment shall be entered for the full amount of the taxes, penalties, interest and costs in the same manner as if this Act had never been passed.

Sec. 3. In the event any city, town, village, special school district, water improvement district, water control and improvement district, irrigation district or other defined self-governing subdivisions of the State has heretofore adopted the provisions of Section 2, of Chapter 169 of the Acts of the Regular Session of the Forty-third Legislature, providing an alternative method for the payment of delinquent taxes; and any person, firm, association of persons, or corporation who shall not have been able to pay all delinquent ad valorem and poll taxes owed by such person, firm, association of persons, or corporation, and who, on or before September 30, 1933, appeared before the public officer charged with the duty of collecting said taxes and made sworn affidavit of such inability to pay all of said taxes, and such person, firm, association of persons or corporation has filed said affidavit with such officer and has, on or before September 30, 1933, paid twenty per cent (20%) of such delinquent taxes, and who has in all other respects complied with the provisions of said Section 2 of said Chapter 169 of the Acts of the Regular Session of the Forty-third Legislature, shall have all interest and penalties on such delinquent taxes remitted and released and the same are hereby remitted and released, subject to the provisions hereof; and such person, firm, association of persons, or corporation may make payment of the balance of said taxes in four (4) equal installments, which installments shall bear interest at the rate of six per cent (6%) from September 30, 1933, such interest shall be paid on the respective installments with each such installment; and such installments of taxes and interest shall be paid as follows: The first installment on or before June 30, 1934, the second installment on or before December 31, 1934, the third installment on or before June 30, 1935, and the fourth and last installment of the amount due on or before December 31, 1935. Each of such payments shall be accepted by the public official charged with the duty of collecting such taxes, and shall be credit-

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ed by him toward the payment of said taxes first delinquent and remaining unpaid. The failure to pay any one of the installments as herein provided for, shall cause the delinquent ad valorem and poll taxes, on which the penalties and interest are hereby released, to become immediately due and payable together with interest on the entire amount of taxes, at the rate of six per cent (6%) per annum, from September 30, 1933, and be subject to the General Laws of this State governing the collection of delinquent taxes, as if this Act had not been passed. The provisions of this Section of this Act shall not apply to any delinquent taxes due the State or any county of this State.

Sec. 4. No costs of any kind or character shall be allowed to any officer for services hereafter rendered by him in connection with the collection of delinquent taxes which are voluntarily paid by the taxpayer within the time and in the manner herein provided; provided however, that nothing in this Act shall be construed as releasing any taxpayer from liability for the payment of any and all costs which have heretofore attached or accrued by reason of delinquency in the payment of any taxes upon which penalties and interest are released under the provisions of this Act.

Sec. 5. Any person, firm, association of persons or corporation desiring to pay at one time all the delinquent taxes owed by such person, firm, association of persons or corporation for any one year or for any number of years shall have the right to pay the same under the provisions of Section 1 of this Act without at the same time paying any other taxes that may be then delinquent upon the same property for any other year or years.

Sec. 6. Chapter 169, Acts, Regular Session of the Forty-third Legislature is hereby expressly repealed; all other laws and parts of laws in conflict with the provisions of this Act are hereby expressly suspended during the term of this Act in so far as the same are in conflict with the provisions hereof.

Sec. 7. It is further provided that in case any section, clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any Court of competent or final jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered. [Acts 1933, 43rd Leg., 1st C. S., p. 211, ch. 79.]

[Art. 7345a. Transfer of tax lien]

Sec. 1. The duly qualified and acting officer authorized to collect ad valorem taxes for the State of Texas, any county thereof, any special school district, school district, road district, levee improvement district, water improvement district, water control and improvement district, irrigation district, incorporated city or town, and any other defined subdivision of the State, is hereby authorized and empowered and it shall be his duty to transfer and convey to any person or company that pays to the State, county or any subdivision thereof mentioned hereinbefore, any taxes due upon real property at the request of the owner of said property, the tax lien held by such State, county, or subdivision to secure the payment of such taxes, under the conditions hereinafter provided and not otherwise.

Sec. 2. If any person or company or corporation owning real estate in the State of Texas upon which taxes due to the State, county or ¹ any subdivision thereof, as named in Section 1 of this Act, are due and unpaid, shall deliver to the tax collector whose duty under the laws of the State of Texas is to receive or collect said taxes, a duly executed written instrument authorizing another person, company or corporation to

¹ "of" should be "or"

pay such taxes and to receive from such tax collector the tax receipt showing the payment of such taxes by such other person or company and describing therein the property upon which such taxes are due, and requesting therein that such tax collector, upon the payment of such taxes, issue to such person or company so paying the same a tax receipt, and further authorizing such tax collector to transfer the tax lien held by the State, county or other subdivision to the person, company, or corporation so paying such taxes, said tax collector shall, upon the payment of such taxes, as in such instrument requested and authorized, issue to such person, firm or corporation so paying said taxes, tax receipt in due form showing said payment by said person, firm or corporation, and shall endorse upon said written instrument so presented to him substantially the following:

"I, Tax Collector of _____ do hereby certify that _____ has paid the taxes in this instrument specified to be paid, and that I have, under the authority vested in me, and do by this certificate transfer and convey to _____ the tax lien that the _____ holds upon said property by virtue of the assessment and levy of said taxes against said property.

"Given under my hand and seal of office this _____ day of _____, 19—.

That such tax collector shall attach to said certificate his seal of office.

Sec. 3. After the payment of such taxes under such written authority and the endorsement upon such written instrument of the tax collector's certificate as hereinbefore shown, the person, company or corporation paying said taxes shall thereafter become vested with and hold such tax lien against such property as fully and to all intents and purposes as such state, county, or subdivision theretofore held the same.

Sec. 4. Such written request and certificate thereon shall, upon presentation to the County Clerk for the recording thereof, and payment of recording fee, be filed and recorded in the Deed Records of the county, or counties, in which said real estate is situated, and thereafter shall be a public record the same as if said instrument were a deed.

Sec. 5. It shall be unlawful for any person or company paying such taxes and taking such lien to charge a greater amount of interest upon the taxes, or taxes, penalty and interest and costs paid, than eight (8%) per cent per annum, and the collecting of any greater rate of interest shall be deemed usury, for which the person paying the same shall have all the rights and remedies provided in the Statutes in the case of usury.

Sec. 6. No foreclosure by the person or company taking said lien shall be had thereon within any period less than twelve months from the date of the payment of such taxes.

Sec. 7. In any case where another person, firm or corporation holds a superior vendor's lien, superior deed of trust lien or other superior contract lien upon property upon which the owner seeks to have some other person or company pay the taxes and take the tax lien against the same, he shall first secure the written consent of the person, firm or corporation holding such superior vendor's lien, superior deed of trust lien or superior contract lien. That in the event some other person, after securing such written consent, pays the taxes and takes the tax lien upon such property then the owner and holder of any prior lien shall have the right at any time after six months from date payment of the taxes and before the foreclosure of such tax lien to pay to the holder of such lien the amount that he has paid for the same, together with the interest accrued thereon according to his contract with the owner at whose instance he paid such taxes, plus the expenses of recording the tax lien and thereby become subrogated to all rights as to such tax lien.

Sec. 8. At any time after twelve months from the date of filing the transfer of the lien with the County Clerk showing the payment of the taxes to the State, county or other subdivision as hereinbefore provided,

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and in accordance with the contract or agreement made between the owner of such property and the person or company making the payment of the taxes (penalty, interest and cost) as to the time when such tax lien may be sued upon and foreclosed, the holder of said tax lien may sue upon his debt and for foreclosure of his tax lien and sale of the property thereunder; that upon a sale thereof the proceeds of such sale shall be applied first to the payment of court costs, and then upon the judgment including accrued interest, and attorney's fees not exceeding ten (10%) per cent as may be fixed in the judgment, and if there be a balance thereafter left, the same shall be paid first to the lien holders in the order of their priority, and any balance remaining to the owner of said property.

Sec. 9. The owner of such property or any person, firm or corporation holding a first lien against said property may within a year after the foreclosure and sale of such property, under such tax lien, redeem the same from the purchaser at such sale by paying to such purchaser all that he has paid for such property at such sale provided that the amount so paid to redeem said property shall not exceed the amount of the judgment of foreclosure, costs and interest accrued upon said judgment to the date of redemption therefor plus ten (10%) per cent additional upon the amount of said judgment; and upon such redemption shall receive from the person to whom the payment is made a deed to such property provided, if the owner of the property redeem the same under this section of this Act, then all liens existing at the time of the foreclosure sale under this Act shall be of the same force and effect as if no such foreclosure sale and redemption therefrom had been had.

Sec. 10. This Act shall not abridge the rights of any taxpayer to enter into any contract he may desire with a lienholder for the payment of taxes; and shall not be construed to affect any such existing contract. [Acts 1933, 43rd Leg., 1st C. S., p. 271, ch. 98.]

Section 11 provides that the declaration paragraph of the Act shall not affect any of the invalidity of any provision, section, other provision thereof. part, subsection, sentence, clause, phrase or

TITLE 126—TRUSTS—CONSPIRACIES AGAINST TRADE

[Art. 7438a. Practices and agreements under codes of fair competition adopted under National Recovery Act excepted]

Sec. 1. In all suits, actions or prosecutions, civil or criminal, wherein it is alleged or charged that any act, trade practice or agreement is in violation of the provisions of either Title 126, Revised Civil Statutes of Texas of 1925, or any Article under said Title, or of Title 19, Penal Code of Texas, 1925, or any Article under said Title, it shall be a defense for the persons, firms, corporations or associations of persons, or either one or more of them whether they occupy the position of plaintiff or defendant so sued or prosecuted, to establish that at the time of the commission of such act, and at the time said trade practice or agreement was agreed upon or entered into, such act, trade practice or agreement was legally authorized under and by virtue of a code of fair competition, agreement or license affecting interstate or intrastate commerce, or both, approved by the President of the United States, under the terms of the National Industrial Recovery Act for the particular industry in which such person, firm, corporation or association of persons, or either one or more of them is engaged. Provided, however, that nothing in this Act shall be construed or held to affect, in any manner, pending litigation or to destroy any rights of the State of Texas to recover fines or penalties, civil or criminal, whether sued for or not, from any person, firm, corporation or association of persons, or to prohibit the State from forfeiting the Charter of any domestic corporation or the license or permit of any foreign corporation to do business in this State, or from enforcing any right or remedy given under

Title 126, Revised Civil Statutes of Texas of 1925, or Title 19, Penal Code of Texas of 1925, for any act done or committed or for any practices performed or agreements entered into unless the same was done, performed, agreed upon or entered into after the adoption and approval by the President of a code of fair practice under the terms of the National Industrial Recovery Act authorizing and legalizing the particular act, trade practice or agreement for the particular industry in which such person, firm, corporation or association of persons is engaged.

Sec. 2. This Act shall cease to be in effect on and after June 16, 1935.

Sec. 3. If, as provided in Paragraph C of Section 2*, Title 1, of the National Industrial Recovery Act, the President shall by proclamation, or the Congress of the United States shall by joint resolution or bill declare that the national emergency recognized by the National Industrial Recovery Act has ended, or the National Industrial Recovery Act is finally adjudged unconstitutional then this Act shall cease to be in effect on and after the date of such proclamation or congressional declaration or judicial decree. If, however, the provisions of this Section should for any reason be held to be invalid and unconstitutional, then and in such event it is again provided that this Act shall cease to be in effect on and after June 16, 1935.

Sec. 4. Any contract, trade practice or agreement of any kind or character whatsoever entered into or agreed upon, the terms of which are authorized under and by virtue of a code of fair competition, agreement or license, as provided under the National Industrial Recovery Act, but which are, or would be, contrary to either Title 126, Revised Civil Statutes of Texas, 1925, or Title 19, Penal Code of Texas, 1925, or any part of either Title as such exist at the time of the passage of this Act, shall be absolutely void and unenforceable either in law or in equity if the performance of such contract or agreement extends beyond the expiration date of this Act, to wit June 16, 1935, and the defense set forth in Section 1 hereof, shall not be available thereto in either civil or criminal actions or suits. If the contract, trade practice or agreement entered into or agreed upon is in violation of either Title 126, or Title 19, supra, or any part of either of said Titles and is not authorized under and by virtue of a code of fair competition, agreement, or license, as provided under the National Industrial Recovery Act, said contract or agreement shall be absolutely void and unenforceable from its inception.

The defense afforded by this Act shall not be available unless within thirty (30) days after the approval by the President of any code, code agreement or the issuance of any proclamation by the President, there is filed in the office of the Attorney General at Austin, Texas, a certified copy of the code, code agreement or proclamation containing the trade agreement, trade practice and/or code agreement authorizing the particular act, trade practice or trade agreement, upon which said person relies as a defensive fact as authorized by this Act.

Sec. 5. Nothing in this Act shall be construed in any way to repeal or suspend Title 126, Revised Civil Statutes of Texas, 1925, or Title 19, Penal Code of Texas, 1925, or any part of either such Titles. [Acts 1933, 43rd Leg., 1st C. S., p. 153, ch. 53.]

TITLE 128—WATER

[Art. 7684a. Remittance of penalties and interest on delinquent taxes]

The board of directors of any water improvement district or any water control and improvement district within this State may, by resolution, remit, in whole or in part, the penalties and interest on all ad valorem taxes heretofore levied by such district and now delinquent, and/or past

* 15 USCA § 702.

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due and unpaid, and which are paid on or before December 31, 1933. [Acts 1933, 43rd Leg., p. 211, ch. 95.]

Art. 7698. Bond issuance—requirements

Cancellation of unsold bonds, see art. 7880—156.

Refunding bonds, see art. 7880—155.

Art. 7699. Bonds to repair damage

Provided, further, that whenever such a district shall have constructed or purchased improvements and same shall be damaged so that it may be necessary to raise funds to repair such damage, such district may either issue bonds to secure such funds or may issue its notes to run not to exceed twenty years, and to bear interest at not to exceed six per cent per annum. Before such notes are issued, the Board of Directors shall order an election and give notice thereof as required in bond issues, stating the purpose for which they are to be issued, the time they are to run, and the rate of interest they are to bear, and the time and place of said election. The ballots for such election shall have printed thereon, "For Issuance of Notes," and "Against Issuance of Notes." The election shall be held and returns made and canvassed as provided for bond elections. If two-thirds majority of those voting at such election voted in favor of the issuance of such notes, the Board of Directors may issue same and sell same for the benefit of said district. At the time such notes are issued or sold the Board of Directors shall levy a tax for the purpose of paying the interest thereon and creating a sinking fund sufficient to pay such interest and to pay said notes within the time of their maturity. Said notes may be issued in serial form to mature in installments as determined by the directors. [As amended Acts 1933, 43rd Leg., p. 332, ch. 131, § 7.]

[Art. 7700-a. Refund of bonds due United States]

When a Water Improvement District, which obtains its water supply under contract with the United States Government, shall be in default in the payment of interest and/or principal upon bonds theretofore issued by such District, and in the judgment of the Board of Directors of such District it shall be deemed advisable so to do, the Board of Directors may authorize the issuance of bonds to fund or refund such indebtedness, including bonds, indebtedness and accrued interest thereon and the interest on notes lawfully issued to pay for the construction or acquisition of irrigation and drainage works.

Provided that no bonds shall be issued until the issuance thereof shall have been submitted to the qualified electors of said District, in the manner and form now authorized by law, and the provisions of law now governing the issuance of bonds and the form and contents thereof shall be applicable, except as herein otherwise provided.

Such bonds may be issued either in serial form or in such other form as shall provide for the annual payment of interest and principal in a single amount, represented by coupons, and the Board of Directors of such District shall prescribe the form and contents of such bonds and coupons thereto attached, as the one form or the other of bonds shall be decided upon; and the amortization of both interest and principal on such bonds shall be accomplished within a period of not to exceed forty (40) years from the date of the issuance of such bonds.

All funding and/or refunding bonds issued under this Act shall be negotiable in form and payable in lawful gold coin of the United States of the present standard. If in serial form, the bonds issued shall be numbered consecutively, commencing with Number One and following in numerical order, and shall mature serially in annual amounts, so as to be approximately equal, principal and interest, in not less than five (5) years

nor more than forty (40) years after the date of the issuance, as the Board of Directors may determine.

If amortization bonds be issued, providing for the annual payment of interest and principal, in a single amount, represented by coupons, such coupons, for the first five (5) years, may be for such an amount as in the judgment of the Board shall be economically sound and within the power of the District to pay, and during the remainder of the life of said bonds, such coupons shall be in equal annual amounts and in such sum as will liquidate the remainder of said bonds within forty (40) years after the date thereof.

The provisions of Article 7703 shall not be mandatory in the issuance of bonds authorized in this Article, but shall be discretionary with the Board of Directors of such District, and if suit be brought, shall be subject to the provisions and governed by the Statutes now relating to such suits. [Acts 1933, 43rd Leg., p. 171, ch. 78.]

[Art. 7716b. Borrowing from Amortization and Emergency fund]

Any water improvement district organized under Chapter 2 of title 128 of the Revised Statutes of Texas or water control and improvement district organized under Chapter 3a of title 128 of the Revised Statutes of Texas which has set aside "An Amortization and Emergency Fund" may at any time within two years after this act shall take effect, borrow such Amortization and Emergency Fund, or such part thereof as the Board of Directors may deem necessary for use in the maintenance and operation of the district and for such purpose it may sell or hypothecate any bonds or other securities in which such funds have been invested. Such funds so borrowed shall be replaced in the Amortization and Emergency Fund within five years after same shall have been borrowed, together with interest from the date such funds are borrowed until paid at the rate of 5% per annum, which funds, principal and interest shall be replaced out of the maintenance and operation fund of the district. [Acts 1933, 43rd Leg., p. 151, ch. 74.]

[Art. 7807b. Power conferred to obtain funds; conditions and procedure]

Sec. 1. Any water improvement district heretofore organized and now existing under the provisions of Chapter 2, Title 128, of the Revised Civil Statutes of Texas, 1925, and any amendments thereto, created or authorized to operate under Section 59 of Article 16 of the Constitution of Texas, and containing within its territorial limits not exceeding twelve thousand acres of land, and not containing within its limits an incorporated city with a population of thirty thousand (30,000) according to the last preceding United States census; and not containing within its limits an incorporated city with a population of Two Hundred Sixty Thousand Four Hundred Seventy-five (260,475) according to the last preceding United States census, is hereby declared to have the power to obtain funds for accomplishing any of its authorized purposes, under the conditions and in the manner hereinafter set forth.

Sec. 2. Whenever any such district, as herein defined, shall have on hand and unsold any bonds theretofore authorized to be issued by it under the provisions of Chapter 2, Title 128, of the Revised Civil Statutes of Texas, 1925, and any amendments thereto, and such bonds cannot, in the opinion of the Board of Directors of such district, then be sold upon terms advantageous to the district, such district may raise money, either by the issuance and sale of its securities or by loan contracts, in an amount not exceeding the amount of its unsold bonds, and use such money for any of the purposes for which such unsold bonds shall have been authorized.

Sec. 3. To evidence the indebtedness and provide for the repayment of any such borrowed money, any such district is authorized and empowered to

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execute and deliver its certificates of indebtedness, notes, or other form of obligation, and may pledge its full faith and credit for the payment thereof. Any such district may sell any of its securities, either irrevocably or upon repurchase agreement, at such price and upon such terms and conditions, and at such repurchase agreement may be for such term or period, as may be agreed upon between such district and the purchaser of such securities; provided, however, that the sale price of such securities shall not be less than the minimum price for which said district is authorized by law to sell its bonds, and the interest rates paid for such borrowed money or to be borne by such securities shall not exceed eight per cent per annum. Any such loan or securities shall be made payable not later than the maturity date of the last maturing bonds so authorized to be issued.

Sec. 4. To secure the payment of any such securities or such borrowed money, any such district is authorized and empowered to create and pledge, out of and from its income and revenues, an amount sufficient to discharge same, principal and interest, in accordance with the maturities of the certificates of indebtedness, notes or other form of obligation evidencing the same, and the amount of income and revenues thus created and pledged shall be known as the "Loan Fund Charge." Such Loan Fund Charge may be created and pledged to be derived from assessments pro-rata per acre against the irrigable lands in such district, or all or any part thereof, out of and from income and revenues derived from water charges for the use of water within said district or from the sale or supplying of water to any cities or towns or other municipal corporations, including any other districts, and to any lands or users of water outside of the boundaries of such district, or the sale of water to any commercial or industrial enterprise, or from the sale of hydro-electric power, or out of and from either, any or all of such respective sources of revenue, as the Board of Directors of such district may fix and determine. The amount necessary for such Loan Fund Charge shall be thus fixed by the directors of such district, and when thus fixed, shall be enforced and collected in the same manner as now provided by law in respect to charges or assessments for maintenance and operation of any such district; and all liens and remedies now or hereafter provided by law to secure and enforce the collection of charges and assessments for maintenance and operation purposes, shall exist and be applicable for securing and enforcing the collection of such Loan Fund Charges. The proceeds of the collection of all such Loan Fund Charges shall be segregated and kept in a separate fund, to be known as the "Loan Fund," and said fund shall be used and disbursed for no other purpose than to pay the principal and interest on the loan or securities herein provided for, so long as any part of said loans or any of said securities shall remain unpaid. Such Loan Fund Charge thus created and pledged shall constitute an additional and distinct charge and source of income for such district, over and above and distinct from its income for maintenance and operation and other purposes provided by law. When and after such Loan Fund Charge is thus created and pledged, and so long as the same is maintained, the action of the Board of Directors of such district in fixing the amount thereof, and in fixing the total annual charges or assessments for maintenance and operation purposes, shall not be reviewable by the State Board of Water Engineers, any existing law to the contrary notwithstanding.

Sec. 5. To secure the payment of any such borrowed money, certificates of indebtedness, notes or other form of obligation evidencing the same, any such district may pledge all or any part of any present or future income inuring to such district from any or all of the sources of revenue or income enumerated in this Act, or from any other source.

Sec. 6. As additional security for any such loan or evidences of indebtedness, such district may pledge its unsold bonds in an amount not exceeding the amount of such loan or of its securities used in obtaining such money, plus an amount equal to ten per cent of such loan or securities, but no such bonds so pledged shall be sold under the pledge agreement for a less price

than the minimum price provided by law for the sale of said bonds by such district. If unsold bonds of the district are not so pledged as security, then when said money is borrowed or such securities sold, unsold bonds of the district in an amount equal to such loan or to such securities shall be deposited with, and kept by, the depository of such district, and be progressively released by such depository as corresponding amounts of such loan or securities are paid off by the district; provided, however, that any such bonds so deposited may at any time be sold, and delivered to the purchaser by the district, the proceeds of which sale, or so much thereof as necessary, to be applied to the payment of such loan or securities; but the purchasers of such bonds shall not be required to see to the application of the purchase money by the district.

Sec. 7. Any unsold bonds of any such district may at any time, upon the order of the Board of Directors of such district, be exchanged for any other bonds of said district, of the same issue, then outstanding, upon such basis of exchange as may be set forth in such order, and all bonds so received by such district in such exchange shall again be subject to sale or negotiation to the same extent as if such bonds had never been sold.

Sec. 8. Each and all of the powers herein conferred upon such districts are in addition to, and cumulative of, all other powers possessed by such districts under the Constitution and laws of this State, and nothing herein shall be construed as placing any limitation upon the powers of any such district to borrow money or to issue bonds for purposes or in the manner now or hereafter provided for or authorized by law. All powers herein conferred upon any such district shall be exercised by the Board of Directors thereof by appropriate order or resolution of such board duly adopted by a majority of such directors and spread upon the minutes of such board. The provisions hereof shall be liberally construed in order to carry out and effectuate the purposes hereof.

Sec. 9. If any part or provision of this Act be held invalid, such holding shall not affect any other part or provision thereof. [Acts 1933, 43rd Leg., p. 51, ch. 25.]

[Art. 7807c. Refunding bonds by water improvement and irrigation districts]

Sec. 1. Any water improvement district, or water control and improvement district, or conservation and reclamation district, or irrigation district, now or hereafter organized and existing under the constitution and laws of this State, other than Water Improvement Districts now organized and existing under the constitution and/or laws of this State which obtain their water supply under contract with the United States government, is hereby authorized and empowered by order or resolution of the Board of Directors of said district, and without submitting same to an election, to refund any of its outstanding bonds theretofore authorized by an election held for that purpose as provided by law, including matured and unpaid interest coupons and accrued interest, by issuing new bonds, provided said old obligations are taken in exchange at their face value or less, or in the event such new refunding bonds can be sold at a premium and the old obligations retired thereby without loss to the district. Such new refunding bonds may mature serially or otherwise, but not exceeding forty years from their date, as the Board of Directors may determine, and such new refunding bonds may bear such rate or rates of interest, as may be determined by the Board of Directors, but not exceeding the rate or rates of interest borne by said old obligations thereby refunded. Such districts are authorized to levy and collect all such taxes, equitably distributed, as may be necessary for the payment of the interest upon and the creation of a sinking fund for the payment of such new bonds. The Comptroller shall not register said new bonds until the old bonds in lieu of which they are issued are presented to him for cancellation. Said new refunding bonds shall be approved by the Attorney General as provided by law, or, in lieu

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thereof, may be validated by suit as provided in Articles 7703-7707 inclusive, or Articles 7880-95 to 7880-99, incl., as the case may be, of the 1925 Revised Civil Statutes of the State of Texas.

Sec. 2. Any such district which has heretofore authorized the issuance of any bonds by submitting same to an election, as provided by law, and which bonds have been submitted to and approved by the Attorney General of the State of Texas, or validated by suit, as provided by law, and registered by the Comptroller as provided by law, and which bonds, or any part thereof, have not been sold by the district, may, without submitting same to an election, and by order or resolution of its Board of Directors, at any time after two (2) years from the date of the election authorizing same, provide for the cancellation of all or any part of such unsold bonds, or for the impounding to prevent sale of all or any part of such unsold bonds, for such length of time, and upon such terms and conditions as the Board of Directors may approve, or may provide for the issuance of new bonds in lieu of all or any part of said unsold bonds, provided said new bonds are not in a larger amount than originally authorized and do not bear a higher rate of interest than originally authorized. In case such order or resolution directs the cancellation of any such old bonds, a certified copy of such order or resolution of the Board of Directors, together with the old bonds ordered to be cancelled, shall be delivered to the Comptroller, who shall thereupon cancel and destroy the old bonds ordered to be cancelled, making a record of such cancellation, and upon the cancellation of same the authority to issue or reissue any bonds in lieu of those ordered to be cancelled shall terminate; and in case such order or resolution directs the impounding of any of such old bonds, said old bonds directed to be impounded shall be delivered to the Comptroller with a certified copy of such order or resolution, and the Comptroller thereupon shall hold and dispose of said bonds subject to the terms and provisions of such impounding set forth in said order or resolution, and in case said order or resolution provides for the issuance of new bonds in lieu of any of said old bonds, said old bonds shall be delivered to the Comptroller with certified copy of said order or resolution, and the Comptroller shall cancel and destroy such old bonds, making a record of such cancellation, upon the issuance of such new bonds in lieu thereof, and register the new bonds.

Sec. 3. Any water improvement district, or water control and improvement district, or conservation and reclamation district, or irrigation district, now or hereafter organized and existing under the Constitution and laws of this State, is hereby authorized and empowered by order or resolution of its Board of Directors:

(a) To refund any of its notes, warrants or other obligations outstanding on January 15, 1933 (other than bonds) by issuing in lieu thereof new notes, warrants or other obligations (but not bonds, unless authorized by an election as required by law), provided the said old notes, warrants or other obligations are taken in exchange at their face value, or less, or in the event such new notes, warrants, or other obligations can be sold at a premium and the old notes, warrants or obligations thereby retired without loss to the district. Such new notes, warrants or other obligations may mature serially or otherwise, but not exceeding forty years from their date, as the Board of Directors may determine, and may bear such rate or rates as may be prescribed by the Board of Directors, but not exceeding such rate or rates of interest borne by the old notes, warrants or other obligations thereby refunded;

(b) To enter into an agreement to cancel or amend any contract existing between said district and any other such district for contribution to the construction of any improvement by such other district or by said district, or any contract with any other such district for the joint ownership, construction or operation of any irrigation works, reservoirs, levees, drainage systems, or other plants, works or improvements which said districts are authorized to own, construct or operate, provided such amendment or

cancellation is likewise authorized by order or resolution of the Board of Directors of such other district, and provided further that before such amendment or cancellation shall become operative, notice of the respective orders and resolutions of the Boards of Directors of said districts shall be published in each of such districts, respectively, at least once a week for three (3) successive weeks in a newspaper or newspapers of general circulation within such districts. Thereafter in either or both of such districts at any time within thirty (30) days from the first publication of said notice in the particular district, not less than twenty-five per cent (25%) of the qualified property taxpaying voters of such district, as shown by the records in the office of its Tax Collector, may file petition with the Board of Directors of said district praying said Board of Directors to order an election for the purpose of submitting to a vote of the qualified property taxpaying voters of said district the proposition to amend to cancel such contract, and upon the filing of such petition, such Board of Directors shall, at the next meeting thereof, order an election to be held in such district to determine whether or not such contract shall be so amended or cancelled, the time and place or places of holding said election to be determined by said Board of Directors, and the manner of holding same shall be governed by the laws of the State regulating elections for the issuance of bonds by said district. If the proposition for the amendment or cancellation of such contract be rejected by a majority of the property taxpaying voters voting at such election in either district, then such contract shall not be so amended or canceled, but in the event no such petition is presented to the Board of Directors of either district, or if, such petition being presented to the Board of Directors of either or both districts, the proposition is sustained by a majority of the property taxpaying voters voting at such election in the district or districts in which such petition is presented, then such amendment or cancellation shall be authorized and shall become and be operative. If in either district no such petition is presented to the Board of Directors within the time herein prescribed, no election in said district on the proposition shall be required.

(c) To make, amend or cancel contracts with other such districts, by agreement with the Board of Directors of such other contracting district, for the sale or purchase of water for such time and consideration, and upon such terms, provisions and conditions as may be approved by the Board of Directors of the contracting districts; and to secure the performance of such contracts, may create and pledge, and contract to create and pledge, income and revenue to be derived, all or any part thereof, from assessments prorata per acre as may be authorized by law against irrigable land, or all or any part thereof, to be derived from water charges for the use of water or from the sale or supply of water to any cities, towns or other municipal corporations, including any other districts, and to any lands or users of water within or without the boundaries of such districts, or the sale of water to any commercial or industrial enterprise, or from all or any of such respective sources of revenue as the Directors of such districts may fix and determine; and to pledge all or any part of such contract, and all or any part of the security securing same, for such purposes as may be appropriate to the organization and operation of such district.

Sec. 4. Any water improvement district, or water control and improvement district or conservation and reclamation district, or irrigation district, now or hereafter organized and existing under the Constitution and laws of this State, is hereby authorized and empowered, by order or resolution of its Board of Directors, in fixing from year to year the assessment prorata per acre against irrigable land within the district provided for in Article 7752 or Article 7880-109, as the case may be, of the 1925 Revised Civil Statutes of the State of Texas, to classify irrigable lands within the district, taking into consideration the character of said land, its suitability for cultivation, and the kind of crops grown or capable of being grown thereon, and to fix a different per acre assessment against each;

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such class of irrigable lands as the Board of Directors may determine to be equitable, provided that the assessment per acre in any given year against all irrigable land of the same class shall be the same. When said Board shall have made such classifications and assessments, they shall fix a date for hearing protests from parties affected thereby, a notice of the time and place of said hearing shall be prepared, and the Secretary of the district shall retain one (1) copy thereof, and shall post one (1) copy at the Courthouse door in each county in which said district, or any part thereof, shall be located, fifteen (15) days prior to the date of hearing, and shall publish one (1) copy in a newspaper of general circulation in each county in which the district, or any part thereof shall be located, once a week for two (2) consecutive weeks, the first publication thereof to be made at least twenty (20) days prior to the date of hearing, and he shall make due return of the service thereof, with copy and affidavit of publication attached on the original, prior to the date of hearing. Upon the day set for hearing, any party affected by said classifications or assessments may appear and contest same, and may offer testimony, and such hearing may be adjourned from day to day, and upon the conclusion of such hearing the Board of Directors shall make its final order with reference to such classifications and assessments, and any party who has appeared and contested the action of the Board of Directors, may file appeal from such part of the final order of said Board of Directors which directly affects him, to the District Court of any county in which said district, or any part thereof, is located by filing with the Secretary of said district notice thereof, and by filing suit in such District Court against said district within fifteen (15) days after making of the final order. Said cause shall be tried as other civil cases in the District Court, and shall be advanced and be tried by the District Court and by all Appellate Courts to which such cause may be appealed as soon as possible.

Sec. 5. The provisions of this Act shall be cumulative of all existing laws, but the provisions of this Act shall be full authority for the exercise of the powers conferred hereby without reference to any other statute and without the necessity of any proceedings, elections, notice or other action, except as provided herein.

Sec. 6. If any section, paragraph, sentence, clause or phrase of this Act shall be declared to be unconstitutional such action on the part of the court shall not be construed and interpreted as affecting any section, paragraph, sentence, clause or phrase not so held unconstitutional, but said unaffected parts of this Act shall remain in full force and effect. [Acts 1933, 43rd Leg., p. 201, ch. 93.]

[Art. 7807d. Water Improvement Districts and Water Power Control Districts; organization and powers; provisions to govern]

Sec. 1. All Water Improvement Districts and Water Power Control Districts organized, or hereafter organized, in accordance with the provisions of Chapter 247, Acts of the Fortieth Legislature, and governed by the provisions of Chapter 2, Title 128, Revised Civil Statutes, and amendments thereto, and all Water Improvement Districts and Water Power Control Districts which include within their area or boundaries parts of several organized Water Improvement Districts, and/or Irrigation Districts, and/or irrigation plants or water plants not organized as defined Districts, shall be hereafter governed by the provisions of this Act and amendments that may be adopted hereto.

[Districts included in act; districts validated]

Sec. 2. All Water Improvement Districts and/or Water Power Control Districts which include lands in two or more counties and include lands embraced within two or more Water Improvement Districts and Irrigation Districts, and which Water Improvement Districts and/or Water Pow-

er Control Districts so including such districts and lands have been organized subsequent to the enactment of Chapter 247 [Art. 7622a], Acts of the Fortieth Legislature and have been organized as Water Improvement Districts under the provisions of Chapter 2, Title 128, Revised Civil Statutes and amendments thereto are districts included within the terms and provisions of this Act described in Section One hereof, even though they have not in fact cooperated with the United States under the Federal Reclamation Laws and all such Districts are hereby validated and declared to be legally organized Districts.

[Districts validated]

Sec. 3. All Water Improvement Districts and Water Power Control Districts, governed by the provisions of this Act, which Districts have heretofore been ordered to be established by order of the State Board of Water Engineers and/or a County Commissioners' Court, and which Districts have been or are now carrying out the purpose of their organization in planning and undertaking to finance and construct reservoirs and/or acquire water rights to carry out the plans of such Districts are hereby validated and declared to be valid, legal organizations and to have all the powers, functions and rights in this Act provided. The fact that by inadvertence or oversight any act of the officers of the State or any County, or other person, in the creation of any District was not properly done shall in no wise invalidate the organization of such District, and all such Districts are hereby validated in all respects as though they had been duly and legally established in the first instance.

[Powers, rights and functions]

Sec. 4. Water Power Control Districts, except as herein otherwise specially provided, shall be governed by the provisions of law relating to Water Improvement Districts and are fully vested with all the authority, powers, rights and functions of Water Improvement Districts as defined and provided by the laws of the State of Texas as may now or hereafter be provided by law and by Chapter Two of Title 128 of the Revised Civil Statutes of Texas and amendments thereof.

[Name; change of name not to affect prior organization or obligation]

Sec. 5. All Water Improvement Districts which include lands in two or more organized districts shall hereafter be known and designated as Water Power Control Districts. The change of name from Water Improvement Districts to Water Power Control Districts shall not affect in any manner the prior organization proceedings, debts, securities, obligations, or records of such District, but shall change the name thereof. The name of all such Districts shall be the same as heretofore organized, except the words "Water Improvement District" included in such name shall be and are hereby changed to "Water Power Control District."

[Cooperation with United States]

Sec. 6. Water Power Control Districts and Water Improvement Districts and Irrigation Districts included within Water Power Control Districts are fully authorized and empowered to cooperate with the United States under the National Industrial Recovery Act, and/or Federal Reclamation laws, and/or any and all laws of the United States applying to the aid of public works furnishing or securing funds for any and all purposes coming within the powers of such Districts so organized and concerning or pertaining to the conservation and use and control of water for any and all lawful purposes. The provisions hereof that such Districts may so cooperate with the United States is not intended as a limitation upon their power to operate as a Water Improvement District.

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[Divisions]

Sec. 6a. Water Power Control Districts shall be divided into divisions. The number of divisions shall be one for each organized Water Improvement District and/or Irrigation District included within such Water Power Control District. All lands within such Water Power Control District not included within such organized districts shall for all purposes requiring and authorizing elections to be held by and for Water Power Control Districts including election of directors for such districts be for such purposes parts of the nearest such division.

[Number and election of directors]

Sec. 7. Water Power Control Districts shall be governed by a Board of Directors. The directors of such Districts heretofore elected or appointed and acting in fact as such directors are hereby declared to be Directors of such Districts with full power to act as such Directors until their successors are duly elected and qualified. The number of Directors of such Districts shall be one for each separate division. The Director to be elected by the qualified voters thereof. Such election to be ordered, held, returns made, canvassed and the result thereof declared, by the Directors and officers of the organized Water Improvement District or Irrigation District in such division.

[Bond of directors; approval; oath]

Sec. 8. Upon the election of any such Director the President and Secretary of said Board shall issue a certificate of election to him which shall be filed with the Secretary of such Water Power Control District. Each such Director shall make and execute an official bond in the sum of Five Thousand (\$5,000.00) Dollars payable to such Water Power Control District, conditioned that such Director will faithfully perform all duties required of him by law as such Director. Such bond shall be approved by the County Judge of the county in which such division for which he is elected is located and when so approved shall be recorded by the County Clerk of such county and be preserved in the office of such Clerk. Each Director shall execute an oath of office being the same form as provided for oaths of office for County Commissioners in the State of Texas, to be filed together with such bond in the office of such County Clerk. Upon the approval and filing of such bond and oath of office the County Clerk shall issue a statement thereof to the Board of Directors of such Water Power Control District which shall be recorded in the minutes of such Water Power Control District.

[Election of directors]

Sec. 9. All elections for Directors of Water Power Control Districts to be held within each such division shall be ordered, notices thereof given, and all proceedings for the holding of such election in accordance with the provisions of law providing for holding of elections within Water Improvement Districts and except as therein otherwise provided in accordance with the provisions of the law of the State of Texas for holding general elections. Any person's name may be placed upon the ballot by a petition filed with the Board of Directors in such division ten (10) days prior to the date of such election by any ten (10) qualified voters in said division.

[Term of directors; vacancy in office]

Sec. 10. The Directors so first elected or appointed shall serve as such Directors until the first Tuesday in April, 1934, and until their successors are elected or appointed and qualified. There shall be elected a Board of Directors for all such Water Power Control Districts on the First Tuesday in April, 1934, whose term of office shall be for a term of two (2) years

and until their successors are elected and qualified, and such Directors shall be selected on such day each two (2) years thereafter, and shall qualify and assume the duties of their office within thirty (30) days after such date. In the event of vacancy in the office of a Director of a Water Power Control District, a successor shall be elected, provided in such special election notice of holding such election shall be given and published for fifteen days prior to the day of such election.

[Manner of extending areas or boundaries]

Sec. 11. All Water Power Control Districts including areas embraced within several districts and/or water plants but which as organized do not include all the area included within such several Districts may extend their areas or boundaries to include all the area and/or lands lying within and/or under said several Districts and/or water plants in the following manner:

The Board of Directors of such Water Power Control District at a meeting at which all said Directors are present shall make and record in their minutes an order extending the area included therein and the boundaries thereof so as to include and add to such District any part or all the lands and areas included within such several Districts, plants, and works. Notice, that such order so including such lands within such District has been made, shall be given, signed by the President and Secretary, and shall be published in one newspaper published in each county in which any part of said lands so added lies, once a week for three (3) weeks, which notice shall state a definite time and place when said order will be further considered to be affirmed, modified or repealed. Such hearing shall be held at such time and place and all persons interested therein or affected thereby may appear and contest such order or advocate same. After said question shall have been fully heard and considered the said Board of Directors shall make and enter its final judgment thereon either affirming, modifying, or repealing same. The owner of any land so added to such District who does not desire to have his land included in such District may at the time of, or prior to such hearing, file with the Board of Directors a petition that his lands be not included in such District and all lands so requested to be not included therein shall be excluded therefrom. Any land so excluded upon petition of the owner shall be excluded from all benefits and services of such Water Power Control District.

If the said Board of Directors shall by mistake, inadvertence or error fail to include in such District any lands that in fact are part of such several Districts or areas or lands that are in fact entitled to be watered therein or thereby, and have in fact been watered thereby, or have the right to be watered thereby, the owners of such lands may have same thereafter added to such District by filing their written application therefor with the Board of Directors. Such petitions shall be set down for hearing and the petitioner notified thereof and shall be passed upon and either rejected or granted. If any such petition is rejected by the Board of Directors the applicant may file his suit against such Water Power Control District in the District Court to have determined his right to have his lands included therein and same shall be tried as a civil suit to determine the right to have said land included, based upon any legal right to have said land irrigated from an existing plant included in such Water Power Control District. If such Court shall by final judgment so order, same shall be included therein.

[Powers and functions of districts]

Sec. 12. Water Power Control Districts shall have the right and power to buy, own, construct, maintain and operate reservoirs, canals, power plants and any and all necessary properties, facilities and improvements to aid two or more districts and divisions included within such Water Power Control District to conserve and use water for irrigation, water

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power and all other useful purposes and may construct, buy, own and operate power plants, and buy, sell, trade and generally deal in water, water rights, and electricity and power. Water Power Control Districts may own, buy and construct reservoirs and acquire water rights to secure, impound and conserve a water supply and furnish water to each of several districts, water plants and systems included therein in so far as it may have such available supply in the proportion to which said several divisions and plants therein are entitled to same as herein defined.

[Ownership and control of reservoirs, power plants, and other improvements]

Sec. 13. Water Power Control Districts shall own and control all reservoirs, power plants and other improvements and properties purchased, constructed, and acquired by it, but each of the several divisions thereof shall have the right to participate in the water owned, controlled and stored and any net revenue therefrom and to enforce its right to same in the pro rata portion that it is entitled to use the water acquired and to be furnished by such Water Power Control Districts.

[Validation of water rights acquired]

Sec. 14. All right to, and appropriations of, water of the common source of water supply at any time made or acquired by such several Districts and/or water plants and divisions within a Water Power Control District shall be and enure to the benefit of such Water Power Control Districts, and all such rights heretofore acquired or applied for are validated and confirmed for the use of such Water Power Control Districts and all conflicts in such rights as between the several divisions of such Water Power Control Districts are quieted and the rights of each such division therein and thereto shall be fixed and defined as herein provided.

[Pro rata of water supply to divisions; compilation of estimates]

Sec. 15. The amount of pro rata of the water supply of the Water Power Control District to which each of the divisions thereof is entitled shall be fixed and determined as herein provided prior to the time that said Water Power Control District shall issue bonds or notes to secure funds to construct any improvements, in order to determine same the Directors of the Water Power Control District shall compile an estimate of the water supply which it may reasonably expect to have available annually for distribution and shall compile a statement of the amount or pro rata part thereof that each organized district therein, and each tract of land therein not included in an organized district is entitled.

[Hearing objections to estimates]

Sec. 16. The Board of Directors of such District shall set a day for hearing any objections to such statement as so compiled and any and all persons interested therein may appear and participate therein by petition or offering evidence as to any matter in dispute in order to have a full and impartial consideration of such questions. Notice of such hearing shall be given by publication of a notice thereof signed by the President and Secretary and published in a newspaper in each county in which any of such lands is situated by publication one time not less than eight days prior to the date of hearing. Such hearing may be continued and adjourned from time to time as may be deemed necessary to secure a full consideration of all questions presented. When the Board of Directors shall have finally determined all questions raised and have arrived at a final conclusion as the proper divisions of such water, to determine the pro rata right in the total expected supply, an order

shall be adopted fixing and defining same. Such order shall be entered on the minutes.

The right of each unit or division shall be a pro rata interest.

[Contracts with units or divisions]

Sec. 17. The rights of each unit or division within a Water Power Control District shall be evidenced by a written contract executed by each and all said units or divisions with the said Water Power Control District. Such contracts to be executed by the Board of Directors of all said Districts and shall be effective from the time so executed. No election shall be required to validate same unless a debt is created by such contract. Such contracts may provide for any and all matters and things necessary to the joint ownership, operation, maintenance and conduct of such property and defining and establishing the rights of each unit or division therein, but same shall not conflict with any provision of the laws governing such Districts. Such contracts may be amended by joint agreement made in the same manner.

All such contracts shall provide that the ownership and rights of the several divisions or units in such Water Power Control District, and all properties and rights and revenue thereof, are subordinate to and subject to the rights of the holder of any and all debts created by such Water Power Control District and subject to and subordinate to all pledges, liens, contracts, and obligations of such Water Power Control District executed to guarantee the repayment of any debt contracted by such Water Power Control District.

[Districts as conservation and reclamation districts]

Sec. 18. All Water Power Control Districts organized as herein provided are and shall be Conservation and Reclamation Districts under the provisions of Section 59, Article 16 of the Constitution with all the power and rights therein provided, and may incur indebtedness evidenced by contract, notes, warrants or bonds and levy taxes, fix and levy charges for the distribution, sale and/or use of water, and/or power to fully pay any debt or obligation incurred and for the payment of the costs of construction of any plants or improvement, and the maintenance and operation thereof.

[Voting on bond issues; notice of election]

Sec. 19. Prior to the issuance of any bonds or the creation of any debt the proposition shall first be submitted to the qualified tax paying voters of such District and the proposition be adopted by a majority of those voting at such election. Notice of such election shall be given by notice issued twenty days prior to the day of election, publication of notice for two weeks in a newspaper in each county in which any part of said District is situated.

[Borrowing money; lien on income]

Sec. 20. Water Power Control Districts may borrow money for any authorized purpose and may fix, give and grant a lien and/or a mortgage upon any property owned or to be bought, constructed or acquired by it and upon its income, revenue, and rights then existing or thereafter to be fixed or acquired or to accrue to it to fully guarantee the payment of such debts and all interest and charges to accrue thereon including the expenses of the holder of such debt incident to the enforcement of such lien and the collection of such debt.

[Borrowing money from agencies of Federal Government and others]

Sec. 21. Water Power Control Districts may borrow money from any agency created by the Laws enacted by the Congress of the United

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States and/or from any person and corporation for any purpose incident to its powers and functions and may evidence such debts by contracts, agreements, notes, bonds, or warrants payable at any term of years not to exceed forty years with interest thereon not to exceed six per centum (6%) per annum and may pledge its properties, revenues, income, and source of revenues and income to the payment thereof together with interest thereon and the expense incident to the enforced collection thereof, and its revenue, income, and sources of income so pledged shall be used exclusively for the purpose pledged until such debts are fully repaid and after being so pledged shall not be used for any other purpose unless released for such purpose.

[Bonds; power to tax]

Sec. 21-a. Water Power Control Districts may issue bonds and levy, assess and collect taxes under and in accordance with the provisions of Chapter Two, Title 128, Revised Civil Statutes and amendments thereto relating to Water Improvement Districts.

[Lien on income to secure debt]

Sec. 21-b. Water Power Control Districts may pay and may contract to pay on any debt created by the issuance and sale of bonds and in addition to all taxes levied and collected therefor other funds, revenue and income and may pledge, and fix a lien thereon, and mortgage any property, revenue and income, owned by it or accruing to it to secure the payment of such debt.

[Construction of reservoirs; distribution of water]

Sec. 21-c. Water Power Control District which may construct, own and operate reservoirs for the purpose of controlling and supplying water to two (2) or more organized districts and divisions included therein shall have the power and right to make and enforce reasonable rules for the use and distribution of water and to withhold the delivery of water to any lands, district or division thereof which shall fail to pay the assessments, charges and rentals fixed and provided by such Water Power Control District to secure funds for the payment of its obligations and create reasonable reserve funds and to maintain and operate same.

[Rights of Water Improvement Districts and Irrigation Districts determined by contract]

Sec. 21-d. Water Improvement Districts, Irrigation Districts and water plants, included within Water Power Control Districts shall be units or divisions thereof and the rights of each such district or division shall be fixed and determined by a contract to be executed by all such units, divisions and such Water Power Control District.

[Water Improvement Districts and Irrigation Districts as Conservation and Reclamation Districts]

Sec. 22. Water Improvement Districts and Irrigation Districts included within Water Power Control Districts, organized as herein provided, are constituted and shall be Conservation and Reclamation Districts under the provisions of Section 59, Article 16, of the Constitution, with all powers and rights provided and may incur indebtedness evidenced by contracts, notes, warrants or bonds, and levy taxes, fix charges for the distribution, sale, and/or use of water, and/or power to fully pay any debt or obligation incurred and for the payment of cost of construction of any plants or improvements and the maintenance and operation thereof and for the maintenance and operation of such districts and for the purpose of fully carrying out and performing their

obligations and contracts with Water Power Control Districts for the construction of any reservoir, power plant, and improvements whatsoever to be acquired by, constructed by, and/or operated by such Water Power Control Districts and for the purpose of paying any and all debts and obligations of such Water Power Control District in its proper proportion as fixed by its contract and may pledge and deliver to, sell and pay to such Water Power Control Districts such bonds or other evidences of debts to be held, contracted, or pledged or sold by such Water Power Control District for the purpose of securing funds for any authorized purpose, expense or debt incurred or to be incurred by such Water Power Control District.

[Bond issues by Water Improvement Districts or Irrigation Districts]

Sec. 23. Prior to the issuance of any bonds or the creation of any debts by Water Improvement Districts or Irrigation Districts included within a Water Power Control District the proposition shall first be submitted to the qualified property tax paying voters of such district and the proposition be adopted by a majority of those voting at such election.

[Water Improvement Districts and Irrigation Districts included may assist to borrow money]

Sec. 24. Water Improvement Districts and Irrigation Districts included within Water Power Control Districts may fully aid and assist such Water Power Control Districts to borrow money from the United States and any agency of the United States created by an Act of Congress in the manner herein provided and may create debts and obligations for such purpose and may evidence such debt or obligation by contract, agreements, notes, bonds, or warrants payable to such Water Power Control District and/or to the United States and any agency of the United States created by an Act of Congress, and if same are made payable to such Water Power Control District same may be pledged to the United States and to any agency of the United States created by an Act of Congress, or its assigns; and its revenue, income, and sources of income so pledged shall be used in so far as necessary exclusively for the purpose pledged until such debts, as same mature, are fully paid and after being so pledged shall not be used for any other purposes unless released for such purpose by contract executed by said agency of the United States created by an Act of Congress and its assigns the owner and holder thereof. Provided the provisions hereof shall not in any manner restrict, enlarge, or affect the payment of existing prior debts.

[Water Improvement Districts and Irrigation Districts may assist in construction of reservoirs]

Sec. 25. In the event that any Water Improvement District and/or Irrigation District included within a Water Power Control District shall make and enter into a contract with such Water Power Control District which provides for the construction of a storage reservoir by such Water Power Control District, from which such Water Improvement District and Irrigation District will be served water, such Water Improvement District and Irrigation District may pledge itself to pay to such Water Power Control District the proportion of the cost thereof which it may contract and agree to pay and which may include all expenses and charges incident thereto. Such payment may be evidenced by contracts, and/or notes, bonds, or evidence of indebtedness with interest thereon at not to exceed the rate of six per centum (6%) per annum. And to further guarantee the payment thereof such Water Improvement Districts and Irrigation Districts may provide by such contract that in the event it shall fail to pay the amount so required to be paid either in monthly, quarterly, semi-annually, or annual payments that such Water

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Power Control District may withhold the delivery of water to such Water Improvement District or Irrigation District or other division and not deliver water to such Water Improvement District and Irrigation District or other division until such payments have been made. And in the event that such default is made in such payments the delivery of water may be withheld and said Water Power Control District may sell such water to other persons or corporations, and in such event such Water Improvement Districts and/or Irrigation Districts so in default shall not have any claim or action against such Water Power Control Districts for a failure to deliver such water to it.

[Pledge of obligations, contracts, etc., by Water Improvement Districts and Irrigation Districts included]

Sec. 26. Water Improvement Districts and Irrigation Districts included within Water Power Control Districts shall have full authority and power to issue, pledge, and/or sell and deliver any and all obligations, contracts, agreements, notes, bonds, or warrants which it may issue as evidence of any debt, contract, or agreement made by it with such Water Power Control District and/or any person and/or any agency, and/or any corporation lending money to such Water Power Control District and to provide for and assure or guarantee the payment thereof, may make a levy or fix a benefit against each and every acre of land included within such Water Improvement District and Irrigation District to pay such debt and the necessary cost of the assessments and collections thereof and such levy of such charge or tax may be made payable each year in monthly installments, quarterly installments, semi-annually installments, and/or annual installments. All such levies shall be payable at such time and times as may be fixed and determined and all installments, charges, or amounts so fixed that are not paid when due shall be classed as delinquent and when same become delinquent there shall be added thereto a penalty or charge of three per centum (3%) of the amount thereof, and all delinquent charges or taxes shall bear interest from the date that they become delinquent at the rate of six per centum (6%) per annum and if it becomes necessary for such District to place said delinquent charges in the hands of an attorney for collection, or to collect same by suit there shall be added thereto an attorney's fee of five per centum (5%) of the amount of said charge, penalty and interest.

[Bond issues by included Water Improvement Districts and Irrigation Districts; tax per acre]

Sec. 27. All Water Improvement Districts and Irrigation Districts included within a Water Power Control District may issue bonds for any lawful purpose as provided by law for the issuance of bonds by Water Improvement Districts and/or may issue bonds upon the basis of taxes equally distributed upon an equitable basis by fixing and determining same an equal charge upon each acre of land therein entitled to a full share in the water supply of the District, and a pro rata equal charge upon each acre of land of the second class which is not entitled to a full share of water based on the quantity of water to which it is entitled, and may levy against each such acre of land its proportionate part of such debt created by the issuance of such bonds and in such event shall fix and determine the amount of tax per acre to be paid each year upon each acre of land of each class therein to pay the interest and charges accruing upon said bonds, and the costs of assessing and collecting same and may fix and determine the time or times when said taxes shall be paid either in monthly, quarterly, semi-annually or annual installments. All such charges and taxes so levied shall be a lien upon the land upon which so levied. All such levies shall be payable at such time and

times as may be fixed and determined and all installments, charges, or amounts so fixed that are not paid when due shall be classed as delinquent, and when same become delinquent there shall be added thereto a penalty or charge of three per centum (3%) of the amount thereof and all delinquent charges or taxes shall bear interest from the date that they become delinquent at the rate of six per centum (6%) per annum and if it becomes necessary for such District to place said delinquent charges in the hands of an attorney for collection or to collect same by suit there shall be added thereto an attorney's fee of five per centum (5%) of the amount of said charge, penalty and interest. The District may withhold the delivery of water on any land upon which such taxes or charges are not paid after same become delinquent and until same are paid.

When taxes are fixed and levied on a fixed acreage basis as herein provided, a tax roll shall be prepared showing each tract of land, its classification, the total assessment and the annual or installment payments fixed thereon.

[Bond issue election of included Water Improvement and Irrigation Districts]

Sec. 28. Whenever a Water Improvement District and Irrigation District included within a Water Power Control District may have issued bonds payable by a general or ad valorem tax and may issue other bonds and/or obligations payable by a benefit tax on an acreage charge or tax, separate tax rolls shall be prepared for each as provided by law and such District may issue bonds on either basis as determined by the Board of Directors prior to holding of an election to authorize same. The notice of election shall state the method of taxation that will be used to pay such bonds or obligations.

[Manner of organization of Irrigation District included into Water Improvement Districts]

Sec. 29. In the event that there is included within a Water Power Control District, as herein defined, lands comprising parts or all of an existing irrigation system, now or prior to this time operated and owned by individuals or a corporation such area or any part thereof included or embraced in said irrigation project or plant may be organized into and constituted a Water Improvement District in the following manner. A petition praying for the organization of such District may be filed with the County Clerk of the County in which same is situated. Such petition shall be addressed to the County Commissioners' Court of the County, shall state the principal reasons why same should be organized as a Water Improvement District, and shall state the facts showing that same is feasible and the facts showing that same is a public utility and benefit. Such petition shall be signed by a majority of the owners of land therein who reside within such District as defined by said petition. The petition shall define the boundaries thereof.

When such petition is filed with the County Clerk same shall then be presented to the County Judge who shall endorse thereon a date of hearing thereof by the County Commissioners' Court of the county. The County Judge shall endorse on said petition the date fixed for such hearing and the County Clerk shall then issue notice thereof under his hand and seal and deliver such notice together with three copies thereof to the Sheriff of the County who shall execute same by posting one copy thereof at the County Court House door, or at the place provided in the County Court House for the posting of legal notices; and shall publish one copy thereof by causing same to be published in a newspaper published in the county, or if no newspaper is published in the county, then same shall be published in a newspaper published in an adjoining county; and by posting one copy thereof at a public place within the area

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defined in the petition. Such notices shall be posted for fifteen (15) days prior to the date of said hearing and such notice to be so published shall be published for once a week for two weeks. The first publication to be made at least twenty (20) days prior to the date of such hearing.

Such notice shall state the date said petition was filed and set out a copy of said petition together with a copy of the endorsement of the County Judge thereon fixing the date of hearing. Such notice shall be addressed to all persons having or owning any interest in property within the area defined in the petition, a description of such area shall be set out in such notice.

Upon the day fixed for the hearing of such petition any person affected by the formation of such District may appear and participate in such hearing and may offer evidence upon any and all matters pertaining thereto and may contest the formation of such District or advocate same by evidence, argument or statement.

If, at the hearing of such petition, it shall appear to the satisfaction of the Court that the organization of such district is feasible and practicable, and that it is needed and would be a public benefit and a benefit to the lands included in the District then the Court shall so find, and cause its findings to be entered of record; but if the Court should find that the irrigation of lands in such District is not feasible and practicable and that the organization of such District would not be a public benefit or is not needed or would not be a public utility, then the Court may place such findings of record and dismiss the petition at the cost of the petitioners.

If the Court shall find that the petition should be granted and that the district should be organized then it shall make its order to that effect substantially as follows:

"In the matter of the petition ——— and others praying for the establishment of a Water Improvement District as in said petition described and named ——— be it known that said District is hereby established. Said District is legally established under the name of ——— with the following metes and bounds: (set out description of boundaries)."

If at the hearing the Court shall enter an order granting or refusing the petition for the organization of said District at the cost of petitioners, then in that event the petitioners, or any one or more of them or any one owning land in such District, may appeal from said order to the District Court; provided, however, any such appeal shall only be taken in the event that notice thereof is filed with the County Clerk at the time of said hearing, or within two days thereafter, and that same is perfected by filing with the Clerk of said Court an appeal bond, approved by the County Judge, in a sum of not less than Two Thousand Dollars (\$2,000.00) or more than Five Thousand (\$5,000.00) Dollars to be fixed by the County Judge, payable to the County Judge for the benefit of adverse parties, within ten (10) days after notice of appeal is filed. In event of such appeal said cause shall be tried under the rules prescribed for practice in the District Court, and to be de novo, and the Clerk of the Commissioners' Court shall transfer to the Clerk of the District Court within ten (10) days from the date of filing of an appeal bond such judgment and all records filed with the County Commissioners' Court, and it shall not be necessary to file any other additional pleadings in said cause. The final judgment on appeal shall be certified to the Commissioners' Court for their action within twenty (20) days after same has become final.

At the time of so ordering a Water Improvement District to be defined and established the County Commissioners' Court shall appoint five (5) Directors for such District, who shall qualify as such Directors within ten (10) days thereafter by taking the oath of office provided by

law and executing a bond in accordance with the provisions of law governing Water Improvement Districts.

After such directors shall have qualified and organized as a Board of Directors notice shall be published by such Directors signed by the President and Secretary of such Board, stating that such District has been organized and that the owner of any land included within such district who does not desire to have his land included therein may file his petition with the Secretary of the Board of Directors of such District to have said lands excluded and taken out of said District. Such notice shall include a description of the boundaries of such District and shall set forth the time within which such petition may be so filed.

The owner or owners of any land included within a District so organized who wish to have their lands excluded therefrom may file a petition with the Secretary of the Board of Directors of such District praying that such lands be excluded therefrom at any time within thirty (30) days after the first publication of the notice herein provided for or at any time prior to the date of hearing of such petitions as herein provided. All such petitions for exclusion of land from such District shall describe the land by metes and bounds or other good and sufficient description and shall state the names and addresses of the owners thereof and all persons having or holding any interest therein or liens thereon.

The notice herein provided to be given of the hearing of application for exclusion of lands shall be published once a week for three weeks prior to the date of said hearing, the first publication of which shall not be less than thirty-five (35) days prior to the date of such hearing. Such notice shall be published in a newspaper published within the county in which such District is located. A copy of such notice shall be posted at the Courthouse of such county in the place provided for the posting of legal notices, and copy of same shall be posted at a public place within such District. Such notice shall be signed by the President and Secretary of the Board of Directors of such District and if such District does not have at that time an established office then such notice shall state the place where such hearing will be held, providing that the Directors may order that such hearing be held at the County Courthouse.

When petitions are so filed for the exclusion of land from such a District the Directors shall at the time and place designated hear same and all matters concerned therewith and if at such hearing the person filing such petition insists upon the exclusion of such land from such District the Board of Directors shall make and enter an order upon the minutes of said Board excluding such lands from such District by granting such petition and shall thereupon cause said petition together with the order of the Board of Directors thereon to be recorded in the Deed Records of the County in which same is located and thereupon said land shall be excluded from said District and shall thereafter be excluded from all benefits thereof to the same effect as if it had not been included within said District when so organized.

If and in the event that the lands so excluded from any District so organized should render the further functioning or operation of the District not practical, then the Board of Directors of such District shall so certify to the County Commissioners' Court by filing a statement of the facts with reference thereto with the County Clerk of the county, who shall thereupon present same to the County Commissioners' Court; and the County Commissioners' Court shall, in such event, consider such statement. If same is approved by such Court the Court may make and enter its order dissolving such District. Any such statement made as a basis of dissolving such District shall be so made and filed by the Directors at such District within five (5) days after the hearing upon petitions to exclude lands from such District.

All such Water Improvement Districts organized as provided herein shall be governed by the provisions of Chapter Two, Title 128, of the

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Revised Civil Statutes and amendments thereto, except as herein otherwise provided.

[Existing priorities in water rights preserved; lands classified]

Sec. 30. Any Water Improvement District within a Water Power Control District organized in accordance with the provisions of this Act which shall include therein lands not possessing a water right or a right to be irrigated or watered from the irrigation system included within such Water Improvement District shall be classified as land not having a first class right but as lands having a second class right within such Water Improvement District and such lands having a second class right shall not take from such lands having a first class right any part of the water belonging to such lands having a prior or first class right therein. Such lands so having only a second right shall be entitled to the use and distribution of water thereon by such Water Improvement District in so far as the water supply of such District at any time exceeds the amount of water actually required for the use of first class lands and all valuations for taxation, assessments and charges levied thereon shall be proportioned only to the amount of water to which it may be entitled as distinguished from first class lands. The purpose of this provision of the law is that where an irrigation system has heretofore been established and rights have been acquired thereunder for the irrigation of certain lands and in the organization of a Water Improvement District additional lands may have been included therein not having such water right and not owning any part of such existing irrigation system that such additional lands so included shall not take water from such lands therein having such prior rights but that such additional land so included therein may be furnished water in so far as possible without taking from such lands having prior rights the prior rights to be first furnished water. [Acts 1933, 43rd Leg., p. 154, ch. 76, as amended Acts 1933, 43rd Leg., 1st C. S., p. 54, ch. 19, § 1.]

[Art. 7807dd. Water Power Control Districts; Water Improvement Districts included in, validated]

Sec. 2. Water Improvement Districts situated within a Water Power Control District and which have been heretofore declared to have been organized and established by order of a County Commissioners' Court under the terms and provisions of Section 29, of Chapter 76 [Art. 7807d], Acts of the 43rd Legislature and the organization of which the County Commissioners' Court found that petitions for the organization thereof had been filed and that notice thereof had been given and that the organization of such districts was feasible and practicable, that it was needed, and would be of public benefit and benefit to the lands included in the district and has caused such findings to be entered of record are hereby found and declared to have been legally created and the same are hereby validated and declared to have been validly created Water Improvement Districts. The fact that by inadvertence or oversight any act of the officers of any county or other person in the creation of any District was not properly done shall in nowise invalidate such District, and all such districts are hereby validated in all respects as though they had been duly and legally established in the first instance.

[Water Improvement Districts and Irrigation Districts included in, validated]

Sec. 3. Water Improvement Districts and Irrigation Districts, part or all of which are included within a Water Power Control District and which Water Improvement Districts and Irrigation Districts have heretofore been organized and have in fact been established and operating for three years or more and which were at the time of their organiza-

tion established by order of the County Commissioners' Court of the county in which they are situated and are now recognized and operating as such Water Improvement Districts and Irrigation Districts are hereby found and declared to have been legally created and are hereby validated. The fact that by inadvertence or oversight any act of the officers of any county or other person, in the creation of any such district was not properly done shall in nowise invalidate such district and all such districts are hereby validated in all respects as though they had been duly and legally established in the first instance.

[Lands and districts which may be included]

Sec. 4. Water Power Control Districts may include tracts of land, Water Improvement Districts, and Irrigation Districts, the lands of which do not adjoin or be contiguous to each other but which may be separated.

[Borrowing money from Federal Government or agencies thereof; elections]

Sec. 5. Water Power Control Districts which have or may borrow or secure funds from the United States and any agency of the United States created by an act of Congress and/or under the provisions of the National Industrial Recovery Act and/or any other Act of the Congress of the United States may make and enter into contracts to secure such funds in accordance with the rules, practice and laws creating such agency and the rules and regulations properly established for the government of same, and the making of grants and loans by such agency.

Such contracts and agreements shall be made by the Board of Directors of such Water Power Control District and as so made by them shall be binding legal obligations of such District with the requirement however that before the obligations to be issued thereunder are binding as a lien or charge against the properties in such District, the proposition for the issuance thereof shall be submitted in an election for ratification by the qualified voters of such District.

At such election the proposition for the creation of any such debt shall be submitted to be voted upon by stating the amount of the debt or debts to be incurred, the maximum rate of interest that same will bear and the maximum maturity date thereof, but the evidence of such debt, may be made to mature serially or in installments at any rate of interest not to exceed the rate of interest stated in such election notice and to mature at any time or times serially or in partial payments within the maximum time stated in said election notice and in any form or forms which shall constitute same valid binding obligations to secure the loan or funds which they are issued to secure.

Notice of holding of such election shall be ordered to be issued by the Board of Directors of such District. Such notice shall be signed by the President and Secretary of the District and shall state the proposition to be voted upon, the day when said election will be held, the place where said election will be held and shall describe the voting precincts and divisions sufficiently to show where elections will be held and the area of territory included in each voting precinct in such District.

Such notice of election shall be issued twenty days prior to the date of such election and copy thereof shall be posted at the Courthouse door in each county in which any part of such District is situated. Such notice shall be published in a newspaper published in each county in which any part of such District is situated once a week for two weeks prior to the holding of such election, the first publication thereof shall be not less than twenty days prior to the date of such election.

The Board of Directors of the District shall appoint a presiding judge and an associate judge, and two clerks to hold and conduct such election at each polling place, their qualification, oath and conduct of such election

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shall be in accordance with the laws of the State of Texas provided for holding general elections.

The proposition submitted at such election may contain two or more propositions with reference to the creation of such debts and all such propositions submitted may be upon the same ballot and voted upon at the same election.

[Approval of proceedings by Attorney General; contesting issuance of evidences of indebtedness]

Sec. 6. The returns of such election shall be prepared and made in accordance with the general election laws of the State of Texas except that such returns shall be made to the President and Secretary of such Water Power Control District and be submitted by them to the Board of Directors of such District and same shall be estimated, canvassed and the result thereof declared by the Board of Directors of such District and a record thereof shall be entered upon the minutes of such District.

After any such debt shall have been so authorized by the election, a full copy of the proceedings of the organization of such District and of such election and of an order of the Board of Directors of such District providing for the evidence, terms and form of such debt, after authorized by an election, shall be submitted to the Attorney General of the State of Texas for his approval as to the validity thereof, and if and when approved by him as legal obligations shall be registered in the office of the Comptroller of Public Accounts in the State of Texas, together with a certificate of approval so given by the Attorney General of the State of Texas.

When and if such Water Power Control District shall issue any such evidence of debt to secure a loan from any agency of the United States or from the United States or under and in accordance with any laws passed by Congress for the purpose of authorizing and having made such laws and an election shall have been held within such District to authorize same and the record thereof shall have been submitted to the Attorney General of the State of Texas for his approval and such approval shall be given, evidenced by certificate thereof filed in the office of the Comptroller of Public Accounts in the State of Texas, and such evidence of debt shall have been registered by the Comptroller of Public Accounts and have been delivered by him to the officers of such District or other persons duly authorized to receive same and shall have been in fact delivered and the amount of such loan or any part thereof shall have been actually paid to such District or other person duly authorized to receive same, then such loan and all such evidence thereof and all proceedings had to authorize the issuance thereof and its approval and registration and the delivery of such evidence of such debt shall be valid binding obligations and incontestable, except for actual fraud, unless any suits, suit or actions to contest same shall have been filed and process therein issued prior to the time of the registration of such securities by the Comptroller of Public Accounts as herein provided.

Any person, corporation, associations, organizations or partnerships, which may contest or may desire to contest or controvert the issuance of such evidences of indebtedness, or oppose same, by any legal or equitable action or proceedings as may be authorized by law, shall file or commence such proceeding prior to the time of the registration of such evidence of indebtedness by the Comptroller of Public Accounts, and the period of time in which any such action may be filed or taken shall end and be terminated at the time of the registration of such evidence of indebtedness by the Comptroller of Public Accounts, and shall not thereafter be heard or considered unless filed within said period of time. The securing of such loans and the doing of such work so contemplated is a matter of great public concern and the funds of the United States invested therein is a

matter of public concern, and such condition creates a special emergency requiring that the validity of such securities be not questioned and, therefore, creates a necessity authorizing this provision of the law and the legislative determination herein contained that when and if the issuance of such securities are authorized by an election held as herein provided, and such funds are actually paid, that the procedure for the issuance thereof and the validity thereof shall not be questioned after the lapse of the period herein provided during which any such contests may be filed or instituted.

[Proceedings had and districts organized under amended statute continued in force]

Sec. 7. This Act amends an Act passed at the Regular Session of the Forty-third Legislature, known as House Bill No. 413, and being Chapter 76 [Art. 7807d] of the Acts of the Regular Session of the Forty-third Legislature. All things done in accordance with the provisions of said Act are continued in full effect and all districts organized thereunder are continued in full force and effect. All notices issued and published in accordance with the provisions of said Act are continued in full force and effect the same as if same had been issued, published or given under the terms and provisions of this Act and all such proceedings commenced and not completed at the time this Act shall take effect shall be continued and completed under the terms and provisions of this Act. [Acts 1933, 43rd Leg., 1st C. S., p. 54, ch. 19.]

Section 1 of said Acts 1933, 43rd Leg., 1st C. S., p. 54, ch. 19 amends art. 7807d.

[Art. 7807e. Water improvement districts; incurring indebtedness; acquiring property]

Sec. 1. Water Improvement Districts may incur indebtedness evidenced by contract, notes, warrants or bonds to fully pay any debt or obligation incurred or to be incurred for any lawful purpose provided by law including the purchase, construction, securing or acquiring of any reservoir, rights of way, water rights, and any properties, plants or improvements and the maintenance and operation thereof and including all incidental expenses connected therewith, also for the purpose of constructing repairs, extensions and other improvements upon or to any such properties.

[Taxation to pay debts; creating debt without consent of tax paying voters]

Sec. 2. At the time of the creation of any debt or obligation as provided in Section one hereof such Water Improvement District shall provide for payment of such debt or obligation. General ad valorem taxes may be fixed, levied, and assessed for the payment thereof, or taxes may be fixed, levied, assessed and collected upon a benefit basis. Any such district which may have heretofore issued bonds or obligations payable by taxation upon either basis may in the creation of additional debt or obligation adopt a different plan of taxation for the payment thereof. Each such debt or obligation shall be paid in the manner provided for its payment at the time such debt or obligation was or is incurred. It is hereby expressly provided that nothing in this Act shall prevent governing boards of Water Improvement Districts from creating, without the consent of the property tax-paying voters of the District, any debt or obligation when such debt or obligation is created to defray ordinary maintenance and operation expenses, or when it is contemplated that such debt or obligation is to be retired from current revenues.

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[Basis of taxation to pay debts of district]

Sec. 3. Water Improvement Districts, the principal function or operation of which is providing and furnishing water for the irrigation of the lands included in such district, may provide for the payment of the principal and interest of any such debts or obligations so created by the levying of taxes upon the land therein upon an equal or uniform basis of an equal charge per acre upon each acre of land to be irrigated. When such basis of taxation is adopted a special tax roll shall be prepared showing each tract of land therein, the number of acres in each such tract, the total assessment of benefits upon each tract, and the amount to be paid each year thereon and such roll shall be prepared or amended each year thereafter. Such tax roll shall be prepared by the tax collector, renditions thereof made by the owner of the property, and said tax roll shall be examined, corrected and approved by the Board of Equalization of such district and such property shall be rendered for taxation, assessed and such tax roll prepared in the manner provided by law for the assessment and collection of taxes and at the time and times provided by law and in all things as provided by law except that the valuation fixed thereon shall be the assessment charge against each acre of land at the time such debt or obligation was or is incurred or issued.

[Voting on bond issues]

Sec. 4. Prior to the issuance of any bonds or the creation of any debt as herein provided the proposition shall first be submitted to the qualified property tax-paying voters of such district and the proposition be adopted by a majority of those voting at such election. The proposition submitted shall also state the method of taxation to be adopted to provide for the payment of the principal and interest of such bonds, debts, or obligations. Notices of such election shall be given and such election shall be in all things held and conducted as provided by law for the holding of such elections within such districts.

[Borrowing money from Reconstruction Finance Corporation]

Sec. 5. Water Improvement Districts may borrow money from the Reconstruction Finance Corporation created by the laws enacted by the Congress of the United States for any purpose incident to its powers and functions and any purpose provided by law, and may evidence such debts by contract, agreements, notes, bonds or warrants payable within any term of years not to exceed forty years, and to bear interest at not to exceed the rate of six per centum per annum.

[Borrowing money, pledging revenue, and fixing charges for services]

Sec. 6. Water Improvement Districts may borrow money for any purpose and in any manner herein provided and may pledge for the payment thereof any part of the income and revenue from the sale and use of water, power, or other sources of income sufficient to fully guarantee the payment of such debts and all interest and charges to accrue thereon, and for the purpose of paying same shall have and are vested with the power to fix charges for the use and sale of water, power and other services to meet the payments so required in addition to all other lawful purposes.

[Pledging unsold bonds to secure loans]

Sec. 8. Whenever a Water Improvement District shall have on hand and unsold any bonds issued by it under the provisions of Chapter 2, Title 128, of the Revised Civil Statutes of Texas, 1925, and any amendments thereto, and such bonds cannot, in the opinion of the Board of Directors of such district, then be sold upon terms advantageous to the district, such district may raise money by loan contracts, in an amount

not exceeding the amount of its unsold bonds, and use such money for any of the purposes for which such unsold bonds shall have been authorized, and may pledge such bonds as a guarantee or assurance of the payment of such loan. The amount of bonds so pledged shall not exceed the amount of such loan more than fifteen per cent of the amount of such loan.

[Loan fund]

Sec. 9. Any Water Improvement District may pay and contract to pay on any bonds sold or pledged by it in addition to all taxes levied and collected therefor other funds derived from water charges for the use of water within said district or from the sale or supplying of water to any cities or towns or other municipal corporations, including any other districts, and to any lands or users of water outside of the boundaries of such district, or the sale of water to any commercial or industrial enterprise, or from the sale of hydro-electric power, or out of and from either, any or all of such respective sources of revenue, as the Board of Directors of such district may fix and determine. The amount necessary for such purpose shall be fixed by the directors of such district, and when thus fixed, shall be enforced and collected in the same manner as now provided by law in respect to charges or assessments for maintenance and operation of any such district; and all liens and remedies now or hereafter provided by law to secure and enforce the collection of charges and assessments for maintenance and operation purposes, shall exist and be applicable for securing and enforcing the collection of such funds. The proceeds of the collection of all such Loan Fund Charges shall be segregated and kept in a separate fund, to be known as the "Loan Fund," and said fund shall be used and disbursed for no other purpose than to pay the principal and interest on the loan or securities herein provided for, so long as any part of said loans or any of said securities shall remain unpaid. Such Loan Fund Charge thus created and pledged shall constitute an additional and distinct charge and source of income for such district, over and above and distinct from its income for maintenance and operation and other purposes provided by law. When and after such Loan Fund Charge is thus created and pledged, and so long as the same is maintained, the action of the Board of Directors of such district in fixing the amount thereof, and in fixing the total annual charges or assessments for maintenance and operation purposes, shall not be reviewable by the State Board of Water Engineers, any existing law to the contrary notwithstanding. [Acts 1933, 43rd Leg., p. 332, ch. 131.]

Section 7, Acts 1933, 43rd Leg., p. 332, ch. 131 amends art. 7699.

[Art. 7807f. Water supply districts—as governmental agencies]

Sec. 1. Water Supply Districts—As Governmental Agencies. There may be created within this State districts to be known as water supply districts, for the purpose of conserving, diverting and transporting and distributing water from lakes, pools, reservoirs, wells, springs, creeks, rivers and streams for irrigation, stock raising, domestic and commercial purposes, and the development and sale of hydro-electric power. Said districts shall be governmental agencies and bodies politic and corporate with such powers of government and with the authority to exercise such rights, privileges and functions concerning the subject matter hereof as provided herein. Such districts, when so created, shall be free from all forms of taxation.

Sec. 2. Petition. When two or more water improvement districts and/or water control and improvement districts, and/or irrigation districts in this State which have the right to divert water from a common source of supply desire to avail themselves of the provisions of this Act, they shall petition the County Commissioners' Court of the county con-

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taining the largest acreage of the lands embraced within the boundaries of the proposed water supply district. Said petition shall be in writing and shall be signed by four-fifths of the directors of each of said petitioning districts and shall set forth the boundaries of such proposed water supply district; the general nature of the work proposed to be done; the necessity therefor and the feasibility thereof, and shall designate a name therefor, which shall include the name of the county or counties in which same is situated, the term "Water Supply District" and the number in the order of its organization.

Sec. 3. [Notice of intention to petition.] Before such petition shall be presented to the County Commissioners' Court, each district signing same shall give notice of the intention to present said petition by posting copies of said petition, with the words: "Notice of intention to petition for the establishment of a water supply district" written or printed at the top thereof, at the county court house door of the county in which said petition is to be presented and in three public places in each of said petitioning districts, one of which shall be at the door of the main office where taxes and water rentals are paid to such districts and all of which shall be posted for at least twenty days before said petition shall be acted upon by the County Commissioners' Court.

If qualified voters of any such petitioning district in the number of 5% of the voters voting at the last general election for directors of same shall sign and acknowledge a petition in writing to the Board of Directors of any such petitioning district protesting the filing of such petition and shall file one copy with the Board of Directors of such district and one copy with the County Commissioners' Court within twenty days after the posting of such notices, to which said petition is to be presented, then said petition shall not be acted upon by said County Commissioners' Court until each district in which such protesting petition shall be presented shall hold an election. And such election shall be held within thirty days from the presentation of such protesting petition, after notice shall have been given of such election for ten days by posting in three public places in said district, one of which shall be at the office of said district as hereinbefore provided, and at said election only resident qualified property tax-paying voters residing in said district shall have a right to vote and they shall have written or printed upon their ballots "FOR THE WATER SUPPLY DISTRICT" or "AGAINST THE WATER SUPPLY DISTRICT". The Board of Directors of such petitioning district when such election is held, shall, as soon as practicable, meet and canvass the returns of such election and if a majority of the qualified voters voting at said election favor the water supply district, it shall be the duty of the Board of Directors to immediately present such petition to the Commissioners' Court, together with a certificate of the official returns of said election. Such election shall be held in conformity with the general election laws, except as herein otherwise provided. The Secretary of the Board of Directors in any such district shall prepare and post all notices herein provided for and shall prepare the ballots for such election and his affidavit concerning the same shall be prima facie evidence of the facts therein contained.

Sec. 4. Notice of Hearing. Said Commissioners' Court, or the County Judge if said court be not in session, shall forthwith fix a time and place at which the petition shall be heard by the court, not less than fifteen nor more than thirty days thereafter, and shall direct the county clerk as ex-officio clerk of said court, to issue notice of such time and place of hearing. Such notice shall inform all persons of their right to appear and advocate or contest the form and allegations of said petition, the necessity and feasibility of such project, the benefits to accrue and the boundaries of such proposed district; which notice may be delivered to any adult who is willing to execute the same by posting as herein directed.

Sec. 5. Posting of Notice. Upon receipt of the notice such person or persons receiving same shall post a copy thereof at the door of the court house of said county and a copy at four different public places within such proposed district. Such posting shall be made for not less than ten days prior to the date fixed for the hearing. The person or persons so posting shall make affidavit, before some officer authorized by law to administer oaths, of their act in respect to such posting and such affidavit shall be prima facie evidence of the facts sworn to.

Sec. 6. Hearing. Upon the date set for the hearing of said petition any person who may be affected thereby may appear before said Commissioners' Court and contest the creation of said district or contend for the creation of said district, may offer testimony in favor of or against the boundaries of said district, the necessity and feasibility of such project, the benefits to accrue, or as to any other matter pertaining to the proposed district. Said County Commissioners' Court shall have exclusive jurisdiction to hear and determine all contests and objections to the creation of such district; and all matters pertaining to the creation and establishment of same, and may adjourn the hearing on any matter connected therewith from day to day; and all judgments rendered by said court in relation thereto shall be final, except as herein otherwise provided.

Sec. 7. Findings. If upon the hearing of such petition it be found by the court that the petition conforms to the requirements of this Act and that the proposed project is feasible and practicable and shall constitute a benefit to such proposed district, the lands therein and the inhabitants thereof, it shall so find and cause its findings establishing such district and defining the boundaries thereof to be entered of record in the minutes of the court, otherwise it shall dismiss the petition at the cost of petitioners; but such adverse finding shall not preclude such petitioners from again petitioning said court for the establishment of such district. Upon the entry of the order of the County Commissioners' Court establishing such district the same shall be constituted a water supply district with all the powers and privileges provided for in this Act.

Sec. 8. Annexation of Territory. If such water supply district and any water control and improvement district or water improvement district, or irrigation district having a right to obtain water from the source of supply from which such water supply district obtains water, desire that such additional district or territory be annexed to such water supply district, they shall execute their petition in writing signed by four-fifths of the directors of such water supply district and of the district seeking annexation containing the requirements of the original petition to the County Commissioners' Court set out herein, whereupon the County Commissioners' Court shall set same down for hearing, give notice and conduct a hearing as herein provided for in the original organization of the district and if said County Commissioners' Court shall find the facts herein provided to be found in case of the original establishment of the district, it shall enter its findings of record in the minutes of the court and order the annexation of said territory to the district and re-define the boundaries thereof. From and after the entry of such order of annexation the territory so annexed shall become a part of the water supply district the same as if originally included therein.

Sec. 9. Powers of the District. Water supply districts created under the provisions of this Act shall have the following powers:

(a) To purchase and/or construct all works necessary or convenient for the exercise of the powers granted in Section 1 of this Act.

(b) The right of eminent domain is expressly conferred upon such water supply districts to enable them to acquire the fee simple title, easement or right-of-way over and through any and all lands, water or lands under water, private or public, within and without such districts, necessary or convenient to carry out any of the purposes and powers conferred upon such districts by this Act:—provided, that such districts shall

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not have the power to condemn land used for parks, cemeteries, drain ditches, canals and other works in actual use for irrigating lands, except that the right to cross such canals and drain ditches in a manner not to unreasonably interfere with them, may be condemned. All such condemnation proceedings shall be under the direction of the directors and in the name of the water supply district, and the assessment of damages and all procedure with reference to condemnation, appeal and payment shall be in conformity with the statutes of this State as provided in the title of the Revised Statutes relating to "Eminent Domain".

(c) Such water supply districts may enter into contracts with member districts, other water improvement districts, water control and improvement districts, irrigation districts, private irrigation corporations, cities, towns, industrial plants and any other persons, real or artificial, who may have a right to obtain water from the source of supply of the water supply district to furnish water from such source of supply to such water user under such terms and conditions as may be agreed upon between the water supply district and such water user, which contracts shall be in writing and copies of which shall be kept on file at the office of the water supply district and recorded in the minutes of the Board of Directors of such water supply district.

(d) Such water supply districts through governing boards shall have the right to employ managers, engineers, attorneys, and all necessary employees to properly construct, operate and maintain said works of districts and carry out the provisions of this Act and to pay reasonable compensation for such services.

(e) Such water supply districts, in addition to the powers hereinabove set out shall have general power to make all contracts necessary or convenient to carry out any of the powers granted in this Act, which contracts may be entered into with any person, real or artificial, any corporation, municipal, public or private, and/or any government or governmental agency, including the United States Government and the State of Texas, but no member district shall ever be held liable on any contract of such Water Supply District not actually entered into by that member district.

(f) Such water supply districts shall have the right to sue and be sued; provided that no member district shall ever become liable for any indebtedness of such water supply district and shall never be held liable for its torts or the negligence of any director or other officer, agent, servant or employee of such water supply district.

(g) Such water supply districts shall have no power to levy any tax or involuntary assessment against any real or personal property.

(h) Before such water supply district shall establish a diversion point, construct the canals, pumping plants and other works herein provided for, it shall present to the Board of Water Engineers of the State of Texas, or such other agency performing the functions now performed by the Board of Engineers, plans and specifications of the same and obtain the approval of such Board.

Sec. 10. Governing Body. The governing body of such districts shall consist of a board of directors composed of one member from each member district, who shall hold office for one year beginning on the first day of March of each year and until his successor shall be elected and qualified. Directors shall have the qualifications provided by law for a director of a water improvement district or a water control and improvement district or irrigation district and the manager of any water improvement district or water control and improvement district or irrigation district, if otherwise qualified, may serve as a member of the board of directors of the water supply district.

Sec. 11. Election of Directors. The board of directors of each member district shall as soon as convenient after the establishment of the water supply district, and thereafter annually in February of each year,

elect a member of the board of directors of said water supply district and such director may be removed at any time by said electing board of directors with or without cause.

Sec. 12. Oath and Bond. Each director shall give a good bond in the penal sum of Five Thousand and No/00 (\$5,000.00) Dollars, payable to the water supply district and conditioned upon the faithful performance of his duties. Said bond shall be approved by the board of directors of the water supply district. Each director shall take the oath of office prescribed by statute for the members of the County Commissioners' Court, except that the name of the district shall be substituted for the name of the County. Said bond and oath shall be filed with the Clerk of the County wherein lie the largest acreage of the lands of the district and by him recorded in the official bond records of said county. Said bond shall then be delivered by the County Clerk to the district depository and shall be by it safely kept as part of the records of the district.

Sec. 13. Organization of Board. At the first meeting after the establishment of the district and thereafter at its first meeting in March of each year, the board of directors shall organize by electing one of their members president and another secretary. The board shall make rules providing for its meetings and the transaction of all business not in conflict with this Act, and shall adopt an official seal. If any board of directors shall consist of an even number of members and a vote on any matter shall result in a tie, the board of directors may submit the matter voted upon to the County Judge of the county containing the largest acreage of the lands embraced within the district, and such County Judge shall cast the deciding vote in such matter.

Sec. 14. Compensation of Directors. Each director shall receive Five and No/100 (\$5.00) Dollars, per day for the days actually engaged in the service of the district, plus mileage at five (5¢) cents per mile each way for each mile computed from the residence of the director to the place of meeting by the most direct route.

Sec. 15. Power to Borrow Money. Such water supply district shall have the power, acting through their Board of Directors, to borrow money for any purpose necessary or convenient to carry out the powers granted by this Act and to issue negotiable notes, warrants, bonds, or other evidences of indebtedness for same; provided that such evidences of indebtedness shall be secured only by a lien on the physical properties belonging to such district, and/or by a pledge of the revenues derived by said district from its contracts with water users or users of electricity, and provided that no tax shall ever be levied against the taxable property in said district to pay such evidences of indebtedness or the debt evidenced by the same. Such evidences of indebtedness as shall mature within one year from the date thereof may bear interest not to exceed 8% per annum. All others shall bear interest not to exceed 6% per annum.

The governing body of such water supply districts may issue coupon bonds in the name of such district payable serially over a period not to exceed forty years from the date thereof, bearing interest not to exceed 6% per annum, interest payable annually or semi-annually as provided in the bond order, said bonds to be signed by the President and attested by the Secretary of the Board of Directors of such district, sealed with the official seal, interest coupons to bear the facsimile signatures of the President and Secretary of the Board of Directors, said bonds to be of the denomination, date, maturities and payable at the place specified in the bond order and said bonds shall be payable from and secured by a lien upon all the physical properties of said water supply district and a lien upon the rents and revenues of said district, which liens may be further evidenced by a deed of trust or mortgage, which may be contained in the bond order. In such bond order the Board of Directors shall appropriate and set aside a sufficient amount of the rents and revenues of such district

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to pay the interest and create a sinking fund sufficient to pay said bonds and the interest coupons thereon as they severally mature, which interest and sinking fund shall be placed in the official depository and applied solely for the purpose for which the same was created; provided, however, that said interest and sinking fund may be invested by the Board of Directors in the manner now provided by law for the sinking funds under the jurisdiction of the Commissioners' Court.

The legality of said bonds shall be evidenced by a transcript, which shall contain a certified copy of the proceedings incorporating such water supply district; the bond order authorizing the issuance of said bonds; certificate of indebtedness; financial statement and non-litigation certificate, which transcript and bonds shall be submitted to the Attorney General of Texas for approval, and when so approved, shall be registered with the Comptroller of the State of Texas. When so approved and registered, said bonds shall be negotiable upon delivery and be binding only upon and payable only from the physical properties and rents and revenues of such district. All evidences of indebtedness of such districts shall provide therein that said indebtedness shall never become an obligation of the member districts.

Sec. 16. Depositories. The depository or depositories of such District shall be selected in the manner now provided by law for the election of county depositories.

Sec. 17. Self Liquidating. Such water supply districts are hereby declared to be self-liquidating in character and are expressly authorized to borrow money from or sell said bonds or other evidences of indebtedness to the Reconstruction Finance Corporation or other agencies of the United States or the State of Texas or to any other purchasers; provided said bonds shall not be sold for less than 90% of their par value, together with the accrued interest thereon to date of delivery.

Sec. 18. Not Affect Water Rights or Priorities. Nothing in this Act shall be construed as affecting any water rights of any member district, or any water user or any lands therein or supplied directly or indirectly thereby or their existing priorities in the rights to water from the source of supply and neither the formation of the water supply district hereunder nor a contract for the purchase of water with such water supply district shall ever be held to be an abandonment or waiver of said rights or an abandonment of the original point of diversion from the source of supply but all such rights existing at the time of the formation of such district shall be preserved to such member district and such water users.

Sec. 19. If any provision hereof shall be held to be unconstitutional, it shall not affect the validity of the other provisions of this Act. [Acts 1933, 43rd Leg., p. 312, ch. 121.]

Art. 7880—71. Penalty; interest

Remittance of interest and penalties, see art. 7684a.

[Art. 7880—76b. Excluding lands from districts lying in two or more counties of specified acreage]

Sec. 1. The Board of Directors of any Water Control and Improvement District in this State, embracing lands in two or more counties, and containing not less than one hundred twenty-five thousand (125,000) acres, by their resolution duly adopted, by referring to this law and adopting the same, are authorized to exclude lands from any such District, in accordance with the provisions of this Act and the method herein and hereby prescribed; provided however, that the provisions of this Act shall not apply to and govern any such Water Control and Improvement District unless and until this law is adopted by a two-thirds vote of the Board of Directors of such District, had at a regular meeting thereof, and

entered upon the minutes of their proceedings, and a copy of the same signed by the President and attested by the Secretary, under the corporate seal, filed and recorded in the office of the County Clerk of each county in which any portion of the lands of such District are situated, and the provisions of this Act shall then be in force.

Sec. 2. Whenever the owner or owners of any lands situated within the limits of any Water Control and Improvement District, adopting the provisions of this Act, shall sign and present a petition to the President of the Board of Directors of any such District, praying that such lands, setting the same out by metes and bounds, be declared no longer a part of such District, the Board of Directors of such District, by resolution, shall order and direct the Secretary of such Board to issue a notice of the filing of such petition, and by such resolution, shall fix a time and place at which such petition shall be heard by the Board of Directors, which date shall be not less than thirty (30) nor more than sixty (60) days from the date of the resolution ordering the issuance of such notice; provided however, that no such petition can be presented or filed unless the lands proposed to be excluded, and described in such petition, shall exceed five thousand (5,000) acres.

Sec. 3. The notice of the hearing shall inform all persons concerned of the time and place of hearing, and of their right to appear at such hearing and to contend for or to protest the exclusion of any such land or lands. Such notice shall be addressed or directed "To all Landowners, Taxpayers, and Bondholders of _____ County Water Control and Improvement District No. _____, (inserting the name of the District and the name of each county in which any portion of the District may be situated), and all other persons concerned." Such notice shall state the amount of bonds then outstanding against the District, and a certified copy of such notice shall be posted in three public places within the District, and one copy shall be published once each week for a period of thirty (30) days prior to the date of such hearing, in a newspaper having a general circulation throughout the District, and the date of the first publication of the notice of hearing shall be not less than thirty (30) days prior to the date fixed for such hearing.

Sec. 4. Such hearing may be adjourned from day to day and from time to time as the Board of Directors of the District may deem necessary and advisable.

Sec. 5. If, by the time set for the hearing of any such petition, the owners of all outstanding bonds of any such District, either in person or by representative, submit and file with the Secretary of the Board of Directors of such District, in writing, a permit for the exclusion of such land or lands, the Board of Directors of such District may, in its discretion, by resolution duly passed and entered upon the minutes of its proceedings, declare such land or lands no longer a part of such District, and a copy of such resolution, signed by a majority of the members of the Board of Directors of such District, and duly attested by the Secretary, shall be filed and recorded in the Deed Records of the county in which the withdrawing land is situated; and such land shall be no longer a part of the District from and after the recording of the copy of such resolution; provided however, that the withdrawing land or lands shall not be released from the payment of its pro rata part or share of any indebtedness, bonded or otherwise, existing on the date of such withdrawal, but it shall be the duty of the Board of Directors of such District to continue to levy a tax each year on such withdrawn land of the same rate as is levied upon other lands of the District, until the taxes collected from such withdrawn land shall equal its pro rata share of the indebtedness of the original District at the time of the withdrawal; provided further, that nothing herein shall prohibit the owner or owners of any lands so withdrawn from paying in full at any time such withdrawn land's pro rata share of the indebtedness of the original District, or to refund or adjust such

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land's pro rata share of such debts on such terms and conditions as may be mutually agreed to between all the owners of such withdrawn land or lands and all the owners or holders of bonds existing against such District at the time such lands are withdrawn therefrom; it being the intent hereof to provide and to require that whenever any tract or parcel of land is excluded or withdrawn from any such District, such withdrawn land shall be subject to all lawful debts of such District, in such proportion as the taxable property so taken from the District bears to the whole of the taxable property in such District, as it existed during the tax year when any such land is so withdrawn. Such withdrawn lands shall in every respect continue subject to the jurisdiction of the taxing authorities of such District, including the Board of Equalization, until the pro rata share of existing debts pertinent thereto at the time of withdrawal have been fully paid off and discharged.

Sec. 6. Whenever any Water Control and Improvement District, adopting the provisions of this Act, has authorized the issuance of any bonds, and the same, or any portion thereof, have not been sold or put into circulation, the withdrawal of lands from any such District, in conformity with the provisions of this Act, shall result in a cancellation of all such unsold bonds and annexed interest coupons.

Sec. 7. It shall be the duty of the Board of Directors of any such District, within a reasonable time after the withdrawal of lands from such District, to adopt a resolution redefining the bounds and limits of such District so that they shall show the exclusion of such lands; and when such resolution has been duly passed, the Secretary of such District shall enter and record such resolution in the minutes or records of such Board of Directors, and a certified copy of such order shall be promptly filed in the office of the County Clerk of each county in which any of the lands remaining in such District are situated, and such certified copy shall also be recorded in the Deed Records of each such county. [Acts 1933, 43rd Leg., 1st C. S., p. 205, ch. 77.]

Art. 7880—82. Contract with United States

See, also, art. 7807c.

Art. 7880—104. "Amortization and Emergency Fund"

Borrowing from fund, see art. 7716b.

[Art. 7880—126a. Appeal bond not required]

In condemnation proceedings being prosecuted by Water Control and Improvement Districts, which have been established or which may be hereafter established to be "Municipal Districts" under the provision of Section 18 of Chapter 280, of the Acts of the 41st Legislature of Texas, Regular Session, such districts shall not be required to give bond for appeal or bond for costs. [Acts 1932, 42nd Leg., 3rd C. S., p. 54, ch. 23, § 1.]

[Art. 7880—126b. Writ of possession pending appeal; conditions]

In case such plaintiff Water Control and Improvement District desires the writ of possession pending appeal in a condemnation proceeding being prosecuted by it, such writ may be issued on these express conditions, viz:

The amount of the award made by the commissioners to appraise damages, or the amount of the judgment rendered by the trial court upon appeal (to be controlled by the time at which the writ of possession may be sought), together with the amount of the costs, if any, which may have been awarded, or adjudged, against the condemnor and to be ascertained as of the day on which the writ of possession may be sought, must actually be available to the condemnor in lawful money of the United States of America. The sum as ascertained and available to the condemnor shall be set apart in a special fund in the lawfully designated and qualified de-

pository of the condemnor, where it must remain to abide the final adjudication of such condemnation, and application to the satisfaction of such final decree; or, in case of appeal by the condemnee, to be paid to him should he (they or it) elect to receive such money in satisfaction of his (their or its) demand at any time prior to such final adjudication, and such fund shall not be paid out for any purpose. The record of the deposit and the conditions thereof shall be acknowledged in writing by the depositary, and such certificate of deposit shall be filed with the clerk of the court of original jurisdiction as part of the record in the condemnation proceeding. Thereupon the clerk of said court shall certify his genuine official signature (or those of his qualified deputies) to such depositary, and the depositary may not pay vouchers drawn upon such special fund save upon written approval of the judge and clerk of said court and also the condemnee. Until such special deposit has been made and certified to said clerk, as herein provided, the writ of possession shall not be issued. Whenever the judgment in condemnation becomes final, or in case of appeal by the condemnee should the condemnee prior to final judgment elect to receive the amount of the award in satisfaction of his demand, it instantly shall be the duty of the clerk of the court and the depositary to pay to the condemnee the sum of the deposit (other than that to cover costs), which may be done either with or without the consent of the condemnor. Any officer, or employee of the condemnor and, or, any officer or employee of such depositary of the condemnor, and, or, the clerk of such court (or his deputy), who knowingly permits such special fund to be paid out, in whole or in part, for any purpose, or in any manner, other than as herein provided, shall be deemed to be guilty of a felony, and upon conviction he may be fined in any sum not to exceed Five Thousand (\$5,000.00) Dollars, or he may be imprisoned in the penitentiary of Texas for a term not to exceed three years, and such punishment may include both such fine and such imprisonment. In any event the sureties on the bond of such miscreant, and, or, the bond or security of the offending depositary, shall have responsibility to restore the misapplied or diverted deposit, provided the sum so required, together with other lawful charges against the bond, does not exceed the penal sum of the bond, or the security held in lieu of sureties. [Acts 1932, 42nd Leg., 3rd C. S., p. 54, ch. 23, § 2.]

[Art. 7880—147d. Creation of self-liquidating fund]

Any water control and improvement district operating under the provisions of Chapter 25, Acts of the Regular Session of the 39th Legislature, and Amendments thereof, having a gravity system for irrigation of its lands, and an established income from the sale of water for generation of hydro-electric power under a written contract covering a term of thirty-nine or more years, such contract having been executed and recorded in the records of the county wherein the district is situated prior to the passage of this Act, as may be shown by a certificate of the County Clerk of such county, to the end of making its project or projects self-supporting and self-sustaining, shall be authorized to set aside and definitely and permanently allocate and appropriate all of such power income to be received during the full term of such contract for the creation of a self-liquidating fund to be used for the sole purpose of liquidating its outstanding bonded indebtedness, including all bonds authorized by vote of the qualified property tax-paying electors of the district, but unissued at time of passage of this Act, by providing for the payment of all interest to accrue thereon and for the redemption of the principal thereof at maturity. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 1.]

[Art. 7880—147e. Pledge of power revenue by Board of Directors]

The Board of Directors of any such district as is described in Section I. hereof desiring to avail itself of the provisions of this Act, shall at any regular meeting, or at any special meeting called therefor, by an order

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and resolution regularly made and adopted and entered upon its minutes, by a majority vote of all of the directors elected, declare and provide that all such power revenue as shall thereafter be received by such district shall be permanently and irrevocably pledged and appropriated to the payment of the principal of, interest on and fiscal agency fees for all of the bonds of such district outstanding at the time of the passage of this Act, and such bonds as shall have then been authorized by vote of the qualified property tax-paying electors of the district but not then issued, provided, however, that the application of such power revenue to the liquidation of such unissued bonds shall not become effective until as much as two-thirds, or more, of such bonds have been issued, sold and delivered; upon the happening of which event the total power revenue thereafter received by such district during the full term of such contract shall become applicable to and be used solely for the payment of principal of, interest on and fiscal agency fees for all the then outstanding bonds of such district and the principal of, interest on and fiscal agency fees for all of such bonds of the district as were authorized but unissued at the time of passage of this Act, which shall thereafter be issued, sold and delivered; all of which said power revenue shall thereupon become permanently and irrevocably pledged and appropriated to the purposes and payments herein before mentioned, as long as said revenue shall be necessary therefor, and it shall be unlawful to apply or use the same for any other purpose whatsoever. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 2.]

[Art. 7880—147f. Establishment of special fund]

In carrying out the provisions of this Act, the Board of Directors of such districts subject to the provisions hereof shall cause to be set up and established by its depository or depositories a fund to be known as the "Self-liquidating Power Revenue Fund," and from and after the passage and adoption of the order and resolution referred to in Section I. hereof all such power revenue thereafter received by such district shall be credited to such fund and shall be used for no purpose other than herein provided in Section II. hereof. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 3.]

[Art. 7880—147g. Special assessments]

For the purpose of supplementing and augmenting such self-liquidating fund referred to in the preceding section, to the end of providing additional income with which to liquidate and pay off the bonds of said district as they mature and to pay the interest thereon as it accrues, such districts as are described in Section I. hereof shall be authorized to hereafter annually levy, assess and collect against all lands within the district which have been and/or will be enhanced and improved by reason of the improvements made and to be made and which will be benefited thereby by being made irrigable by gravity, without reference as to whether such land is to be actually irrigated or not, a special assessment of not more than five (\$5.00) dollars per acre, in the following manner: The Board of Directors of such district, upon being presented with a petition in writing signed by a majority in number of all of the land owners within such district whose lands are to be affected thereby, shall adopt a resolution declaring that in their judgment it is advisable and for the best interest of such district, and will be a benefit to the lands and property included in said district and affected thereby, to levy and collect annually the special assessment hereinabove referred to. Such resolution shall be entered in the minutes, and notice of its adoption shall be given by publication in a newspaper having general circulation in the county in which such district is situated. Such notice shall be published once a week for two consecutive weeks; the first publication must appear not less than ten (10) full days prior to the time set down for the hearing. Such notice shall state the time and place of hearing and shall set out the resolution in full. It shall

notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution. If, upon such hearing, the Board of Directors find that it would be advisable and for the best interest of the district, and would be a benefit to the lands and property situated in said district and affected thereby then, and in that event, such Board shall enter its order so finding, and said district shall thereupon be authorized to levy and assess and collect annually thereafter a special assessment against all of the lands within such district as are or to be made irrigable by gravity, without reference as to whether such land is to be actually irrigated or not. If the Board finds that it is not for the best interest of the district and it would not be a benefit to the lands and property situated therein and affected thereby, said Board shall so find and enter its order against the levy and collection of such special assessment. The findings of said Board of Directors shall be final and not subject to appeal or review. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 4.]

[Art. 7880—147h. Special assessment fund]

In complying with the Special Assessment provisions of this Act, the Board of Directors of any such district as is described in Section I. hereof, which has adopted and entered the order referred to in Section IV. providing for such assessments, shall thereupon cause to be set up and established by its depository or depositories a fund to be known as the "Self-liquidating Special Assessment Fund", and from and after the adoption of such order all moneys received from such special assessments shall be credited to such fund and shall be used primarily for the payment of all bonds maturing in such year for which the assessment is levied together with all bond interest accruing in such year, and the balance, if any, may be disbursed as hereinafter provided. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 5.]

[Art. 7880—147i. Duration of assessment fund]

Such special assessment, when so made and adopted by the order of the Board hereinbefore mentioned, shall remain in force, effect and operation until such time as the bonds of the district and all interest thereon have been fully paid off and discharged, or until such time as, in the opinion and judgment of the Board of Directors of such district, such assessment is not necessary as an adjunct of said "Self-liquidating Power Revenue Fund" in supplementing and augmenting such fund, for the purpose of liquidating such bonds as they mature and paying the interest thereon as it accrues. The amount of such assessment shall, however, be determined and fixed annually by said Board of Directors in such a sum, within the limits prescribed in Section IV. hereof, as such Board shall in its judgment find to be necessary to supply a fund which, together with the estimated power revenue fund, will be sufficient to pay all bond maturities for the year for which the assessment is made, together with all bond interest requirements accruing in such year, taking into consideration a proper allowance for delinquencies. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 6.]

[Art. 7880—147j. Time for special assessments]

All special assessments hereunder shall be applicable and referable to the calendar year and shall be fixed and assessed in January of each year, or as soon thereafter as possible, except the first assessment hereunder, which shall be determined and fixed at the time of the hearing at which the original assessment order is made and entered, which first assessment, or amount thereof then fixed, shall be referable and applicable to the following succeeding calendar year. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 7.]

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[Art. 7880—147k. Payments of bonds from funds; additional assessments]

In making payments of bond indebtedness requirements under the provisions of this Act the "Self-liquidating Power Revenue Fund" shall first be resorted to and exhausted before resort to the "Self-liquidating Special Assessment Fund" for payments authorized to be made thereunder. In the event that at the end of any year the said "Self-liquidating Special Assessment Fund" should, after there first having been applied all payments authorized to be made from said "Self-liquidating Power Revenue Fund", be more than sufficient to meet the payment of all bonds maturing in such current year and all bond interest accruing in such year, the balance of such "Self-liquidating Special Assessment Fund" remaining on hand or on deposit at the close of any such current calendar year may, in the discretion of the Board of Directors of such district, be used for the payment of expense incurred, if any, in collecting such assessments, for paying the cost of additional necessary construction, or for any other lawful purpose. And in the event the assessments are not sufficient to pay the balance maturing in such year together with all interest due thereon accruing in such year, the balance required shall be assessed pro-rata, in accordance with the assessments previously made for the then current year, and shall be paid under the same conditions and penalties within thirty (30) days from the time such assessment is made. Public notice of all such assessments shall be given by posting printed notices thereof in at least three public places in the district and printed or written notices shall be mailed to each land-owner affected thereby; provided that such land-owner shall furnish to the Secretary of the District his correct post office address. Such notices shall be given by posting and mailing such notices at least ten (10) days before the assessment is due, and in the event of supplemental assessments such notices shall be given within ten (10) days after such assessments are levied. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 8.]

[Art. 7880—147l. District collector; bond]

All special assessments levied under the provisions of this Act shall be collected under the direction of the Board of Directors by the Assessor and Collector of the District, or other person designated by the Board, which said officer shall give bond in such sum as the Board may direct, conditioned upon the faithful performance of his duties and a true accounting of all moneys collected. He shall give a true account of all money collected and deposit the same as collected in the District depository, and shall file with the Secretary of the Board of Directors a true statement of all money collected once each week. The collector shall use duplicate receipt books and shall give a true receipt for each collection made, retaining in such books a true copy thereof, which shall be preserved as a record of the District. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 9.]

[Art. 7880—147m. Liens for assessments; venue of suits]

The District shall have a lien upon all lands assessed under the provisions of this Act to secure payment of all special assessments levied hereunder. The District shall also have a lien upon all crops of whatsoever kind grown upon each tract of land assessed hereunder, to secure payment of the assessments herein provided for, and all such assessments shall bear interest from the time due and payable at the rate of six per cent per annum. And if such assessments should be collected by suit, an additional amount of six per cent on the unpaid principal and interest shall be added to the same as attorney's fees. Suits for delinquent special assessments shall be brought either in the county in which the district is situated or in the county where the defendant resides. All land owners

affected hereby shall be personally liable for all the assessments herein provided for and if they shall fail or refuse to pay same when due, the water supply shall be cut off, and no water shall be furnished to the land until all assessments due and interest thereon, if any, are fully paid. This provision with reference to cutting off water shall bind all parties, persons and corporations owning or thereafter acquiring any interest in said lands. The directors of such districts shall within ten (10) days after any assessment is due, post at a public place in said district a list of all delinquents, and shall thereafter keep posted a correct list of all such delinquents. All assessments shall be paid in installments at such times to be fixed by order of the Board. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 10.]

[Art. 7880—147n. Repeals; partial invalidity]

As to such water control and improvement districts as are described, are conditioned, and have the characteristics set forth in Section I. hereof, and none other, all Acts and parts of Acts in conflict herewith be and the same are hereby repealed. It is provided further that in case any section or clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent or final jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 11.]

[Art. 7880—147o. Restrictions on application of act]

Nothing in this Act shall apply to, or in any manner affect any water control and improvement district other than such as are described in Section I. of this Act and possesses the characteristics set forth in said section of this Act. [Acts 1932, 42nd Leg., 3rd C. S., p. 49, ch. 22, § 11a.]

[Art. 7880—147p. Powers enabling procuring of loans]

Water Control and improvement districts which heretofore have been, or which hereafter may be, established as "Municipal Districts" under the provisions of Section 18 of Chapter 280 of the Acts of the 41st Legislature of Texas, Regular Session, hereby are declared heretofore to have had, and subject to the limitations hereinafter specified, they hereby are established in the future to have, those certain powers which hereinafter will be defined: However, such powers may be exercised in manner, and only by such districts as are conditioned conformably to the specifications, hereinafter set forth, viz:

(a) Such district must have been created to have some one or more of the powers authorized by Section 59 of Article XVI of the Constitution of Texas.

(b) If a loan from the Reconstruction Finance Corporation be sought, such district must have authorized improvements, which by reasonable expectancy will be self liquidating, within the period of time contemplated by the authorization for such improvements and within the meaning and intent of subdivision (1) of subsection (a) of Section 201 of the Act of Congress which is known as the "Emergency Relief and Construction Act of 1932." If loans contemplated hereby be procured from sources other than the Reconstruction Finance Corporation, it shall not be required that the borrowing district's improvements be self liquidating, either in whole or in part, and the further provisions of this Section shall not apply thereto. In case of a loan being sought from the Reconstruction Finance Corporation there are certain qualifying conditions, viz: The improvements must have been authorized prior to December 1, 1931: There must exist an urgent public need that the authorized facilities be brought to completion, so that service therefrom may be had: The loan must be

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in such amount as may be reimbursed to said Corporation, or to the district, by means of commercial income produced by the borrower's prior existing, or proposed, facilities (excluding revenues derived from taxation), at a time within the period contemplated by the authorization for such facilities. [Acts 1932, 42nd Leg., 3rd C. S., p. 56, ch. 24, § 1.]

[Art. 7880—147q. Time for exercise of powers]

Save as hereinafter provided, the powers by this Act established may be exercised only at a time prior to January 23, 1934, upon which day expires the power of the Reconstruction Finance Corporation (a corporate body of the United States of America) to make loans such as are contemplated hereby: However, such loans may be effected by such districts from sources other than said Corporation. It further is provided that the powers hereby established may be exercised as many times, either prior to or after said January 23, 1934, as may be required to effect renewals, extensions or refundings of such loans, either in whole or in part. [Acts 1932, 42nd Leg., 3rd C. S., p. 56, ch. 24, § 2.]

[Art. 7880—147r. Conditions of loans]

Such districts hereby are established to have powers, and upon conditions as follows:

(a) If the desired loan is to be effected by sale of the District's bonds (as distinguished from a loan not to be effected by an irrevocable sale of such bonds), then such districts shall have the power to enter into binding obligation (to be conditioned conformably to the usages of investment banking) to repurchase such bonds "on or before" a day within five years after the date of the loan, at a price which will not cause the interest burden to exceed six per centum per annum on the amount of money originally paid for such bonds.

(b) In case it is desired to effect a loan by means other than the sale of bonds, authorized for a given purpose; then, and in that event, such loans may be conditioned as follows, viz:

1—The amount of the loan may be equal to, but shall not exceed, the estimated and authorized maximum cost of the improvement sought to be provided and made ready for service. The proceeds of the loan must be applied to the purpose for which authorization was made, but the lender shall have no responsibility for the integrity of the application of the money procured. The loans contemplated hereby may be effected either to pay indebtedness already incurred, to procure money to begin work or to provide money to continue construction begun at a prior time.

2—The rate of interest shall not exceed six (6%) per centum per annum, upon the amount of such loans.

3—The maturity of such loans shall be at such time, or times, as may be agreed upon, but not to exceed five years after the date of the loan.

4—When such loans are made and the district has unsold bonds which were authorized for providing the improvements sought to be paid for by such loans as are contemplated by this subdivision (b), the district shall impound in its officially designated and qualified depository, said unsold bonds in a par sum, as nearly as may be done, equal to the amount of the loan. If there be not such unsold bonds fully equal to the amount of the loan, the district shall impound all such unsold bonds as may be available therefor. Such bonds when so impounded (and not given into pledge, as may be done under the provisions of subdivision 6 hereafter), shall so remain, subject only to being withdrawn by the borrower in proportion to the progressive reductions of its indebtedness; or, to place the same under pledge in the manner provided in said subdivision 6; or, to effect a sale thereof, in which case the proceeds shall be applied to the payment of the indebtedness contemplated hereby.

5—If it be required, the district may pledge its commercial income (meaning income other than revenues derived from taxation), whether

such income be then existing or in expectancy, to secure such loan, to the full extent that will not, as a matter of reality, obviously and substantively impair the ability of the borrower to pay its obligations which may be held by others, as and when the same mature. Such income, when so pledged, shall not be used for any purpose, whatever, other than to apply the same to the payment of the debt secured thereby, and the same shall be applied to the reduction of the secured debt as rapidly as may be practicable to be done.

6—In case of a loan to a district having an expectancy of commercial income, but at the time not having such demonstrated income in an amount adequate to discharge the loan as the same may mature, such district may pledge the commercial income then in expectancy, as provided in subdivision 5 (next foregoing), and, in addition thereto, or as an alternative therefor, if so required, it may give into pledge, with power of sale conforming to the usages of business, its unsold bonds in a par sum not to exceed the amount of the loan plus ten per centum thereof, in which event the rate of interest upon the loan shall not exceed six (6%) per centum per annum. In case of such pledge of bonds it shall not be required that the district impound bonds.

7—To evidence loans not to be effected by sale of bonds of such districts, as may be done under the provisions of subdivision (a) of this Section, the borrowing district may execute and deliver to the lender its certificates of indebtedness, notes or obligations, for the payment whereof the district may pledge its full faith and credit, to the same effect as the same may be pledged by bonds of such districts.

8—It is the intent hereof that this Act be liberally and sympathetically construed to the end that districts within the provisions hereof, save as to matters specifically limited herein, shall have the most full and flexible powers to comply with all such conditions precedent to the loans contemplated hereby as may be required of the borrower by the lender. [Acts 1932, 42nd Leg., 3rd C. S., p. 56, ch. 24, § 3.]

[Art. 7880—147s. Cancellation of pledged bonds repaid]

In case bonds be impounded, and, or, pledged to secure any loan made to a district, and in case, and to the extent, that such loan is repaid, and as repaid, from commercial income of the District, a comparable proportion of the bonds so impounded, or so pledged, shall be withdrawn, cancelled and retired. [Acts 1932, 42nd Leg., 3rd C. S., p. 56, ch. 24, § 4.]

[Art. 7880—147t. Other powers not impaired or diminished]

Nothing in this Act contained shall be held to suspend, impair or diminish the powers given to all Water Control and Improvement Districts by the provisions of Section 7, of Chapter 280 of the Acts of the 41st Legislature of Texas, Regular Session; nor, to impair any implied, necessary or incident powers which such districts lawfully may enjoy, save to the extent such powers specifically are limited by this Act. No prior or subsequent act of the Legislature shall be held to alter, diminish or impair any provision of this Act, save upon condition that there be specific repeal of one or more of the provisions of this Act. [Acts 1932, 42nd Leg., 3rd C. S., p. 56, ch. 24, § 5.]

[Art. 7880—155. Refunding bonds; procedure]

Any Water Improvement District or Water Control and Improvement District containing within its boundaries a city, or the greater part of a city, having, according to the last preceding United States census, a population of not less than Forty Thousand (40,000) people, not more than One Hundred Thousand (100,000) population, now or hereafter organized and existing under the Constitution and laws of this State it is hereby authorized and empowered, without submitting same to an election, to fund or refund any of its outstanding bonded indebtedness, including matured and

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unpaid interest coupons and accrued interest, by order or resolution of its Board of Directors, describing the bonds or coupons and interest to be refunded, setting out the basis of the exchange, and giving the date and maturities of the refunding bonds, the rates of interest to be borne by them, the place or places of payment, and providing for the levy, assessment, and collection of a sufficient tax to pay the interest thereon, and to create the necessary fund to pay the bonds as they mature. The order or resolution shall provide for the amount of the refunding bonds, which shall not be more than the total principal amount of the bonds refunded, plus the amount of the matured and unpaid interest coupons and accrued interest included for refunding. Such refunding bonds shall mature serially, or otherwise, over a period of not exceeding forty years from their date, shall bear interest at a rate or rates not exceeding the rate of interest borne by the bonds to be refunded, and in no event exceeding six per cent. per annum, and shall be in denominations of not more than One Thousand (\$1,000.00) Dollars each. Such refunding bonds, together with a certified transcript of the proceedings had in the authorization of such refunding bonds, together with such other and further data as may be required by the Attorney General of Texas, shall be submitted to the Attorney General for approval. If said refunding bonds are approved by the Attorney General, he shall issue his certificate of approval, which certificate shall be preserved of record, and the Comptroller shall not register the refunding bonds until the original bonds are presented to him for cancellation. After registration of the refunding bonds the Comptroller shall cancel the old bonds, and deliver the new bonds to the proper party or parties. The old bonds may be presented for cancellation in installments, and a like amount of new bonds, or a proportionate amount of new bonds on the basis of exchange provided in the order of their issuance, shall be registered and delivered as herein provided. Such refunding bonds, after receiving the certificate of the Attorney General and having been registered in the Comptroller's office, shall be held, in every action, suit, or proceeding in which their validity is or may be brought into question, prima facie valid and binding obligations, and in every action brought to enforce collection of such refunding bonds, or any interest coupons appertaining thereto, the said certificate of the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of their validity, and the only defense which can be offered against the validity of such refunding bonds or coupons shall be forgery or fraud. [Acts 1932, 42nd Leg., 4th C. S., p. 10, ch. 3, § 1.]

[Art. 7880—156. Provision for cancellation of unsold bonds]

Any such district which has heretofore authorized the issuance of any bonds by submitting same to an election as provided by law, and which bonds have been submitted to and approved by the Attorney General of the State of Texas, and registered by the Comptroller, as provided by law, and which bonds have not been sold by the district, may, without submitting same to an election, and by order of resolution of its Board of Directors, provide for the cancellation of all or any part of such unsold bonds, and also provide for the issuance of new bonds in lieu thereof, in like manner as provided by law for the issuance of original bonds, including the approval thereof by the Attorney General and the registration thereof by the Comptroller. Such order of the Board of Directors shall describe the bonds to be cancelled, and shall also describe the new bonds to be issued in lieu thereof. A certified copy of such order or resolution of the Board of Directors providing for the cancellation of such old bonds, together with such old bonds, shall be delivered to the Comptroller, who shall thereupon cancel and destroy such old bonds, making a record of such cancellation. [Acts 1932, 42nd Leg., 4th C. S., p. 10, ch. 3, § 2.]

Art. 7972. Levee improvement districts

Validating organization, assessments and bonds of districts, see Art. 8197d.

Art. 8183. Retirement of bonds

If there are any district bonds outstanding at the time of such dissolution, whether heretofore or hereafter dissolved, the Commissioners' Court shall immediately enter into negotiations with the holders of such bonds, and if, according to the terms thereof, or by agreement between said Court and the holders of said bonds, or any part thereof, can be retired at an earlier date than stipulated on their face, and such retirement is considered by said Court as feasible and practicable, the said Court shall enter into such agreement and shall provide for the payment and retirement of said bonds as provided in the succeeding sections.

Sec. 2. The Commissioners' Court shall ascertain the full amount of debt due by said district, whether represented by bonds or otherwise, and shall apportion the same among the taxpayers owning property situated in said district and subject to taxation as shown by the last approved assessment rolls, together with such lands as may have been omitted therefrom, made by the directors of said district before its dissolution, after the correction of all errors, and shall levy and collect a tax upon said property for its proper proportion of said indebtedness, payable annually or all at once, as the tax-payer may elect and the amount of indebtedness thus shown as apportioned to each tract of land shall be a lien on the property assessed for the payment thereof.

Sec. 3. The holders and owners of such indebtedness owned by the district shall have the right to surrender their bonds and coupons or approved accounts to the Tax Collector for said district in payment in whole or pro tanto of any and all indebtedness, due by said holder or owner to said district for taxes levied against said holder or owner on properties owned by it or them in said district, and when so surrendered said bonds or evidences of debt shall be marked paid, and a proper receipt issued therefor; provided, that if taxes are levied so that the owner of property in such district can pay it or their proportionate share of such indebtedness of such district, and elect so to do, then and in that event the payment of such taxes may be made either in money or by the surrender of bonds of said district, or other evidences of indebtedness which may have been approved against said district; provided, further, however, in the payment of such taxes by the surrender of bonds of said district or by surrender of interest coupons thereon, the holder of such bonds or coupons shall only be permitted to surrender coupons that are matured at the time of their surrender in payment of taxes, and shall not be permitted to pay and discharge taxes owing by them to such district by the surrender of unmatured coupons. Provided further that unmatured bonds shall only be eligible for the payment in advance of unmatured tax liability determined according to the provisions of this Act and only for the years in which such bonds mature. The payment of such taxes made in the manner herein set out shall be and become a release and discharge from any and all other or further liability on the part of the owner of such property, and when such taxes assessed against such property shall have been paid in full in accordance with the terms of this Article, such property shall be released and discharged from all further liability on account of such indebtedness, and/or any, and all indebtedness of such district, evidenced by bonds, coupons or approved accounts or claims; and a release and a receipt therefor shall be issued by the collector and may be filed with the clerk of the county court where the property is situated in the manner provided for the filing of all documents relating to real estate under the laws of the State of Texas. [As amended Acts 1933, 43rd Leg., p. 403, ch. 159.]

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Art. 8184. Custody of property

Upon the dissolution of a district, the court shall provide for the disposition and sale of all district property and turn the same over to the County Treasurer immediately upon the filing and approval of his bond, whereupon he shall become trustee for such defunct organization. Said treasurer shall execute a good and sufficient bond in a sum to be determined and fixed by the County Commissioners' Court, payable to and approved by the County Judge and his successors in office, conditioned for the faithful performance of his duties as treasurer and trustee of such district, and for paying over all money and other property coming into his hands as such treasurer and trustee to the parties entitled thereto. Said bonds shall be recorded in the minutes of the Court, and when approved, shall supersede the bond theretofore given by said treasurer as treasurer of said district. [As amended Acts 1933, 43rd Leg., p. 403, ch. 159, § 4.]

Art. 8194. Creation

Acts 1933, 43rd Leg., 1st C. S., p. 169, ch. 63 reads as follows:

"Sec. 1. That there shall be and is hereby created a conservation and reclamation district by the name of 'Lower Neches Valley Authority,' which district is created as a governmental agency, body politic and corporate, vested with all the authority as such under the Constitution and Laws of the State; and which shall have and be recognized to exercise all of the powers of such governmental agency and body politic and corporate as are expressly authorized in the provisions of the Constitution, Section 59 of Article 16, for districts created to conserve, store, control, preserve, utilize and distribute the storm and flood waters and the waters of the rivers and streams of the State, and such powers as may be contemplated and implied by the purposes of this provision of the Constitution, and as may be conferred by General Law, as well as by the provisions of this Act, except nothing herein contained shall authorize said district to levy any taxes or special assessments, or to create any debt payable out of taxation; and said district shall have and be recognized to exercise all the rights and powers of an independent governmental agency, body politic and corporate, to construct, maintain and operate, in the valleys of the Neches River and its tributaries, within or without the boundaries of such district, any and all works deemed essential to the operation of the district and for its administration in the control, storing, preservation and distribution to all useful purposes of the waters of the Neches River and its tributary streams, including the storm and flood waters thereof; and such district shall have and be recognized to exercise such authority and power of control and regulation over such waters of the Neches River and its tributaries as may be exercised by the State of Texas, subject to the provisions of the Constitution and the Acts of the Legislature.

"Sec. 2. The territory which shall be embraced within the boundaries of said 'Lower Neches Valley Authority' shall be that part of the State of Texas defined as follows: All of Jefferson, Hardin and Tyler

Counties, a strip of land ten (10) miles in width off the Eastern end of Liberty County (the West line of said strip being parallel to and ten (10) miles West of the extreme Eastern boundary line of Liberty County, and a strip of land Fifteen (15) miles in width off the East side of Chambers County (the West line of such strip being parallel to and fifteen (15) miles West of the Eastern boundary line of Chambers County).

"Sec. 3. The management and control of all the affairs of such district shall be vested in a Board of Directors, consisting of seven members, all of whom shall be freehold property tax payers and legal voters of such district. Such Board of Directors shall be appointed by the State Board of Water Engineers as soon as practicable after the passage of this Act, three members thereof to be appointed for a term of two (2) years, two members thereof to be appointed for a term of four (4) years and two members thereof to be appointed for a term of six (6) years, and upon the expiration of the respective terms of said directors the successors of each and all of them shall be appointed thereafter for a term of six (6) years. The directors shall hold office after their appointment and qualification until their successors shall be appointed and qualified, unless sooner removed by a majority vote of the State Board of Water Engineers. Should any vacancy occur in the Board of Directors, the same shall be filled in like manner by the State Board of Water Engineers for the unexpired term. The directors appointed shall, within fifteen (15) days after their appointment, qualify by taking the official oath and filing a good and sufficient bond with the State Board of Water Engineers; the official bond of each director to be in the sum of Five Thousand (\$5,000.00) Dollars shall be payable to the district, shall be conditioned upon the faithful performance of their duties as such directors, and shall be subject to approval by the State Board of Water Engineers. A director may be employed as general manager and at such compensation as may be fixed by the majority of other directors, and when so employed he shall

continue to perform the duties of a director, but shall receive no compensation as such director.

"Sec. 4. The directors of the district shall organize by electing one of their members president, one vice-president and one secretary. Four directors shall constitute a quorum at any meeting and a concurrence of a majority of those present shall be sufficient in all matters pertaining to the business of the district, except the letting of construction contracts and the authorization of issuance of warrants paying therefor, which shall require the concurrence of five directors. Warrants for the payment of money may be drawn and signed by two officers or employees designated by standing order entered on the minutes of the directors when such accounts have been contracted and ordered paid by the Board of Directors.

"Sec. 5. The directors of the district shall require all officers and employees who shall be charged with the collection or paying or handling of any funds of the district under their orders, to furnish good and sufficient bonds, with a duly authorized surety company as surety thereon, payable to the district, conditioned upon the faithful performance of their duties and accounting for all funds and property of the district coming into their hands, which bonds shall be in sufficient sums to safeguard the district.

"Sec. 6. The president shall preside at all meetings of the Board and shall be the chief executive officer of the district. The vice-president shall act as president in case of the absence or disability of the president. The secretary shall act as secretary of the Board of Directors and shall be charged with the duty of seeing that all records and books of the district are properly kept. In case of the absence or inability of the secretary to act, a secretary pro tem shall be selected by the directors. The directors shall hold regular meetings at the office of the district on the first Monday in February, May, August and November of each year at 10 o'clock A. M., and may hold other meetings at such other times as the business of the district may require.

"Sec. 7. The directors shall receive as fees of office the sum of not to exceed Ten (\$10.00) Dollars per day for each day of service necessary to discharge of their duties, provided such service is authorized by vote of the Board of Directors. They shall file with the secretary a verified statement showing the actual number of days of service each month on the last day of the month, or as soon thereafter as possible and before a warrant shall be issued therefor.

"Sec. 8. The directors shall keep a true and full account of all their meetings and proceedings and preserve their minutes, contracts, records, notices, accounts, receipts and records of all kinds in a fireproof vault or safe. The same shall be the property of the district and subject to public inspection. A regular office shall be established, and maintained for conduct of the district business within the district.

"Sec. 9. A complete book of accounts

shall be kept. The account books and records of the district and of the depository of the district shall be audited by a Certified Public Accountant annually as soon as practicable after the expiration of each year, such audit to cover the preceding calendar year, and report thereon shall be submitted to the first regular meeting of the Board of Directors thereafter. Said report shall be in quadruplicate, one copy being filed in the office of the district, one with the depository of the district, one in the office of the auditor and one with the State Board of Water Engineers, all of which shall be open to public inspection.

"Sec. 10. The directors may employ a general manager for the district and may give him full authority in the management and operation of the district affairs (subject only to the orders of the Board of Directors). The term of office and compensation to be paid such manager and all employees shall be fixed by the Board of Directors and all employees may be removed by the Board.

"Sec. 11. All bonds required to be given by directors, officers and employees of the district shall be executed by a surety company authorized to do business in the State, as surety thereon; and the district shall be authorized to pay the premiums on such bonds.

"Sec. 12. No director of any such district, engineer or employees thereof shall be, directly or indirectly, interested either for themselves or as agents for any one else in any contract for the purchase or construction of any work by said district, and if any such person shall, directly or indirectly, become interested in any such contract, he shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine in any sum not to exceed One Thousand (\$1,000.00) Dollars, or by confinement in the county jail not less than six months nor more than one year, or by both fine and imprisonment.

"Sec. 13. The said district shall have and be recognized to exercise, in addition to all the hereinbefore mentioned powers, for the conservation and beneficial utilization of said waters, the power of control and employment of such waters of the Neches River and its tributaries, including the storm and flood waters thereof, in the manner and for the particular purposes hereinafter set forth:—

"(a) To provide through practical and legal means for the control and the coordination of the regulation of the waters of the Neches River and its tributary streams.

"(b) To provide by adequate organization and administration for the preservation of the equitable rights of the people of the different sections of the watershed area in the beneficial use of the waters of the Neches River and its tributary streams.

"(c) For storing, controlling and conserving the waters of the Neches River and its tributaries within and/or without such district, and the prevention of the escape of any of such waters without the maximum of public service; for the prevention of devastation of lands from recurrent over-

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flows, and the protection of life and property in such district from uncontrolled flood waters.

"(d) For the conservation of the waters of the Neches River and its tributaries essential for the domestic uses of the people of the district, including all necessary water supplies for cities and towns.

"(e) For the irrigation of all lands in said district and/or lands without said district but within said watershed area, where irrigation is required for agricultural purposes, or may be deemed helpful to more profitable agricultural production; and for the equitable distribution of said waters to the regional potential requirements for all uses, domestic, manufacturing and irrigation. All plans and all works provided by said district, and as well, all works which may be provided under authority of said district, shall have primary regard to the necessary and potential needs for water, by or within the area in such district constituting the water shed of the Neches River and its tributary streams.

"(f) For the better encouragement and development of drainage systems and provisions for drainage of lands in the valleys of the Neches River and its tributary streams needing drainage for profitable agricultural production; and drainage for other lands in the watershed area of the district requiring drainage for the most advantageous use.

"(g) For the purpose of encouraging the conservation of all soils against destructive erosion and thereby preventing the increased flood menace incident thereto.

"(h) To control and make available for employment said waters in the development of commercial and industrial enterprises in all sections of the watershed area of the district.

"(i) For the control, storing and employment of said waters in the development and distribution of hydroelectric power, where such use may be economically coordinated with other and superior uses, and subordinated to the uses declared by law to be superior.

"(j) And for each and every purpose for which flood and storm waters when controlled and conserved may be utilized in the performance of a useful service as contemplated and authorized by the provisions of the Constitution and the public policy therein declared.

"(k) To purchase and/or construct all works necessary or convenient for the exercise of the powers and to accomplish the purposes specified in this Act, and to purchase or otherwise acquire all lands and/or other property necessary or convenient for carrying out any such purposes.

"(l) The right of eminent domain is expressly conferred upon such district to enable it to acquire the fee simple title to, and/or easement or right-of-way over and through, any and all lands, water or lands under water, private or public, within and without such district, necessary or convenient to carry out any of the purposes and powers conferred upon such district by this Act. All such condemnation proceedings

shall be under the direction of the directors and in the name of the district, and the assessment of damages and all procedure with reference to condemnation, appeal and payment shall be in conformity with the statutes of this State as provided in the title of the Revised Statutes relating to the 'Eminent Domain.'

"(m) The Board of Directors of said district shall prescribe fees and charges to be collected for the use of water, water connections or other service, which fees and charges shall be reasonable and equitable and fully sufficient to produce revenues adequate to pay, and said Board of Directors shall cause to be paid therefrom:

"(1) All expenses necessary to the operation and maintenance of the improvements and facilities of said district. Such operating and maintenance expenses shall include the cost of the acquisition of properties and materials necessary to maintain said improvements and facilities in good condition and to operate them efficiently, necessary wages and salaries of the district, and such other expenses as may be reasonably necessary to the efficient operation of said improvements and facilities.

"(2) The annual or semi-annual interest upon any obligations issued hereunder payable out of the revenues of said improvements and facilities.

"(3) The amount required to be paid annually into the sinking fund for the payment of any obligations issued hereunder payable out of the revenues of said improvements and facilities.

"No other charge shall be made upon the revenues derived from said improvements and facilities so long as any obligations issued hereunder shall remain outstanding and unpaid as to principal or interest; provided, however, that out of the revenues which may be received in excess of those required for the purposes listed in the above sub-paragraphs (1), (2) and (3), the Board of Directors may pay the cost of improvements and re-placements not covered by said sub-paragraph (1) and may establish a reasonable depreciation and emergency fund.

"It is the intent of this Act that the fees and charges of such district shall not be in excess of what may be reasonably necessary to fulfill the obligations imposed upon said district by this Act.

"(n) Such district through its Board of Directors, shall have the right to employ managers, engineers, attorneys, and all necessary employees to properly construct, operate, and maintain said works and carry out the provisions of this Act and to pay reasonable compensation fixed by the Board of Directors for such services.

"(o) Such district, in addition to the powers herein above set out, shall have general power and authority to make and to enter into all contracts, leases and agreements necessary or convenient to carry out any of the powers granted in this Act, which contracts, leases and agreements may be entered into with any person, real or artificial, any corporation, municipal, public or private, and/or any government or govern-

mental agency, including the United States Government and the State of Texas, and may convey or cause to be conveyed any of its properties, rights, lands, tenements, easements, improvements, reservoirs, dams, canals, plants, laterals, works and facilities to the United States Government or any agency thereof, and may enter into a lease with the United States Government, or any agency thereof, relative thereto, and obligate itself to pay rental therefor out of the income and revenues thereof, with or without the privilege of purchase; provided, however, that nothing herein contained shall authorize the assumption by such district of any obligation requiring payment out of taxes. Any and all such contracts, leases and agreements herein authorized shall be approved by resolution of the Board of Directors of such district, and shall be executed by the president and attested by the secretary thereof.

"(p) Such district shall have the right to sue and be sued.

"(q) Before such district shall establish a diversion point, construct the canals, pumping plants and other works herein provided for, it shall present to the Board of Water Engineers of the State of Texas or such other agency performing the functions now performed by the Board of Engineers, plans and specifications of the same and obtain the approval of such Board.

"Sec. 14. The powers and duties herein devolved upon the said district shall be subject to the continuing rights of supervision by the State which shall be exercised through the State Board of Water Engineers, and in appropriate instances, by the State Reclamation Engineer, each of which agencies shall be charged with the authority and duty to approve, or to refuse to approve, the adequacy of any plan or plans for flood control or conservation improvement purposes devised by the district for the achievement of the plans and purposes intended in the creation of the district, and which plans contemplate improvements supervised by the respective state authorities under the Provisions of the General Law.

"Sec. 15. Said district shall have and may exercise such functions, powers, authority, rights and duties as may permit the accomplishment of the purposes for which it is created, including investigating and planning, acquiring, constructing, maintaining and operating of all necessary properties, lands, rights, tenements, easements, improvements, reservoirs, dams, canals, laterals, plants, works and facilities which it may deem necessary or proper for the accomplishment of said purposes, including the acquisition within and/or without said district of lands, rights-of-way, water rights, and all other properties, tenements, easements and all other rights incident, helpful to or in aid of carrying out the purposes of said district as herein defined, and this Act in all of its terms and provisions shall be liberally construed to effectuate each and all of the purposes thereof.

"Sec. 16. Said district may borrow money from the Federal Emergency Adminis-

tration of Public Works of the United States, or from any other department or agency of the United States, or from any other source, and in evidence thereof may issue the notes, warrants, certificates of indebtedness or other forms of obligations of such district, payable solely out of the revenues to be derived from said improvements and facilities and the operations and services thereof.

"Sec. 17. Each issue of obligations authorized hereunder shall constitute a separate series and shall be appropriately designated. Such obligations shall not constitute an indebtedness or pledge of the credit of such district, shall never be paid in whole or in part out of any funds raised or to be raised by taxation, and shall contain a recital to that effect. All obligations issued hereunder shall be in registered or coupon form and if in coupon form may be registerable as to principal only, or as to both principal and interest, shall bear interest at a rate not to exceed six per cent per annum, payable annually or semi-annually, and shall be in such denominations and shall mature serially or at one time not more than fifty years from their date in such manner as may be provided by the Board of Directors. Principal of and interest on such obligations shall be made payable at any place or places within or without the State of Texas and in the discretion of the Board of Directors such obligations may be made redeemable at the option of said Board prior to maturity at such premium or premiums as the Board shall determine. Such obligations shall be signed by the president and secretary of the Board of Directors, and the interest coupons attached thereto may be executed with the facsimile signatures of such officers. Such obligations shall be sold in such manner and at such time as the Board of Directors shall determine to be expedient and necessary to the interests of the district, provided that in no event shall such obligations be sold for a price which will result in an interest yield therefrom of more than six per cent computed to maturity according to standard bond tables in general use by banks and insurance companies. In the event any of the officers whose signatures are on such obligations or coupons shall cease to be such officers before the delivery of such obligations to the purchaser, such signature or signatures, nevertheless, shall be valid and sufficient for all purposes. All obligations issued hereunder shall constitute negotiable instruments within the Negotiable Instruments Law.

"Sec. 18. Any obligations issued hereunder may be issued payable from and secured by the pledge of all the revenues derived from the operation of the improvements and facilities of the district, exclusive of any revenues derived from taxation or assessments, or may be payable from and secured by the pledge of only such revenues as may be derived from the operation of the improvements and facilities acquired with the proceeds of the sale of such obligations, or may be payable from and secured by the pledge of a specified part of

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the revenues derived from the operation of the improvements and facilities of the district, all as may be provided in the proceedings authorizing the issuance of such obligations. If more than one series of obligations shall be issued under the provisions of this Act payable from and secured by identical revenues, priority of lien against such revenues shall depend on the time of delivery of such obligations, each series enjoying a lien against such revenues prior and superior to that enjoyed by any other series of obligations subsequently delivered, provided, however, that as to any issue or series of obligations which may be authorized as a unit but delivered from time to time in blocks, the Board of Directors may in the proceedings authorizing the issuance of such obligations provide that all of the obligations of such series or issue shall be co-equal as to lien regardless of the time of delivery.

"Sec. 19. Any resolution or order authorizing the issuance of obligations under the provisions hereto shall provide for the creation of a sinking fund into which shall be paid from the revenues pledged to the payment of such obligations from month to month as said revenues are collected, sums fully sufficient to pay principal of and interest on such obligations. The money in such sinking fund shall be applied solely to the payment of interest on the obligations for the payment of which such fund is created and for the retirement of said obligations at or prior to maturity in the manner herein provided. The Board of Directors may at the time obligations are authorized hereunder provide that all money in such sinking fund in excess of the amount required for the payment of interest on and principal of such outstanding obligations for such period as it may determine shall be expended once each year pursuant to its order in the purchase of obligations for the account of which such sinking fund has been accumulated, if any such obligation can be purchased at a price which shall seem reasonable to the Board, and may provide that in the event such obligations contain an option permitting retirement prior to maturity then such excess sums shall be paid out as aforesaid for the purchase of such obligations, but that if the Board shall be unable to so purchase sufficient obligations of said issue to absorb all such surplus it shall call for redemption a sufficient amount of such obligations to absorb so far as practicable the entire surplus remaining in said sinking fund. It may be provided that any excess in the sinking fund which cannot be applied to the purchase or redemption of obligations shall remain in said sinking fund to be used for payment of principal or interest when due, or for the subsequent call of obligations for purchase or redemption in the manner above provided.

"Sec. 20. Any resolution or order authorizing the issuance of obligations hereunder may contain such covenants with the holders of the obligations as to the management and operation of said improvements and facilities, collection of fees and charges for the use thereof, disposition of

such fees and charges, issuance of future obligations and creation of future liens, mortgages and encumbrances against said improvements and facilities, and the revenues thereof and other pertinent matters, as may be deemed necessary to insure the marketability of said obligations, provided such covenants are not inconsistent with the provisions of this Act.

"Sec. 21. Any resolution or order authorizing the issuance of obligations hereunder shall provide that the revenues from which such obligations are to be paid and which are pledged to the payment of such obligations shall from month to month as the same shall accrue and be received, be set apart and placed in the sinking fund and disbursed in the manner hereinabove provided. In fixing and determining the amount of revenues which shall be so set aside, the Board of Directors shall provide that the amount to be set aside and paid into said fund in any year or years shall be not less than a fixed sum which sum shall be at least sufficient to provide for the payment of the interest on and principal of all obligations maturing and becoming payable in each such year, together with a surplus or margin of ten per cent in excess thereof.

"Sec. 22. Any holder of obligations issued hereunder or of coupons originally attached thereto, may either at law or in equity, by suit, action, mandamus, or other proceeding, enforce and compel performance of all duties required by this Act to be performed by the Board of Directors, including the making and collecting of reasonable and sufficient fees or charges for the use of the improvements and facilities of the district, the segregation of the income and revenues of such improvements and facilities, and the application of such income and revenues pursuant to the provisions of this Act. If there be any default in the payment of the principal or of interest on any of such obligations, any holder thereof shall be entitled to have an administrator or receiver appointed by any court having jurisdiction to administer and operate the improvements and facilities, the revenues of which are pledged to the payment of such obligations, in behalf of the district and the holders of such obligations, with power to fix and collect fees and charges sufficient to provide for the payment of operation and maintenance expenses as hereinabove defined, and to pay any obligations or interest coupon outstanding payable from the revenues of such improvements and facilities, and to apply the income and revenues thereof in conformity with the provisions of this Act, and the proceedings authorizing the issuance of said obligations.

"Sec. 23. As additional security for the payment of any obligations issued hereunder, the Board of Directors may in its discretion have executed in favor of the holders of such obligations an indenture mortgaging and encumbering the improvements, facilities and properties acquired with the proceeds of the sale of such obligations, and/or all of the improvements, facilities and properties of the district, and may provide in

such encumbrance for a grant to any purchaser or purchasers at foreclosure sale thereunder of a franchise to operate such improvements, facilities and properties for a term of not over fifty years from the date of such purchase, subject to all law regulating same then in force. Any such indenture may contain such terms and provisions as the Board of Directors shall deem proper and shall be enforceable in the manner provided by the laws of Texas for the enforcement of other mortgages and encumbrances. Under any sale ordered pursuant to the provisions of such mortgage or encumbrance, the purchaser or purchasers at such sale, and his or their successors or assigns, shall be and hereby are vested with a permit and franchise to maintain and operate the improvements, facilities and properties purchased at such sale with like powers and privileges as may theretofore have been enjoyed by the district in the operation of said improvements, facilities and properties. The purchaser or purchasers of such improvements, facilities and properties at any such sale, and his or their successors and assigns, may operate said improvements, facilities and properties as provided in the last above sentence or may at their option remove all or part of said improvements, facilities and properties for diversion to other purposes. Any statutes of the State of Texas pertaining to the granting of franchise shall not be applicable to the authorization or execution of any mortgage or encumbrance entered into pursuant to the provisions of this Act, nor to the granting of any franchise hereunder.

"Sec. 24. The proceeds of the sale of any obligations issued hereunder may be deposited in such bank or banks as may be agreed upon between the purchaser at such sale and the Board of Directors, and may be deposited and paid out pursuant to such terms and conditions as may be so agreed upon, it being expressly provided that the statutes of Texas pertaining to the deposit of the district funds in the depository of such district shall not be applicable to the deposit of the proceeds of such sale. Any part of the proceeds of the sale of obligations issued hereunder which may remain unexpended after the project for which the obligations were authorized has been completed may be paid into the sinking fund for the payment of said obligations and be used only for the payment of principal of such obligations, or for the purposes of acquiring such outstanding obligations by purchase in the manner hereinabove provided."

"Sec. 25. The Board of Directors is authorized to enter into an agreement or agreements with the purchaser or purchasers of any obligations issued hereunder under the terms of which such Board shall agree to keep all of the improvements and facilities, the revenues of which are pledged to the payment of such obligations, insured with insurers of good standing against loss or damage by fire, water or flood, and also from any other hazards customarily insured against private companies operating similar properties, and to carry with insurers of good standing such insurance covering the

use and occupancy of such property as is customarily carried by such private companies. The cost of such insurance shall be budgeted as maintenance and operation expense and such insurance shall be carried for the benefit of the holders of such obligations.

"Sec. 26. Any obligations issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county, or other political sub-division of taxing district of the state.

"Sec. 27. Such district issuing obligations under the provisions hereof may thereafter authorize and issue its refunding obligations on such terms as its Board of Directors may deem advisable for the purpose of providing for the retirement of any such outstanding obligations, either due or to become due, which refunding obligations may be either exchanged for like par amounts of such outstanding obligations or may be sold and the proceeds of the sale so applied. Any refunding obligations authorized and issued pursuant hereto shall be subject to the provisions of this Act pertaining to the issuances of other obligations and shall be secured in all respects to the same extent and be payable from the same revenues as were the obligations refunded thereby.

"Sec. 28. This Act, without reference to other statutes of the State of Texas, shall constitute full authority for the authorization and issuance of obligations hereunder and for the accomplishment of all things herein authorized to be done, and no proceedings relating to the authorization or issuance of such obligation or the doing of such shall be necessary except such as are herein required, and neither the Bond and Warrant Law of 1931 or any other provisions of the laws of the State of Texas pertinent to the authorization or issuance of obligations, the operation and maintenance of such improvements and facilities, the granting of franchise or permits, the right to elections or referendum petitions, or in anywise impeding or restricting the carrying out of the acts authorized to be done hereunder, shall be construed as applying to any proceedings and* hereunder or acts done pursuant hereto.

"Sec. 29. Nothing in this Act shall be construed as affecting any existing rights or existing priorities in the rights to water from the source of supply and neither the formation of the district hereunder nor a contract for the purchase of water with such district shall ever be held to be an abandonment or waiver of said rights or priorities, or an abandonment of the original point of diversion from the source of supply, but all such rights existing at the time of the formation of such district shall be preserved."

Section 30 provides that the declaration of the unconstitutionality of any paragraph, clause, or provision of this act shall not affect validity of remainder.

Acts 1933, 43rd Leg., 1st C. S., p. 186, ch. 63 reads as follows:

* Probably "and" should be omitted.

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"Sec. 1. That 'Valley Conservation and Reclamation District,' embracing all the lands lying within the boundaries of Cameron, Hidalgo and Willacy Counties, State of Texas, is hereby created and established as a defined conservation and reclamation district, for the purpose of the drainage of its overflowed lands, and other lands needing drainage.

"Said district is hereby declared to be a governmental agency and a body politic with all the powers, rights and duties granted to and/or imposed upon drainage districts under the existing laws of the State of Texas with reference to such districts and with such other powers as are now, or may be hereafter conferred upon similar districts, except as herein otherwise provided.

"Sec. 2. The management and control of said 'Valley Conservation and Reclamation District' is hereby vested in a Board of Directors, which Board shall be composed of three (3) persons who shall have the same powers now conferred by law on the Commissioners of drainage districts, and such other powers and duties as are conferred by this Act. Those three (3) persons who are now the County Judges, respectively, of Cameron, Hidalgo and Willacy Counties, and their successors in office, are hereby appointed and constituted the Board of Directors of the District hereby created, and their respective terms of office as Directors of said District shall coincide with their respective terms of office as the County Judges, respectively, of said counties. Those persons hereby appointed Directors shall be succeeded as such Directors by their respective successors to the office of County Judge, and so on thereafter. Such Directors shall serve without compensation for their services as such Directors.

"Sec. 3. In addition to the powers hereinbefore granted, the District hereby created is hereby authorized and empowered to negotiate for, and receive donations or grants of money and/or services or other aid from the Government of the United States and/or of the State of Texas and/or any of the agencies, departments or instrumentalities thereof, and to apply all such moneys, services and aid to the carrying out of the purposes for which said District is created.

"Such District is hereby further authorized and empowered to enter into a contract or contracts with the Government, of the United States, and/or the State of Texas, and/or any department, agency or instrumentality thereof with reference to the receipt and application, or use, of any moneys or other aid granted, and to comply with the rules and regulations of such governmental bodies, departments, agencies or instrumentalities with reference to the receipt and/or application or use of any moneys or other aid granted, provided, no such contract be inconsistent with, or prohibited by, the Constitution or Laws of the State of Texas.

"Said District is hereby further empowered to cooperate with all existing and future public and private corporations, and/or private persons, in said three (3)

counties of Cameron, Hidalgo and Willacy, who have, or may hereafter construct or maintain drainage facilities, within or without the territory of such District, by permitting the use by such public or private corporations, and/or private persons, of the drainage facilities of such District.

"Sec. 4. The Board of Directors shall meet and organize within ten (10) days after this Act shall become effective, in so far as the same shall effect the District hereby created.

"All the provisions of the law relating to the organization and functioning of drainage districts in this State and delegated to the Commissioners' Courts by such laws are hereby delegated and vested in said Board of Directors, and said Board shall comply with all such laws in their organization and in the further operation of the District hereby created. The District hereby created shall be governed in all respects by the general laws of the State of Texas now applying to drainage districts where the same are not inconsistent or in conflict herewith.

"Sec. 5. The District hereby created is forever prohibited from creating any debt or issuing any bonds or other evidences of indebtedness or levying any taxes except for cost of right-of-way and maintenance, and then only when authorized by a majority vote in each separate county.

"Sec. 6. There is hereby appropriated, and there shall be paid to said District, out of the general fund not otherwise appropriated, the sum of Fifteen Thousand (\$15,000.00) Dollars, which said sum shall be used for defraying the expenses of making engineering surveys, plans and specifications, for the compilation of other necessary data, and for the payment of necessary and proper expenses incidental to the negotiations for securing aid and assistance from said Governmental bodies hereinbefore mentioned, and in connection with the organization of said District.

"Sec. 7. The State Department of Reclamation is hereby authorized and instructed to cooperate with the District hereby created and/or the Federal Government or any Department agencies or instrumentality thereof in the making of surveys, the drafting of plans, estimates and specifications for a drainage system for said District and/or in the supervision of the construction of said work.

"The State Department of Health is hereby authorized and directed to cooperate with said District by furnishing advisory assistance on such features of the work as pertain to sanitation, and by supplying said District with all available data bearing on sanitary benefits to be derived from the construction of the drainage system in connection with any application said District may make for assistance by said Governmental body hereinbefore mentioned.

"The State Rehabilitation and Relief Commission is hereby authorized and directed to furnish such unskilled labor for the construction work of such District as may be available under the authority of said Commission."

Acts 1933, 43rd Leg., 1st C. S., p. 198, ch. 75 reads as follows:

"Sec. 1. In order to further effectuate the constitutional mandate contained in Section 59, Article 16 of the Constitution of Texas, that the conservation and development of all of the natural resources of this State, including the control, storing, preservation and distribution of its flood waters, the waters of its rivers and streams for irrigation, power and all other useful purposes, etc., are each and all declared public rights and duties, and the Legislature shall pass all such laws as may be appropriate thereto, there is hereby created a water conservation and reclamation district embracing all lands within the T. Miller Survey and the W. N. Joyce Survey in Comal County and in all surveys upstream in such county situated between a contour line of 825 feet above mean sea level as determined by U. S. G. S. Bench Marks, and the center of the channel of the Guadalupe River, and without excluding any territory within the above boundaries, such district includes within said lines the following surveys and parts of surveys, to-wit: M. W. Potter, V. E. Cunningham, A. Horton # 29, A. C. Horton # 27, Joel W. Robinson, J. Miles, C. H. Hunt, J. T. Murphey, G. F. Lawrence # 33, C. S. Kelley, C. A. Lawrence, G. F. Lawrence # 8, Casper Levenston, A. Elsner, W. B. Burks, V. E. Cunningham # 2, Prior Holden, Maria Amporia, Ralph Sowter, P. O. Rourke, H. A. Reed, B. F. Hanna, Asa Surey, T. Cheser, L. P. Whiting, W. N. Joyce, S. Taviner, G. Erler, G. C. McWoitter, H. Heefer, Russell Jones, I. Guerra, Wm. Taylor, C. A. Smith, E. Veles # 295, J. A. Perez # 296, F. Valverde # 287, J. J. Perales # 288, C. Vaca, G. Carasco, T. Herrera # 269, P. D. McNeal, T. Miller, S. F. Nelson, J. F. Gross, W. M. Taylor, Elija V. Dale, W. G. Startz, G. C. McWoitter, # 327, D. C. Hoover, J. A. Perez # 291, E. Veles # 293, F. Uron, F. Valverde # 290, J. J. Perales # 289, A. Carasco, V. Rodriguez, T. Herrera # 270, Jesse McCoy; which district shall be a public corporation, a governmental agency, a municipality, body politic and corporate, vested with all the rights, powers and privileges of Water Improvement Districts, under Chapter 2, Title 128 of the Revised Civil Statutes of Texas, 1925, as amended, except as herein expressly limited, to be known as 'The Guadalupe River Authority' and hereinafter in this Act referred to as the 'Corporation.'

"Sec. 2. The purpose of such Corporation is the control, storing, preservation and distribution of the waters of the ordinary flow and underflow, and the storm, flood and rain waters of the Guadalupe River in Texas, with authority to store the same in reservoirs, or otherwise, and to sell, convey and deliver the same for all beneficial uses, and to effectuate such purpose and authority, such corporation may acquire by purchase, grant, condemnation, or otherwise, any lands, water and riparian rights, structures and improvements, for the erection, construction, repair, enlargement, improvement and/or maintenance of dams, reservoirs, canals, tunnels, viaducts, and/or other works necessary and/or useful

for the control, storing, preservation and distribution of such waters; and shall have the exclusive right to use the bed, channel and banks of such stream, and its tributaries for such purpose. It may acquire the right to control, store, sell and distribute such waters by appropriation, through permit from the Board of Water Engineers of Texas, by complying with the provisions of Chapter 1, Title 128 of the Revised Civil Statutes of Texas, 1925, as amended, in the same manner as provided therein for private corporations and natural persons, and may exercise all the privileges therein conferred on such, and shall be subject to all provisions thereof. It shall have the power of Eminent Domain, which may be exercised in the manner prescribed by Title 52, Revised Civil Statutes of Texas, 1925. Notwithstanding any of the provisions contained in this Act, or in any of the statutes herein mentioned, or referred to, the purposes of the corporation shall be solely the control, storing, preservation and distribution of water, and it shall engage in no other business.

"Sec. 3. Such Corporation shall be governed by a Board of seven directors, three of whom shall be the members of the State Board of Water Engineers and four of whom shall be citizens of this State appointed by the State Board of Water Engineers, such four appointees to be each appointed for a term of four years, except that two of the first four directors appointed shall be appointed for terms of two years each. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall select one of its number as Chairman. Each director shall be paid Ten Dollars per day for each day necessarily spent in attendance on business of the Corporation, plus actual traveling and other expenses. The office of the Corporation shall be in Austin, Texas. The Board of Directors shall select a seal for the Corporation; and may select a secretary, a manager for the Corporation, and may employ such attorneys, auditors, engineers and other assistants as it may deem necessary for the conduct of the business of the Corporation, and prescribe their duties, and fix their compensation; provided that such compensation shall never be so fixed by contract that it cannot be supervised or changed by the Legislature.

"Sec. 4. Such corporation may enter into contracts, incur obligations, acquire and hold property, sue and be sued in its corporate name. All contracts and written obligations of the Corporation shall be signed in its name by the Chairman of the Board of Directors, and attested by its secretary with the Seal of the Corporation. The Corporation shall have authority to incur indebtedness, to borrow money from any source, including the United States Government, or any agency thereof, and accept grants therefrom. To secure the payment of any money so borrowed, or any indebtedness in any manner created, the Corporation may issue its bonds, notes or other obligations and may mortgage or encumber any of the property of the Corporation, including its permits and franchises, and

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may pledge its revenues and income; such bonds, notes or other obligations to be issued on authority of resolution of the Board of Directors and to bear such rate of interest, to contain such provisions for maturity, and such other provisions as may be fixed by resolution of the Board; provided such obligations shall not be a charge on the State, nor on any of its revenues derived from taxation, nor shall the Corporation ever have authority to pledge the credit of the State of Texas for any purpose. Such bonds shall not be an indebtedness charged against the district, as such, nor a lien on any property thereof except that specially mortgaged or encumbered, as herein authorized, nor shall any tax be levied by the district for the payment of such bonds, or for any other purpose.

"Sec. 5. Nothing herein shall be construed as cancelling, impairing, or in any manner affecting any existing water rights.

"Sec. 6. The funds of the Corporation shall be kept in a depository selected by the Board of Directors as provided by law for

the selection of County Depositories, and secured as provided by law for the securing of county funds by such depositories. Such funds may be withdrawn only on vouchers signed by the Chairman of the Board of Directors and countersigned by the Secretary. The Board of Directors shall, on or before the 10th day of January of each year, file with the Secretary of State a statement of the financial affairs of the Corporation, showing the receipt and disbursements for the next preceding calendar year, and containing such other information as will disclose the financial condition of the Corporation. Any funds on hand when any such statement is filed, remaining after the payment of all indebtedness of the Corporation, and after a sufficient sum has been set aside, for replacements, repairs, improvements, betterments and depreciation, and sufficient for operating expenses for the ensuing year, shall be, by the Board, paid into the general fund of the State Treasury."

Art. 8197. Indebtedness

Refunding bonds, see art. 7807c.

[Art. 8197d. Validating organization, assessments and bond issues of districts]

Sec. 1. That all the proceedings had and taken to organize any conservation and reclamation districts as authorized by Chapter 8, Title 128, Revised Statutes of 1925, and Chapter 6, Title 128, Revised Statutes of 1925, under Section 59, Article 16, of the Constitution of Texas, and to determine the areas of land included therein and which are benefited thereby, and to determine the manner in which taxes and assessments for taxation should or shall be made, levied and collected or to authorize the issuance of bonds or for the appointment and qualification of the officers and supervisors thereof, shall be, and are hereby in all respects declared to be ratified, validated, approved and confirmed and held to be valid from the date of their organization.

Sec. 2. That conservation and reclamation districts which have been or may hereafter be organized under Section 59, Article 16, of the Constitution, and the particular statutes referred to in Section 1 hereof, may issue bonds when authorized by the necessary vote of qualified property taxpayers for the purpose of constructing improvements, and maintenance thereof for two (2) years as set out in the plan of reclamation approved by the State Reclamation Engineer and adopted by the supervisors of such districts, plus ten per cent (10%) additional to meet emergencies, modifications and changes lawfully made, and plus all damages awarded against the district as shown by the final report and decree of the Commissioners of Appraisalment, and plus the sum necessary to retire and refund bonds now outstanding for any of the above purposes, and that all of said purposes may be submitted to the voters as a single proposition, provided that the bonds to be retired and refunded may have been issued by a navigation district embracing the same territory.

Sec. 3. That all bonds of conservation and reclamation districts organized under the provisions of the Constitution and statutes mentioned in Section 1 hereof, which have heretofore been voted as a single proposition for the purposes enumerated in Section 2 hereof, and which have been authorized by the necessary vote of the legally qualified property taxpayers of such districts, and which bonds have been examined and approved by the Attorney General of the State of Texas are hereby in all

things expressly ratified, validated, approved and confirmed. [Acts 1932, 42nd Leg., 3rd C. S., p. 44, ch. 19.]

Art. 8225. [5990] May acquire property; [purchase from state]

The Commissioners are empowered to acquire the necessary right-of-way and property of any kind for all necessary improvements contemplated by this title by gift, grant, purchase or condemnation proceedings. Any Navigation District heretofore or hereafter organized under this title or any General Law under which said subdivisions may be created shall have the right to purchase from the State of Texas any lands and flats belonging to said State, covered or partly covered by the waters of any of the bays or other arms of the sea to be used by said District for the purposes authorized by law with the right to dredge out or to fill in and reclaim said lands or otherwise improve the same; and the Commissioner of the General Land Office is hereby authorized and directed to sell the same upon application, as hereinafter provided, at the price of One (\$1.00) Dollar per acre. The Commissioners of said District shall file an application with the Commissioner of the General Land Office, which application shall particularly describe by field notes the land sought to be purchased. At the time of filing such application, applicant shall pay or cause to be paid in cash the sum of One (\$1.00) Dollar per acre to the Commissioner of the General Land Office, for all the land included in such application. If the Commissioner of the General Land Office is satisfied that the applicant is a Navigation District created as hereinbefore provided, a patent shall then be issued to said Navigation District, conveying to said District the right, title and interest of the State in the lands described in said application, and the funds derived from such sales shall be paid over by the Commissioner of the General Land Office to the proper funds of the State. Such sales shall be subject to any oil, gas or mineral leases theretofore given by the State on said lands, and all mines and minerals and mineral rights, including oil and gas in and under said land, together with the right to enter thereon for the purpose of development, are hereby reserved to the State of Texas. Provided, nevertheless, that so long as any such land shall be used by any Navigation District or by the United States Government for the purpose of navigation, same shall not be leased or entered upon or taken into possession by the State of Texas or by anyone claiming under the State of Texas for the purpose of exploring for oil, gas or other minerals. [As amended Acts 1930, 41st Leg., 4th C. S., p. 47, ch. 27; Acts 1931, 42nd Leg., 2nd C. S., p. 38, ch. 21; Acts 1932, 42nd Leg., 3rd C. S., p. 61, ch. 26, § 1.]

Art. 8244. District Depositories

The navigation and canal commissioners of all navigation districts, whether created pursuant to Section 52 of Article 3 or Section 59 of Article 16 of the Constitution, shall select a depository or depositories for such district under the same provisions as are now or may hereafter be provided by law for the selection of the depository for the counties in this State. The navigation and canal commissioners in the selection of depositories shall act in the same capacity and perform the same duties as is incumbent upon the county judge and the members of the county commissioners' court in the selection of the county depository. Such depository or depositories selected or to be selected for such navigation district shall have all the powers and duties in the execution of a depository bond or bonds and/or in the pledging of collateral in lieu of or in addition to a personal surety or surety company bond as now provided by law or as may be provided by law in the selection of county depositories. When such depository or depositories have given bond or bonds as provided by law and the same have been approved by the navigation and canal commission, the county treasurer shall be required to give only such bond.

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as the navigation and canal commissioners may require. [As amended Acts 1933, 43rd Leg., 1st C. S., p. 266, ch. 94, § 1.]

[Art. 8247a. Additional powers to navigation districts for improvement of port facilities]

Sec. 1. Any navigation district heretofore organized or hereafter to be organized under any of the provisions of the Constitution or laws of the State of Texas, in addition to all other powers conferred by law is hereby given authority and shall hereafter have power in the manner hereinafter provided to acquire, purchase, construct, enlarge, extend, repair, maintain, operate, or develop wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, and facilities, lightering facilities and towing facilities, and everything appurtenant thereto, together with all other facilities or aids incident to or useful in the operation or development of the district's ports and waterways or in aid of navigation and commerce thereon.

[Fees and charges for use of facilities]

Sec. 2. The Board of Navigation and Canal Commissioners of any district taking advantage of the provisions of this Act shall prescribe fees and charges to be collected for the use of the improvements and facilities of such district and for the use of any improvements or facilities acquired under the provisions of this Act, which fees and charges shall be reasonable and equitable and fully sufficient to produce revenues adequate to pay, and said Board of Navigation and Canal Commissioners shall cause to be paid:

(a) All expenses necessary to the operation and maintenance of said improvements and facilities. Such operating and maintenance expenses payable from current revenues shall include the cost of the acquisitions of properties and material necessary to maintain said improvements and facilities in good condition and operate them efficiently, wages and salaries paid to the employees of the District in that connection, and such other expenses as may be necessary to the efficient operation of said improvements and facilities.

(b) The annual or semi-annual interest upon any obligations issued hereunder and payable out of the revenues of said improvements and facilities.

(c) The amount required to be paid annually into the sinking fund for the payment of any obligations issued hereunder and payable out of the revenues of said improvements and facilities.

No other charge shall be made upon the revenues derived from said improvements and facilities so long as any obligations issued hereunder shall remain outstanding and unpaid as to principal or interest; provided, however, that out of revenues which may be received in excess of those required for the purposes listed in the above sub-paragraphs (a), (b) and (c) the Board of Navigation and Canal Commissioners may pay the cost of improvements and replacements not covered by said paragraph (a) and may establish a depreciation fund.

[Borrowing from Federal Emergency Administration]

Sec. 3. The Board of Navigation and Canal Commissioners of any such navigation district may borrow money from the Federal Emergency Administration of Public Works of the United States, or from any other department or agency of the United States, or from any other source, and in evidence thereof issue the notes, warrants, certificates of indebtedness or other forms of obligation of such district payable solely out of the revenues to be derived from said improvements and facilities, for the purpose of obtaining funds to acquire, purchase, construct, enlarge, extend, repair, maintain, operate or develop wharves, docks, warehouses, grain

elevators, bunkering facilities, belt railroads, floating plants and facilities, lightering facilities, towing facilities, and everything appurtenant thereof, together with all other facilities or aids incident to or useful in the operation or development of the district's ports and waterways or in aid of navigation and commerce therein.

[Obligations issued, execution, interest, etc.]

Sec. 4. Each issue of obligations authorized hereunder shall constitute a separate series and shall be appropriately designated. Such obligations shall not constitute an indebtedness or pledge of the credit of such district, shall never be paid in whole or in part out of any funds raised or to be raised by taxation, and shall contain a recital to that effect. All obligations issued hereunder shall be in registered or coupon form and if in coupon form may be registerable as to principal only, or as to both principal and interest, shall bear interest at a rate not to exceed six per cent per annum, payable annually or semi-annually, and shall be in such denominations and shall mature serially or at one time not more than forty years from their date in such manner as may be provided by the Board of Navigation and Canal Commissioners. Principal of and interest on such obligations shall be made payable at any place or places within or without the State of Texas and in the discretion of the Board of Navigation and Canal Commissioners such obligations may be made redeemable at the option of said Board prior to maturity at such premium or premiums as the Board shall determine. Such obligations shall be signed by the Chairman and Secretary of the Board of Navigation and Canal Commissioners, and the interest coupons attached thereto may be executed with the facsimile signature of such officers. Such obligations shall be sold in such manner and at such time as the Board of Navigation and Canal Commissioners shall determine to be expedient and necessary to the interests of the district, provided, that in no event shall such obligations be sold for a price which will result in an interest yield therefrom of more than six per cent computed to maturity according to standard bond tables in general use by banks and insurance companies. In the event any of the officers whose signatures are on such obligations or coupons shall cease to be such officers before the delivery of such obligations to the purchaser, such signature or signatures, nevertheless, shall be valid and sufficient for all purposes. All obligations issued hereunder shall constitute negotiable instruments within the meaning of the Negotiable Instruments Law.

[Pledge of revenues for payment of obligations]

Sec. 5. Any obligations issued hereunder may be issued payable from and secured by the pledge of all the revenues derived from the operation of the improvements and facilities of the district, exclusive of any revenues derived from taxation or assessments, or may be payable from and secured by the pledge of only such revenues as may be derived from the operation of the improvements and facilities acquired with the proceeds of the sale of such obligations, or may be payable from and secured by the pledge of a specified part of the revenues derived from the operation of the improvements and facilities of the district, all as may be provided in the proceedings authorizing the issuance of such obligations. If more than one series of obligations shall be issued under the provisions of this Act payable from and secured by identical revenues, priority of lien against such revenues shall depend on the time of delivery of such obligations, each series enjoying a lien against such revenues prior and superior to that enjoyed by any other series of obligations subsequently delivered, provided, however, that as to any issue or series of obligations which may be authorized as a unit but delivered from time to time in blocks, the Board of Navigation and Canal Commissioners may in the proceedings authorizing the issuance of such obligations provide that all of the obligations of such series or issue shall be co-equal as to lien regardless of the time of delivery.

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[Sinking fund]

Sec. 6. Any resolution or order authorizing the issuance of obligations under the provisions hereof shall provide for the creation of a sinking fund into which shall be paid from the revenues pledged to the payment of such obligations from month to month as said revenues are collected, sums fully sufficient to pay principal of and interest on such obligations. The money in such sinking fund shall be applied solely to the payment of interest on the obligations for the payment of which such fund is created and for the retirement of said obligations at or prior to maturity in the manner herein provided. The Board of Navigation and Canal Commissioners may at the time obligations are authorized hereunder provide that all money in such sinking fund in excess of the amount required for the payment of interest on and principal of such outstanding obligations for such period as it may determine shall be expended once each year and pursuant to its orders in the purchase of obligations for the account of which such sinking fund has been accumulated, if any of such obligations can be purchased at a price which shall seem reasonable to the Board, and may provide that in the event such obligations contain an option permitting retirement prior to maturity then such excess sums shall be paid out as aforesaid for the purchase of such obligations, but that if the Board shall be unable to so purchase sufficient obligations of said issue to absorb all such surplus it shall call for redemption, a sufficient amount of such obligations to absorb so far as practicable the entire surplus remaining in said sinking fund. It may be provided that any excess in the sinking fund which cannot be applied to the purchase or redemption of obligations shall remain in said sinking fund to be used for payment of principal or interest when due, or for the subsequent call of obligations for purchase or redemption in the manner above provided.

[Covenants as to management and operation of improvements]

Sec. 7. Any resolution or order authorizing the issuance of obligations hereunder may contain such covenants with the holders of the obligations as to the management and operation of said improvements and facilities, collection of fees and charges for the use thereof, disposition of such fees and charges, issuance of future obligations and creation of future liens and encumbrances against said improvements and facilities and the revenues thereof and other pertinent matters, as may be deemed necessary to insure the marketability of said obligations, provided such covenants are not inconsistent with the provisions of this Act.

[Revenues set aside monthly for sinking fund]

Sec. 8. Any resolution or order authorizing the issuance of obligations hereunder shall provide that the revenues from which such obligations are to be paid and which are pledged to the payment of such obligations shall from month to month as the same shall accrue and be received, be set apart and placed in the sinking fund and disbursed in the manner hereinabove provided. In fixing and determining the amount of revenues which shall be so set aside, the Board of Navigation and Canal Commissioners shall provide that the amount to be set aside and paid into said fund in any year or years shall be not less than a fixed sum, which sum shall be at least sufficient to provide for the payment of the interest on and principal of all obligations maturing and becoming payable in each such year, together with a surplus or margin of ten per cent in excess thereof.

[Holders of obligations may compel performance of duties]

Sec. 9. Any holder of obligations issued hereunder or of coupons originally attached thereto, may either at law or in equity, by suit, action, mandamus, or other proceeding, enforce and compel performance of all duties required by this Act to be performed by the Board of Navigation and

Canal Commissioners, including the making and collection of reasonable and sufficient fees or charges for the use of the improvements and facilities of the district, the segregation of the income and revenues of such improvements and facilities, and the application of such income and revenues pursuant to the provisions of this Act.

[Mortgage as additional security]

Sec. 10. As additional security for the payment of any obligations issued hereunder, the Board of Navigation and Canal Commissioners may in its discretion have executed in favor of the holders of such obligations an indenture, mortgaging and encumbering the improvements, facilities and properties acquired with the proceeds of the sale of such obligations, and may provide in such encumbrance for a grant to any purchaser or purchasers at foreclosure sale thereunder of a franchise to operate such improvements, facilities and properties for a term of not over fifty years from the date of such purchase, subject to all laws regulating same then in force. Any such indenture may contain such terms and provisions as the Board of Navigation and Canal Commissioners shall deem proper and shall be enforceable in the manner provided by the laws of Texas for the enforcement of other mortgages and encumbrances. Under any sale ordered pursuant to the provisions of such mortgage or encumbrance, the purchaser or purchasers at such sale, and his or their successors or assigns, shall be and hereby are vested with a permit and franchise to maintain and operate the improvements, facilities and properties purchased at such sale with like powers and privileges as may theretofore have been enjoyed by the district in the operation of said improvements, facilities and properties. The purchaser or purchasers of such improvements, facilities and properties at any such sale, and his or their successors and assigns, may operate said improvements, facilities and properties as provided in the last above sentence or may at their option remove all or part of said improvements, facilities and properties for diversion to other purposes. Any statutes of the State of Texas pertaining to the granting of franchises shall not be applicable to the authorization or execution of any mortgage or encumbrance entered into pursuant to the provisions of this Act, nor to the granting of any franchise hereunder.

[Deposit of proceeds of obligations and payment]

Sec. 11. The proceeds of the sale of any obligations issued hereunder may be deposited in such bank or banks as may be agreed upon between the purchaser at such sale and the Board of Navigation and Canal Commissioners, and may be deposited and paid out pursuant to such terms and conditions as may be so agreed upon, it being expressly provided that the statutes of Texas pertaining to the deposit of navigation district funds in the depository of such district shall not be applicable to the deposit of the proceeds of such sale. Any part of the proceeds of the sale of obligations issued hereunder which may remain unexpended after the project for which the obligations were authorized has been completed may be paid into the sinking fund for the payment of said obligations and be used only for the payment of principal of such obligations, or for the purposes of acquiring such outstanding obligations by purchase in the manner hereinabove provided.

[Insurance of improvements for protection of obligations]

Sec. 12. The Board of Navigation and Canal Commissioners is authorized to enter into an agreement or agreements with the purchaser or purchasers of any obligations issued hereunder under the terms of which such Board shall agree to keep all of the improvements and facilities, the revenues of which are pledged to the payment of such obligations, insured with insurers of good standing against loss or damage by fire, water or flood, and also from any other hazards customarily insured against by

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private companies operating similar properties, and to carry with insurers of good standing such insurance covering the use and occupancy of such property as is customarily carried by such private companies. The cost of such insurance shall be budgeted as maintenance and operation expense and such insurance shall be carried for the benefit of the holders of such obligations.

[Contracts, leases and agreements authorized]

Sec. 13. Any navigation district taking advantage of the terms of this Act, in addition to the other powers hereinabove set out, shall have general power and authority to make and enter into all contracts, leases and agreements necessary or convenient to the carrying out of any of the powers granted in this Act, which contracts, leases or agreements may be entered into with any person, real or artificial, any corporation, municipal, public or private, and any government or governmental agency, including those of the United States and the State of Texas. Any and all contracts, leases or agreements entered into pursuant hereto shall be approved by Resolution of the Board of Navigation and Canal Commissioners of such District, and shall be executed by the Chairman and attested by the Secretary thereof.

[Obligations exempt from taxation]

Sec. 14. Any obligations issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county, or other political subdivision or taxing district of the State.

[Refunding obligations]

Sec. 15. Any navigation district issuing obligations under the provisions hereof may thereafter authorize and issue its refunding obligations on such terms as its Board of Navigation and Canal Commissioners may deem advisable for the purpose of providing for the retirement of any such outstanding obligations, either due or to become due, which refunding obligations may be either exchanged for like par amounts of such outstanding obligations or may be sold and the proceeds of the sale so applied. Any refunding obligations authorized and issued pursuant hereto shall be subject to the provisions of this Act pertaining to the issuance of other obligations and shall be secured in all respects to the same extent and be payable from the same revenues as were the obligations refunded thereby.

[Conversion of district into navigation district]

Sec. 16. If the Board of Navigation and Canal Commissioners of any district heretofore organized under the provisions of Section 52 of Article 3 of the Constitution which has not become converted into a navigation district operating under the provisions of Section 59, Article 16 of the Constitution shall find it expedient in order to avail said district of the provisions of this Act to convert such district into a navigation district operating under the provisions of Section 59, Article 16, such conversion may be accomplished in the same manner and with like effect as provided by Section 1 of Chapter 103 of the General Acts of the First Called Session of the Forty-first Texas Legislature, 1929, as now existing or hereafter amended, except that all proceedings and hearings had in connection with such conversion shall be adopted and conducted by the Board of Navigation and Canal Commissioners of said district instead of by the Navigation Board of said district.

[Construction of Act]

Sec. 17. This Act shall be construed as cumulative authority for the accomplishment of the purposes herein mentioned and is not to be construed to repeal any existing laws on the same subject matter, it being the

purpose and intent hereof to create an additional and alternate method for the accomplishment of such purposes. This Act, without reference to other statutes of the State of Texas, shall constitute full authority for the authorization and issuance of obligations hereunder and for the accomplishment of all things herein authorized to be done, and no proceedings relating to the authorization or issuance of such obligation or the doing of such things shall be necessary except such as are herein required, and neither the Bond and Warrant Law of 1931 or any other provisions of the laws of the State of Texas pertinent to the authorization or issuance of obligations, the operation and maintenance of ports, canals and water way, the granting of franchises or permits, the right to elections or referendum petitions, or in anywise impeding or restricting the carrying out of the acts authorized to be done hereunder or acts done pursuant hereto. This Act being necessary for and intended to secure the safety, convenience and welfare of the citizens of navigation districts in the State of Texas, shall be liberally construed to effectuate the purposes hereof.

[Improvements payable from revenues other than taxes]

Sec. 18. No navigation district shall, in the operation, maintenance or repair of any improvements or facilities acquired, purchased or constructed under the provisions of this Act, incur any indebtedness or assume any liability or obligation payable out of taxes; and any and all liabilities and obligations so arising shall be payable solely out of the revenues from such improvements and facilities which may be applicable thereto as herein authorized.

[Pilot or pilotage laws unaffected]

Sec. 19. It is expressly hereby provided that nothing in this Act contained shall be construed to amend, repeal or affect the laws relating to pilots and pilotage, their appointment and remuneration.

[Partial invalidity]

Sec. 20. If any paragraph, clause or provision of this Act shall be held unconstitutional the remainder hereof shall remain in full force and effect. [Acts 1933, 43rd Leg., 1st C. S., p. 303, ch. 111.]

Art. 8263c. Navigation districts; power to borrow money and encumber properties and revenue; evidences of indebtedness

Sec. 8. Whenever any such navigation district proposes to borrow money and to mortgage and encumber any part or all of its properties and facilities and franchises and revenues and income from the operation thereof, for the purposes contemplated and authorized by Section 1 hereof, the Commissioners of such district shall issue Notice of Intention to authorize and to issue the evidences of any such indebtedness, and such notice shall include a statement of the amount and purpose of the proposed indebtedness, and it shall be the further duty of such Commissioners to fix a time and place at which a public hearing shall be held in respect of such proposed indebtedness, and the date of such hearing shall be not less than fifteen (15) nor more than thirty (30) days from the date of the resolution of the Commissioners issuing such notice. Such notice shall inform all persons of such time and place of hearing, and of their right to appear at such hearing and contend for or protest the creation of such indebtedness. The Secretary of the Commissioners of the district shall post true copies of such notice in three public places within the district, and one copy at the door of each county court house that may be situated within the district. Said notice shall be posted for ten (10) days prior to the date of hearing. Said notice shall also be published in a newspaper of general circulation in the district, if a newspaper is published therein, one time, and at least five (5) days prior to such hearing. If no newspaper is published

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in such district, then such notice shall be published in some newspaper published in any county situated in whole or in part within the district. The duties herein imposed upon the Secretary may be performed by any Commissioner of the district, or the Assistant Secretary.

Sec. 9. At the time and place set for such hearing, or such subsequent date as may then be fixed, the Commissioners shall proceed to hear and to determine all matters in respect of the proposed indebtedness. Any person interested may appear before the Commissioners in person or by attorney and contend for or protest the creation of the proposed indebtedness. Such hearing may be adjourned from day to day and from time to time, as the Commissioners may deem necessary. If upon the hearing it is determined by the Commissioners that the proposed improvements are necessary, feasible, practicable, and are needed, and will benefit the property in such district, then such Commissioners may adopt a resolution or order providing for the creation of the proposed indebtedness, and the issuance of the evidences thereof; and such Commissioners are authorized and empowered to adopt all necessary resolutions, orders, certificates and trust indentures in respect to the issuance, sale and delivery of the securities evidencing such indebtedness.

Sec. 10. Each note, warrant, or other security evidencing any indebtedness created under the provisions of this Act shall be signed by the Chairman and countersigned by the Secretary of the Commissioners of such district, and the seal of the district shall be impressed thereon; and each note, warrant or other security may be registered as to principal by the Trustee named and designated by the Commissioners of the District in the trust indenture executed by them to secure payment thereof.

Sec. 11. The provisions of Articles 8240, 8241, 8242, and 8243, Revised Statutes 1925, relating to the grant of franchises by navigation districts, shall not apply to the grant of any franchises under authority of Section 5 hereof.

Sec. 12. The evidences of indebtedness hereby authorized may be sold by the Commissioners of the district on the best terms and for the best price possible.

Sec. 13. All proceedings to be taken and acts and things to be done in connection with the borrowing of money hereunder by any such district, and the mortgaging and encumbering of its properties and facilities, and the franchise and revenues and income from the operation thereof, and the issuing of its evidences of indebtedness, shall be taken and done by and under the supervision of the Commissioners of such district, it being the intention hereof that neither the Commissioners Court of any county lying in whole or in part within the boundaries of such district, nor the Navigation Board established for such district by Chapter 5, General Acts of 1925, shall be required to take any action in connection therewith nor to approve or ratify any proceedings so taken by the Commissioners of the district or any act or thing done by said Commissioners in such connection.

Sec. 14. That, in case any navigation district has commenced proceedings in respect of the creation of indebtedness under authority hereof, and notice issued and given in respect thereto, and hearing held thereon in accordance with the provisions and requirements of this amendment, all acts and proceedings had and done in connection therewith by the Commissioners of the district, in respect to such indebtedness, and securing payment thereof, are hereby ratified, confirmed, legalized, approved and validated; and power and authority is hereby expressly conferred upon the Commissioners of any such district to pass and adopt all orders and resolutions, and to do all other and further acts necessary in the issuance and sale of said evidences of indebtedness. [Acts 1933, 43rd Leg., 1st C. S., p. 208, ch. 78, § 1.]

[Art. 8263e. Creating self-liquidating and supporting districts; bond issues; authorizing loans from Reconstruction Finance Corporation]

Sec. 1. All navigation districts within this State, organized under the provisions of Section 59, Article 16 of the Constitution, and under the provisions of Chapter 5 of the General Laws of Texas passed by the 39th Legislature of the State of Texas at its regular session, and acts amendatory thereof, or created, organized, existing, doing business or acting under and by virtue of any local and special law of the Legislature of Texas, and purporting to have been enacted under the provisions of said Section 59 of Article 16 of the Constitution, and which have voted bonds but not issued or otherwise finally disposed of such bonds, and all districts which may hereafter be organized hereunder, are declared to be self-liquidating in character and may be made self-supporting and return the construction cost thereof within a reasonable period, by means of tolls, rents, fees, assessments or other charges other than by taxation.

Sec. 2. There may be created within this State under and by virtue of Section 59 of Article 16 of the Constitution of the State of Texas, districts to be known as Navigation Districts, in the manner hereinafter provided; which districts shall be of the character provided in Section 1 hereof; and such districts may or may not include within their boundaries and limits villages, towns, cities, road districts, drainage districts, irrigation districts, levee districts, and other improvement districts, or conservation and reclamation districts, and municipal corporations of any kind, or any part thereof. Such districts, when so established, may make improvements for the navigation of inland and coastal waters, and for the preservation and conservation of inland and coastal waters for navigation and for the control and distribution of storm and flood waters of rivers and streams in aid of navigation, and for any and all other purposes stated in Section 59 of Article 16 of the Constitution of the State of Texas necessary or incidental to the navigation of inland and coastal waters or in aid thereof, which districts shall be governmental agencies and bodies politic and corporate with such powers of government and with authority to exercise such rights, privileges and functions as may be essential to the accomplishment of such purposes; provided, that such districts shall not include therein the territory of more than two counties, or parts of two counties.

Sec. 3. When it is proposed to create a navigation district wholly within one county, there shall be presented to the County Commissioners' Court of the county in which the lands to be included in such districts are located, at any regular or special session, a petition accompanied by a deposit of Five Hundred Dollars (\$500.00), which petition shall be signed by twenty-five (25) of the resident property taxpayers, or in the event there are less than seventy-five property taxpayers in the proposed district, then by one-third of such resident property taxpayers in the proposed district, praying for the establishment of a navigation district, and setting forth the boundaries of the proposed district, which petition shall be accompanied by a map of such proposed district and which shall show the general nature of the improvement or improvements proposed and an estimate of the probable cost thereof, and designating a name for such navigation district, which name shall include the name of the county; said petitioners shall make affidavit to accompany said petition of their qualifications; and when it is proposed to create such a district to be composed of lands in two counties, then a petition of the nature above indicated, signed by twenty-five (25) of the property taxpayers residing in the territory of each county to be included in such proposed district, or in the event there are less than seventy-five (75) property taxpayers residing in such territory, then by one-third of such resident taxpayers, accompanied by a deposit of Five Hundred Dollars (\$500.00), which pe-

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tion shall be presented to the Commissioners' Court of the county in which is located the greater amount of acreage of such proposed district, which shall be the county of jurisdiction in respect to all matters concerning said district, and the name of which county shall be included in the name of such district and, upon presentation of such petition the said Commissioners' Court shall at the same session when said petition is presented set same down for hearing at some regular term of said Court, or at some special session of said Court called for the purpose, not less than sixty (60) days from the presentation of said petition and shall order the clerk of said Court to give notice of the date and the place of said hearing by posting a copy of said petition and the order of the Court thereon, in five public places in said county, one of which shall be the courthouse door of said county and four of which shall be within the limits of said navigation district; and if the proposed district be composed of more than one county, then there shall be posted a copy of said petition and the order of the Court thereon at the door of the courthouse of each county in which any portion of the proposed district is located, and four (4) copies at four (4) different places within each county in which any portion of said proposed district is located, and within the boundaries of such proposed district, which notice shall be posted not less than twenty (20) days prior to the time set for the hearing. The county clerk issuing such notices shall receive as compensation One Dollar (\$1.00) for each such notice and five cents per mile for each mile necessarily traveled in posting such notices.

Sec. 4. In the event the boundaries of the proposed district shall include a city or cities, or part or parts thereof, acting under special charter granted by the Legislature, the hearing of said petition, hereinafter provided for, shall be had before the County Judge and members of the Commissioners' Court and the mayor and aldermen or Commissioners, as the case may be, of said city or cities; and said persons shall constitute a board to be known and designated as the navigation board, to pass upon such petition. Each individual member of said board shall be entitled to a vote on all matters pertaining to such petition and such election. A majority in number of the individuals composing said board shall constitute a quorum and the action of a majority of the quorum shall control.

Sec. 5. In the event the hearing on said petition shall be held before the navigation board, the Commissioners' Court of said county shall set the petition down for hearing not less than thirty (30) nor more than sixty (60) days from the date of the presentation of said petition without reference to any term of the Commissioners' Court, but said hearing shall be held at the regular place of meeting of the Commissioners' Court, and notice shall be given of the hearing in the manner and for the time as hereinbefore provided.

Sec. 6. The county clerk shall enter and record the proceedings of the navigation board in a record book kept for such purpose, which record shall be a public archive.

Sec. 7. The duties and powers herein conferred on the county judge and members of the Commissioners' Court, and upon the mayor and aldermen or Commissioners as the case may be of cities, and upon the county clerk and other officers, are made a part of the legal duty of said officials, which they shall render and perform without additional compensation, unless otherwise provided herein.

Sec. 8. Upon the day set by said County Commissioners for the hearing of said petition, any person who has taxable property within the proposed district, or who may be affected thereby, may appear before the said Court, or navigation board as the case may be, and contest the creation of said district, or contend for the creation of said district, and may offer testimony in favor of or against the boundaries of the said district, to show that the proposed improvement or improvements would or would

not be of any public utility and would or would not be feasible or practicable, and the probable cost of such improvement or improvements, or as to any other matter pertaining to the proposed district. Said county Commissioners' Court, or navigation board, shall have the exclusive jurisdiction to hear and determine all contests and objections to the creation of such districts, and all matters pertaining to the creation and establishment of the same, and may adjourn hearing in any matter connected therewith from day to day; and all judgments or decisions rendered by said Court, or navigation board, in relation thereto shall be final, except as otherwise provided.

Sec. 9. If, at the hearing of said petition, it shall appear to the Commissioners' Court, or navigation board, as the case may be, that the proposed improvement is feasible or practicable; that it would be a public benefit and a public utility; and, if the Court, or navigation board, as the case may be, shall approve the boundaries of the proposed district as set out in said petition, then the Court, or navigation board, shall so find, and shall also find the amount of money necessary for said improvement or improvements and for all expenses incident thereto, and shall determine whether to issue bonds for said full amount or in the first instance, for a less amount, and shall specify the amount of bonds to issue, the maximum length of time the bonds shall run, and the rate of interest said bonds shall bear, and cause its findings to be recorded in the records of the Commissioners' Court, or minutes of the navigation board, as the case may be. If the Court, or navigation board, shall find that the proposed improvement is feasible and practicable, that it would be a public benefit and a public utility, but does not approve the boundaries of the proposed district as set forth in the petition, the Court or navigation board, shall define the boundaries of such district as the Court considers the same should be, and shall also find the amount of money necessary for such improvement or improvements, and for all expenses, incident thereto, and shall determine whether to issue bonds for said full amount, or in the first instance for a less amount, and shall specify the amount of bonds to issue, the maximum length of time the bonds shall run, and the rate of interest said bonds shall bear, and cause its findings to be entered of record, together with a map thereof. Providing, however, that before any change is made by said Court, or navigation board, as the case may be, of the boundaries, notice and hearing thereof shall be given and had as provided for in Section 2 of this Act. If the Court, or navigation board, shall find that the proposed improvement is not feasible or practicable, or that it would not be a public benefit or public utility, and that the establishment of such navigation district is therefore unnecessary, then the Court, or navigation board, shall enter such findings of record and dismiss the petition at the cost of petitioners, but the order dismissing said petition shall not prevent or conclude the presentation at a later date of a similar petition.

Sec. 10. After the hearing upon the petition, as herein provided, if the Court, or navigation board, as the case may be, shall find in favor of the petitioners for the establishment of the navigation district according to the boundaries as set out in said petition, or as changed or modified as above provided by the said Court, or navigation board, the Commissioners' Court of jurisdiction shall order an election in which order provision shall be made for submitting to the qualified property taxpaying voters residing in said district whether or not such navigation district shall be created, and whether or not said bonds shall be issued and a tax shall be levied sufficient to pay the interest and provide a sinking fund sufficient to redeem said bonds at maturity, said order specifying the amount of bonds to be issued, together with the length of time the bonds shall run and the rate of interest said bonds shall bear, as said matters have been determined by the commissioners' court or navigation board, as the case may be, under the provisions of this Act. Said election to be held within such proposed navigation district at the earliest legal time, at which elec-

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tion there shall be submitted the following proposition, and none other: "For the navigation district, and the issuance of bonds and the levy of tax in payment thereof;" "Against the navigation district, and the issuance of bonds and levy of tax in payment thereof."

Sec. 11. Notice of such election, stating the time and place of holding the same, shall be given by the clerk of the said court by posting notices thereof in four public places in such proposed navigation district, and one at the courthouse door of the county in which such district is located, and if the district be composed of more than one county, then there shall be posted a copy of said notice at the door of the courthouse of each county in which any portion of the proposed district is located, and four copies in four public places within each county in which any of the proposed district is located, and within the boundaries of said district; said notices shall be posted for thirty days prior to the date set for the election. Such notices shall contain the proposition to be voted upon as set forth in Section 10 of this Act, and shall also specify the purpose for which said bonds are to be issued, and the amount of said bonds, and shall contain a copy of the order of the court ordering the election.

Sec. 12. The manner of conducting said election shall be governed by the election laws of the State of Texas, except as herein otherwise provided. None but resident property taxpayers, who are qualified voters of said proposed district, shall be entitled to vote at any election on any question submitted to the voters thereof by the county Commissioners' Court at such election. The county Commissioners' Court shall create and define, by an order of the Court, the voting precincts in the proposed navigation district, and shall name a polling place or places within said precincts, taking into consideration the convenience of the voters in the proposed navigation district and shall also select and appoint the judges and other necessary officers of the election, and shall provide one and one-half times as many ballots as there are qualified resident property taxpaying voters within such navigation district. Said ballot shall have printed thereon the words and none others: "For the navigation district, and the issuance of bonds and levy of tax in payment thereof"; "Against the navigation district, and the issuance of bonds and levy of tax in payment thereof."

Sec. 13. Immediately after said election, the officers holding the same shall make returns of the result thereof to the Commissioners' Court having jurisdiction, and return the ballot boxes to the clerk of said Court, who shall safely keep the same and deliver them, together with the returns of the election, to the Commissioners' Court of jurisdiction at its next regular or special session, and the said court at such session shall canvass the vote and return; and if it be found that a majority of those voting at such election shall have been cast in favor of the navigation district and the issuance of bonds and levy of tax, then the court shall declare the result of said election to be in favor of said navigation district, the issuance of said bonds and the levy of the tax, and shall enter same in the minutes of the court as follows:

Commissioners' Court of _____ County, Texas, _____ term, A. D. _____, in the matter of the petition of _____ and _____ and others praying for the establishment of a navigation district, and issuance of bonds and levy of taxes in said petition described and designated by the name of _____ Navigation District. Be it known that at an election called for the purpose in said district, held on the _____ day of _____ A. D. _____ a majority of the resident property taxpayers voting thereon voted in favor of the creation of said navigation district, and the issuance of bonds and levy of a tax. Now, therefore, it is considered and ordered by the court that said navigation district be, and the same is hereby established by the name of _____ Navigation District, and that bonds of said district in the amount of _____ dollars be issued, and a tax of _____ cents on the One Hundred Dollars (\$100.00), valuation, or so much thereof as may be

necessary to be levied upon all property within said navigation district, whether real, personal, mixed or otherwise, sufficient in amount to pay the interest on such bonds and provide a sinking fund to redeem that at maturity, and that if said tax shall at any time become insufficient for such purpose same shall be increased until same is sufficient. The metes and bounds of said district being as follows: (Giving metes and bounds)

Sec. 14. After the establishment of any navigation district, as herein provided, the Commissioners' Court shall appoint three navigation and canal commissioners, all of whom shall be residents of the proposed navigation district, who shall be freehold property taxpayers and legal voters of the county, whose duties shall be as hereinafter provided. Said navigation and canal commissioners shall hold office for the term of two years and until their successor shall have qualified after appointment or election as hereinafter provided. Should any vacancy occur through the death or resignation or otherwise of any navigation or canal commissioner, the same shall be filled by those remaining on said board; or if one shall remain, then by the district judge residing in the county wherein a majority of the acreage of such district lies, together with such remaining navigation or canal commissioner.

Sec. 15. Before entering upon their duties, all navigation and canal commissioners appointed as herein provided, shall take and subscribe before the county judge of the county having jurisdiction, in addition to the constitutional oath provided for county commissioners, an additional oath to faithfully discharge the duties of their office without favor or partiality.

Sec. 16. Before entering upon their duties, each of such navigation and canal commissioners so appointed shall make and enter into a good and sufficient bond in the sum of One Thousand Dollars (\$1000.00) payable to the county judge of the county having jurisdiction for the use and benefit of such navigation district, and conditioned upon the faithful performance of their duties.

Sec. 17. Said commissioners shall organize by electing one of their members chairman and one secretary, and two of the commissioners shall constitute a quorum, and a concurrence of two shall be sufficient in all matters pertaining to the business of said district.

Sec. 18. All navigation and canal commissioners now holding office by appointment of any Commissioners' Court, or navigation board as the case may be, or by virtue of an election held within such district under the provisions of any local and special Act are hereby declared to be the legally constituted qualified and acting navigation and canal commissioners of such district, and shall hold office until their successors are elected and qualify; and on the first Tuesday in December, 1932, and on the first Tuesday in December of each even year thereafter, there shall be held in all the districts coming within the purview of this Act, a general election for the election of navigation and canal commissioners, at which time there shall be elected three navigation and canal commissioners for such district who shall hold office for a term of two years, and until their successors are elected and qualified, which election shall be held in accordance with the General Election Laws of this State, except as herein otherwise provided.

Sec. 19. The board of navigation and canal commissioners shall name the polling place, and if more than one is required, divide the district into election precincts which may be changed from time to time as required, and shall appoint the officers to hold such election. The officers of the election shall consist of one presiding judge and an assistant judge and two clerks; more clerks may be appointed by the presiding judge when necessary. The officers of the election shall be appointed when such election is ordered, and the polling place or places shall be designated in such election order.

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

Sec. 20. The notice of election shall be signed by the president and secretary of the board and shall contain a copy of the order of election, and shall be published once each week for three consecutive weeks in some newspaper published in said district, or if none be published in said district, then in a newspaper located nearest to the boundaries of such district; the first publication shall be had not less than twenty-one (21) days prior to the election and not more than thirty-five (35) days prior thereto.

Sec. 21. The officers holding the election shall make and deliver the returns in triplicate, one copy being retained by the presiding judge, one delivered to the chairman of the board of navigation and canal commissioners of the district, and one delivered to the secretary. The ballot boxes and other election records and supplies shall be delivered to the secretary at the office of the district. All boxes containing ballots voted or mutilated shall be preserved for six (6) months subject to the order of any Court in which a contest thereof shall be filed, after which time, unless a contrary order shall be entered by a Court of competent jurisdiction, they shall be destroyed. The navigation and canal commissioners shall meet and canvass the returns of the election at any time not less than five (5) full days thereafter, nor more than seven (7) days thereafter, provided the same can be canvassed within seven (7) days, or such canvass shall be done as soon thereafter as possible.

Sec. 22. All vacancies in the office of navigation and canal commissioners for such districts shall be filled by appointment by the board itself for the unexpired term. In the event two vacancies occur at the same time, the remaining navigation and canal commissioners shall call a special election to fill such vacancies, and if he fails to do so within fifteen (15) days after such vacancies occur, or if the third place be vacant also, the judge or judges of the District Court or Courts of the Judicial Districts in which such navigation district lies, upon the petition of any voter or creditor thereof, may order the holding of such election, fixing the date thereof and order the publication of notice of such election by the County Clerk of the county, and name the officers to hold such election. In any such election held by order of the district judge or judges, the returns of election shall be made and filed in the office of the Clerk of the District Court, and he shall declare the result thereof.

Sec. 23. The navigation and canal commissioners of such districts shall each make and furnish a good and sufficient bond in the sum of Ten Thousand Dollars (\$10,000.00), payable to the district, conditioned upon the faithful performance of their duties as such navigation and canal commissioners; they shall each take and subscribe the oath of office with conditions therein as provided by law for members of the Commissioners' Court in so far as such conditions may be made applicable. All such bonds required to be given by navigation and canal commissioners shall be approved by them as a board and by the district judge or judges of the District Court having jurisdiction over the territories of such navigation districts, and all bonds of other officers of the district shall be approved by the board of navigation and canal commissioners and shall be filed for record in the offices of such district and shall be recorded in a book kept for that purpose in the offices of the district, which book shall be open to the inspection of the public during the office hours of the district.

Sec. 24. The navigation and canal commissioners of such districts shall require all officers and employees charged with the handling of any funds or property of the district to furnish good and sufficient bonds to be prescribed by such board, payable to the district and conditioned upon the faithful performance of their duties and their accounting of all funds and property of the district coming into their hands, which bonds shall be in each instance for a sum sufficient to safeguard the district.

Sec. 25. The navigation and canal commissioners of the district shall receive as fees of office the sum of not more than Ten Dollars (\$10.00) per day for each day of service necessary to the discharge of their duties;

provided however, that by an order entered on the minutes of the proceedings of such board any district may provide that no compensation shall be paid for such services and that the office of navigation and canal commissioners for such district shall be without emolument for a period of two (2) years from the date of such order.

Sec. 26. The navigation and canal commissioners of such district shall keep and file a true account of their meetings and proceedings, and preserve their minutes, contracts, notices, accounts, receipts and records in a fireproof vault or safe. A regular office shall be established and maintained for the conducting of the district's business at such place as the board may designate in the district.

Sec. 27. The navigation and canal commissioners of such district may employ a general manager and give him full authority in the management and operation of the affairs of the district, subject only to the supervision of the board of navigation and canal commissioners. The term of office and compensation to be paid such manager and all employees shall be fixed by the board, and all employees may be removed by the board.

Sec. 28. The office of tax assessor and collector for such districts is hereby created, to be filled by one person who shall be appointed by the board of navigation and canal commissioners, and shall give a good and sufficient bond with at least two sureties, or a surety company having a permit to do business in Texas, to be approved by the board of navigation and canal commissioners, in a sum to be fixed by said board not to exceed the estimated amount of revenue of such district for any one year (and not to be less than twice average daily balance of such district in its depository for the preceding year), which bond shall be conditioned for the faithful performance of his duties as tax assessor and collector and for the paying over to the depository of all funds or other things of value coming into his hands as such officer. The board of navigation and canal commissioners may require additional bonds or a bond in a larger amount, or additional security at any time the same may be advisable in their judgment. The tax assessor and collector shall be a resident of the district and shall be a qualified voter. One or more deputies may be appointed by the board of navigation and canal commissioners to assist the tax assessor and collector for such time not to exceed one year as may be ordered, and such assistant or assistants may or may not be required to furnish bond with conditions similar to those required of the tax assessor and collector. The compensation to be paid to the tax assessor and collector or any deputy shall be fixed by the board.

Sec. 29. The tax assessor and collector shall make an assessment of all the taxable property in the district; the property subject to taxation shall be governed by the laws of this State providing for the taxation of State and County taxes, and all such laws of this State shall apply thereto, except as herein otherwise provided.

Sec. 30. The tax assessor and collector shall compile a record of all taxpayers subject to payment of taxes in the district and all the taxable property, and the post office address of the owners of such taxable property. He shall on or before the first day of April of each year furnish each taxpayer and owner of property in the district a blank form for the rendition of property for taxation and such form may be delivered in person or deposited in the mail, addressed to such owner at his last known address. It shall be the duty of the owner of any and all property subject to taxation in the district to file in the office of the tax assessor and collector a full, accurate and complete statement, made under oath, of all property owned by him, it or them as the case may be, subject to taxation therein. Such statement or rendition shall be filed on or before the last day of April of each year, stating the true value of all property listed or rendered subject to taxation in such district. Such taxpayer or person rendering property for taxation shall make the same oath as required in the rendition for State and County taxes. Such statement may be filed by

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

any authorized agent of the owner of any such property, provided such agent shall state therein that he makes and files same as such agent. All property not rendered for taxation by the owner or by such authorized agent shall be placed upon the tax rolls of such districts as unrendered, in the name of "Unknown Owner" and such tax assessor and collector shall estimate the value thereof and place such estimated valuation on the tax rolls of the district. The board of navigation and canal commissioners of such districts shall, not later than their first regular meeting in May in each year, appoint three commissioners, each being a qualified voter and property taxpayer in said district, who shall be styled "Board of Equalization" and at the same meeting the board of navigation and canal commissioners shall fix the time for the meeting of such board of equalization, and such board of equalization shall convene at the time fixed by the board of navigation and canal commissioners to receive all assessment lists or books of such district for examination, correction and equalization, appraisal and approval, and at all meetings of said board of equalization the secretary of the board of navigation and canal commissioners shall act as secretary thereof and keep a permanent record of the proceedings of such board of equalization.

Sec. 31. Before entering upon the duties of such board of equalization, each of the members thereof shall take the following oath: "I _____ do solemnly swear (or affirm) that I will to the best of my ability, make a full and complete examination, correction, equalization and appraisal of all property contained within such district as shown by the assessment lists or books of the assessor and collector for said district, and add thereto all property not included therein of which I have knowledge" and such oath shall be spread upon the minutes to be kept by the secretary. Such board of equalization shall convene not later than the first Monday in June of each year, and shall complete their work by the first day of September, or as soon thereafter as possible.

Sec. 32. In all matters pertaining to the levying and assessing of taxes, the equalization thereof and the collection of same, and the duties of all officers in connection therewith, the laws of the State of Texas for the assessing, levying and collection the State and county taxes shall apply, except as herein otherwise provided, and the district shall have a lien upon all property against which taxes may be levied and assessed enforcing same under the same laws and in the same manner as liens securing State and county taxes. Limitation shall not run against the district as a bar to the collection of any delinquent taxes or other public charges of the district, provided that nothing herein shall be construed as giving authority to any county officer in connection with the levying, equalizing, assessing or collection of the taxes of such district, but such duties shall be in and remain wholly within the control of the officers of such district.

Sec. 33. The tax assessor and collector of such districts shall be charged with the assessment rolls of such district, and are required to make collection of all taxes levied and assessed against the property in such district, and pay over the same to the depository of the district, and in all matters pertaining to the collection of taxes levied under the provisions of this Act, the tax assessor and collector shall be authorized to act and shall be governed by the laws of the State of Texas for the collection of State and County taxes, except as herein otherwise provided.

Sec. 34. It shall be the duty of the tax assessor and collector, during the month of September of each year to make a certified list of all delinquent property upon which the navigation district taxes have not been paid, and return the same to the board of navigation and canal commissioners which shall proceed to have the same collected by the sale of such delinquent property in the manner, both by suit and otherwise, as now or may be provided for the sale of property for the collection of State and county taxes; and at the sale of any property for any delinquent tax, the navigation and canal commissioners may become the purchasers of the

same for the benefit of the district, provided that such delinquent taxes shall be collected by the attorney for the district as hereinafter provided.

Sec. 35. The navigation and canal commissioners of the district shall have the power and authority to employ such attorney or attorneys as they may deem necessary, and fix the compensation of such attorney or attorneys; they shall on or before the first day of October of each year employ an attorney to collect delinquent taxes or public charges and file suits for the collection thereof if necessary; said attorney or attorneys shall be entitled to a fee of ten per cent (10%) upon the amount of all delinquent taxes or other delinquent charges collected by him or through his efforts, or paid into the district after suit is filed and same shall be charged as costs of court, and in the event judgment is taken, the district shall have judgment therefor for the benefit of such attorney together with said tax or public charge and other costs, and as a part of same; such suits shall be filed and tried as other civil cases. Except as herein otherwise provided, the laws governing tax suits for the recovery of State and county taxes shall apply.

Sec. 36. The board of navigation and canal commissioners shall have authority to employ a competent engineer whose term of office shall be at the will of said commissioners and he shall receive such compensation as may be determined by such commissioners. It shall be the duty of the engineer to make all necessary surveys, examination, investigations, maps, plans and drawings with reference to the proposed improvements; he shall make an estimate or estimates of the cost of same, shall supervise the work of improvements, and shall do and perform all such duties as may be required of him by the commissioners; provided that if the river, creek, bay, stream, canal or waterway to be improved as navigable, or the improvements be of such nature as requires the permission or consent of the government of the United States or any department or officer of the United States, the navigation and canal commissioners shall be authorized to obtain the permission or consent of the government of the United States or any officer or department, and in lieu of the employment of an engineer as herein provided, or in addition thereto, the navigation and canal commissioners shall have the power to adopt any survey of the river, creek, canal, stream, bay or waterway theretofore made by the government of the United States or any department thereof, and to arrange for surveys, examinations and investigations of the proposed improvement and for the supervision of the work of improvement by the government of the United States or the proper department or officer thereof; provided that such commissioners shall have full power and authority to co-operate and act with the government of the United States or any officer or department thereof in any and all matters pertaining to or relating to the construction and maintenance of said canals, and the improvement and navigation of all such navigable rivers, bays, creeks, streams, canals, and waterways, whether by survey, work or expenditure of money made or to be made either by said navigation and canal commissioners, or by said government of the United States, or any proper officer or department thereof, or by both; and, to the end that the said Government of the United States may aid in all such matters, the said commissioners shall have authority to agree and consent to the said Government of the United States entering upon and taking management and control of said work, insofar as it may be necessary or permissible under the laws of the United States, and the regulations and orders of any department thereof.

Sec. 37. When any bonds have been voted, the board of navigation and canal commissioners of the district shall levy a tax upon all taxable property within such district, sufficient in amount to pay the interest of such bonds and to redeem and discharge the principal of such bonds at their maturity, and said board shall annually levy or cause to be assessed and collected upon all taxable property within said district, an amount sufficient to pay for the expense of assessing and collecting said tax.

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

Sec. 38. All bonds issued under the provisions of this Act shall be issued in the name of the navigation district, shall be signed by the chairman of the board of said navigation and canal commissioners of such district, shall be attested by its secretary, and the seal of the district shall be affixed to each bond. They shall be issued in such denominations and payable at such time or times, not exceeding forty years from their date, as may be deemed most expedient by said board of navigation and canal commissioners, and such bonds shall bear interest not to exceed six per centum (6%) per annum, payable annually or semi-annually.

Sec. 39. All district funds shall be handled by and under the orders of the board of navigation and canal commissioners upon warrants drawn therefor, and no warrant shall be paid unless signed by at least two of the members of the board.

Sec. 40. The funds of the district shall be kept in the district depository, which shall be designated at the time and in the manner and under the same regulations and laws as county depositories.

Sec. 41. Such districts shall have the right, power and authority to acquire, purchase, take over, construct, maintain, operate, develop and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, towing facilities, lands and all other facilities or aids incident to or necessary to the operation or development of ports or waterways within such districts.

Sec. 42. When the board of navigation and canal commissioners of any such district deems it for the best interest of the district to avail itself of the rights, powers and authority and benefits provided in the foregoing section, or if said board shall find that additional improvements are necessary for the navigation of or in aid of navigation of any river, creek, stream, bay, canal, or waterway in addition to the improvements originally planned or constructed as hereinabove provided, said board shall so find by an order entered in its minutes, and shall direct the district engineer to make an estimate showing the character and cost of such improvements.

Sec. 43. After entering its findings as provided in the preceding section, the board of navigation and canal commissioners shall publish a notice in some newspaper published within the district; if no newspaper be published in such district, then in the newspaper published nearest to such district once each week for three consecutive weeks, which notice shall contain a copy of the order making such findings, in which notice a time and place shall be designated for a hearing, and the board of navigation and canal commissioners shall hear evidence, and at such hearing any taxpayer of such district, or person interested, may present evidence, and such hearing may adjourn from day to day for a reasonable time so that all interested persons and taxpayers may be heard. After completing such hearing the board of navigation and canal commissioners shall enter its order making its findings as to whether such improvements and the construction of such facilities as provided in the preceding section be feasible and practicable, and whether benefits to the public will result therefrom, and if such findings be in the negative, no further action shall be taken under said notice and hearing, but if the board shall find that such improvements and the construction of such facilities would be a public benefit and are feasible and practicable, then said district may issue bonds for the purpose of paying for the improvements and facilities so found to be necessary and an election shall be held thereafter for the purpose of voting such bonds, and such bonds shall be issued as other bonds provided for herein, but such bonds shall not exceed the cost of such improvements as estimated by the engineer. The ballots at such election shall have printed thereon these words and none others: "For the issuance of bonds and levying of tax in payment thereof"; "Against the issuance of bonds and levying of tax in payment thereof".

Sec. 44. Only those who are qualified property taxpaying voters as

provided herein shall vote at such election, and the returns of such election shall be canvassed as provided elsewhere herein.

Sec. 45. If upon a canvass of the vote the board of navigation and canal commissioners shall determine that a majority of the votes cast at said election shall have been cast in favor of the issuance of bonds and the levying of tax, such board shall make an order directing the issuance of said bonds and levying of tax, and such bonds when so issued shall be issued in the name of the navigation district, shall be signed by the president of the board of navigation and canal commissioners and attested by its secretary, and the seal of such district shall be affixed to each bond, and they shall be issued in such denominations and payable at such time or times not exceeding forty years from their date, as may be deemed most expedient by said board, and shall bear interest not to exceed six per cent (6%) per annum, payable annually or semi-annually.

Sec. 46. Any navigation district in the State of Texas existing under the provisions of this Act desiring to issue bonds in accordance therewith, shall before such bonds are offered for sale, present to the Attorney General a copy of the bonds to be issued and a certified copy of all the minutes of the proceedings of said board pertaining to the issuance of such bonds, including also a copy of all notices of such hearing and of such election, together with a certified copy of the return of each such notice, and a certified copy of the order of said board levying the tax to pay interest and to retire such bonds at their maturity, and a statement of the total bonded indebtedness of such navigation district as such, including the series of bonds proposed and the assessed value of the property for the purpose of taxation, as shown by the last official assessment of the district, together with such other information as the Attorney General may require; whereupon it shall be the duty of the Attorney General to carefully examine said bonds in connection with the facts and the Constitution and laws on the subject of the execution of such bonds; and, if as a result of such examination the Attorney General shall find that such bonds were issued in conformity with the Constitution and laws, and that they are valid and binding obligations upon such navigation district by which they are issued, he shall so officially certify.

Sec. 47. When said bonds have been examined by the Attorney General and his certificate issued as provided in the preceding section, they shall be registered by the State Comptroller, in a book to be kept for that purpose; and the certificate of the Attorney General to the validity of such bonds shall be preserved of record for use in the event of litigation. Such bonds, after being approved by the Attorney General, and after having been registered in the Comptroller's office as herein provided, shall thereafter be held in every action, suit or proceeding in which their validity is or may be brought into question, prima facie valid and binding obligations. And, in every action brought to enforce collection of said bonds or interest thereon, the certificate of the Attorney General, or a duly certified copy thereof, shall be admitted and received as prima facie evidence of the validity of such bonds, together with the coupons thereto attached; provided, that the only defense that can be offered against the validity of said bonds or coupons be forgery or fraud.

Sec. 48. When bonds shall have been issued under the provisions of this Act, the navigation board of said district shall procure and deliver to the secretary of such district a well bound book in which a record shall be kept of all such bonds, with their numbers, amount, rate of interest, date of issuance, when due, where payable, amount received for same, the tax levy to pay interest on and to provide sinking funds for their payment, and said book shall at all times be open to the inspection of the parties interested in said district, either as taxpayers, or bondholders or otherwise; and upon payment of any bond, an entry thereof shall be made in said book.

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

Sec. 49. When such bonds have been registered as provided in the preceding section of this Act, the chairman of the navigation and canal commissioners of the district shall offer for sale and sell said bonds on the best terms and for the best price possible, but none of said bonds shall be sold for less than ninety per cent (90%) of the face par value thereof and accrued interest thereon; and, as fast as said bonds are sold, all moneys received therefor shall be paid to the district depository for the credit of such navigation district.

Sec. 50. All expenses of any kind, after the filing of the original petition for the creation of such district, necessarily incurred in connection with the creation, establishment and maintenance of any navigation district organized under the provisions of this section, shall be paid out of the "Construction and Maintenance Fund" of such navigation district; which fund shall consist of all moneys received from the sale of bonds and all other amounts received by said district from whatever source, except the tax or other collections applied to the sinking fund and payment of interest on the bonds of the district; provided, that should the proposition of the creation of such navigation district and the issuance of bonds be defeated at the election called to vote upon the same then all expenses up to and including said election shall be paid in the following manner; when the original petition praying for the establishment of a navigation district is filed with the County Commissioners' Court it shall be accompanied by Five Hundred Dollars (\$500.00) in cash, which shall be deposited with the clerk of said county Commissioners' Court and by him held until after the result of the election for the creation of said navigation district has been declared and entered of record by the Commissioners' Court; and should the result of said election be in favor of the establishment of said district, then the Five Hundred Dollars (\$500.00) shall be by said clerk returned to the signers of said original petition or their agent or attorney; but should the result of said election be against the establishment of said district, then the said clerk shall pay out of the Five Hundred Dollars (\$500.00), upon vouchers signed by the county judge, all costs and expenses pertaining to the said proposed district up to and including said election, and shall return the balance, if any, of said Five Hundred Dollars (\$500.00) to the signers of said original petition, or their agent or attorney.

Sec. 51. Whenever such navigation district bonds shall have been voted, the board of navigation and canal commissioners of such district shall levy and cause to be assessed and collected improvement taxes upon all taxable property within said navigation district, whether real, personal, mixed or otherwise, and sufficient in amount to pay the interest on such bonds, together with an additional amount to be used to discharge and redeem said bonds at their maturity, and in all such navigation districts which have heretofore been created or may hereafter be created, the board of navigation and canal commissioners shall be and are hereby authorized to levy and cause to be assessed and collected for the maintenance, operation and upkeep of such navigation district and the improvements constructed by said district, an annual tax not to exceed ten cents on the One Hundred Dollar (\$100.00) valuation upon all taxable property within such navigation district, whether real, personal, mixed or otherwise; provided, however, that the interest on said bonds may be paid and said bonds retired, and all costs for the maintenance, operation and upkeep of such navigation district and improvements constructed by such district may be retired and paid by means of tolls, rents, fees, or other charges other than by taxation, or by assessments made upon said properties in such district, upon the basis of benefits derived by such properties, in the manner hereinafter set out.

Sec. 52. The entire cost of making such improvement or improvements as hereinbefore provided, and such bonds, notes, debentures or oth-

er evidences of debt as may be issued by the district for such improvements, together with interest thereon, may be paid by assessments against the property within such district, which assessments shall be equitably distributed and may be fixed in the manner hereinafter set out.

Sec. 53. In the event the board of navigation and canal commissioners shall decide to retire such bonds and other evidences of debt by means of assessments against the property within such district, equitably distributed, said board shall so find by an order entered on the minutes of its proceedings, and shall thereafter cause to be published in some newspaper within said district, or if no newspaper be published in such district, then in the newspaper published nearest to such district, a general notice once each week for three consecutive weeks, which notice shall contain a copy of such order, and which notice shall fix a certain date for a hearing at which all property owners and persons interested in such district and in such improvements shall have the right to appear and contest such assessments and offer evidence before the board of navigation and canal commissioners for or against such assessments. All protests, contests and objections at such hearing shall be in writing and the board of navigation and canal commissioners shall have the right, and it shall be their duty, to summon witnesses when requested to do so, and take testimony with reference thereto. Said hearing may be adjourned from day to day until full opportunity has been had for all proponents or contestants of such assessments to present evidence.

Sec. 54. After such hearing the board of navigation and canal commissioners shall enter its findings, and if such findings be against the proposition of such assessments, then no further action shall be taken in the matter; but if such findings shall be in favor of levying assessments as hereinabove provided, then the board of navigation and canal commissioners shall so find and shall direct the tax assessor and collector of the district to make up a roll of all the taxable property in such district, as in the case of assessment of ad valorem taxes, in which he shall make an assessment in the proportion of cost to be borne by each item of property on the tax rolls, basing such proportion of cost upon benefits to be derived from such improvements by such property and the owner thereof, and when such rolls shall have been completed, same shall be submitted to the board of equalization appointed as hereinbefore provided, and such board of equalization shall sit and act in all respects as when sitting as a board of equalization for the equalizing of the bond taxes hereinbefore provided, and notice shall be given of such hearing by publication thereof once each week for three consecutive weeks in some newspaper published in such district, or if no newspaper be published therein, then in the newspaper published nearest to such district, and the owners of property shall have the same opportunity to present evidence as in hearings before the board of equalization for equalizing bond taxes; and all interested persons shall have an opportunity to appear and present evidence as to the benefits or lack of benefits to property in which they are interested; and after all hearings have been completed, the Board of Equalization shall report its findings to the board of navigation and canal commissioners for its acceptance or disapproval; and said board of navigation and canal commissioners in the event of a refusal to approve such rolls, shall itself hold hearings on all items not approved, precisely as herein provided for the board of equalization; provided, that the findings of said board of equalization as approved and the approval of the rolls as finally fixed by said board of equalization, shall be conclusive, except in cases of fraud or the failure to equitably distribute such assessments.

Sec. 55. Such assessments when so fixed shall be personal obligations of the property owners against whom such assessments are made, and the district shall have a lien against such taxable property so assessed.

Sec. 56. Such assessments shall be paid to the tax collector and shall by him be kept in a separate fund to be known as the "Assessment Fund".

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

Payments out of said fund shall be made to retire such bonds, notes, debentures or other evidences of debt of the district, upon vouchers drawn by such navigation and canal commissioners upon the maturity of such indebtedness each year, together with interest thereon, which vouchers shall be signed by at least two (2) members of the board of navigation and canal commissioners.

Sec. 57. Not later than August 1st of each year the tax assessor and collector of the district shall make up a delinquent roll showing all delinquencies in the payment of such assessments, and shall post the same in the office of the district for at least twenty (20) days, after which time the attorney for the district shall be authorized to make collections by filing suit in any court having jurisdiction, and ten per cent (10%) on the amount of principal and interest due at the time of filing such suit shall accrue against such property owner and shall be charged as costs of court, as attorney's or collection fee, and shall be collectible against said property owners and said property from and after the date of the filing of such suit; such suit shall be filed and prosecuted in all respects as tax suits for the collection of State and County taxes, except that the attorney for the district shall file and prosecute such suits instead of the County Attorney or other public official.

Sec. 58. No error, mistake or formality in the assessment hereinabove provided, or in any other step or proceeding prerequisite to such assessment shall invalidate the same, but the board of navigation and canal commissioners shall at all times have power and authority to correct same. No error or mistake in describing any parcel or item of property, or the name of any owner thereof shall invalidate the assessment, but it shall have full force and be in effect against said premises and the real and true owner thereof.

Whenever in the opinion of the board of navigation and canal commissioners any error, mistake or invalidity exists in any proceeding with reference to said improvements or assessments, it shall correct said error, mistake or invalidity, and re-assess said property and the owners thereof with reference to which same exists. Such re-assessments shall be made after notice and hearing as herein provided for the making of original assessments, but in making such re-assessments the board of navigation and canal commissioners shall take into consideration any enhancement in value of the property assessed, or depreciation thereof, and shall in all respects make such re-assessment on a basis of equalization and the equitable distribution of benefits to such property with respect to all other property within the district.

No such re-assessment shall be made later than three (3) years from the date of the original assessment, except in cases of fraud or of undisclosed ownership of property.

Sec. 59. The board of navigation and canal commissioners shall have power to adopt all necessary rules, regulations and orders not inconsistent with the provisions of this Act, for the purpose of carrying into effect every part hereof pertaining to such assessments, re-assessments and the collection thereof.

Sec. 60. In the event of suit to enforce the collection of such assessment, it shall not be necessary to specifically plead and prove the orders, notices, rules, regulations, etc., of the board of navigation and canal commissioners pertaining to such assessments or re-assessments, but it shall be sufficient that the petition or other pleading allege that the proceedings with reference to the making of such improvements and of such assessments or re-assessments have been regularly had in compliance with the law, and that all prerequisites to the fixing of the assessment lien upon the property assessed and the personal liability of the owner have been performed.

Sec. 61. Any property owner against whom or whose property an assessment or re-assessment has been made, shall have the right, within twenty (20) days thereafter, to bring suit in any court having jurisdiction, to set aside or correct the same or any proceedings with reference thereto on account of any error or invalidity therein, and the cost thereof shall be borne by the loser of such litigation, and after such twenty (20) day period shall have expired, no owner, his heirs, assigns or successors shall have such right of action or any defense of invalidity or assessments or re-assessments in any action in which same may be brought in question, except in cases of fraud.

Sec. 62. In the event of the sale of any property by virtue of any judgment entered in favor of the district on any delinquent assessment or re-assessment, the district shall have the right to become the purchaser thereof, being the best bidder.

Sec. 63. The right of eminent domain is hereby conferred upon all navigation districts established or validated under the provisions of this chapter for the purpose of condemning and acquiring the right of way over and through any and all lands, private or public, except property used for cemetery purposes, necessary for the improvement of any river, bay, creek, or arm of the Gulf of Mexico in the Construction and Maintenance of any canal or waterway, and for any and all purposes authorized by this Act. All such condemnation proceedings shall be instituted under the direction of the navigation and canal commissioners, and in the name of the navigation district, and the assessing of damages shall be in conformity with the statutes of the State of Texas for condemning and acquiring rights of way by railroads; provided, that no appeal from the finding and assessment of damages by the commissioners appointed for that purpose shall have the effect of causing a suspension of work by the navigation and canal commissioners in prosecuting the work of improvement in all of its details; provided, that no right of way can be condemned through any part of an incorporated city or town without the consent of the lawful authorities of such city or town.

Sec. 64. The navigation and canal commissioners of any district are hereby empowered to acquire the necessary right of way and property of any kind for all necessary improvements contemplated by this Act by gift, purchase or condemnation proceedings.

Sec. 65. The navigation and canal commissioners of any district, and the engineers thereof, from the time of their appointment, are hereby authorized to go upon any lands lying within said district for the purpose of examining the same, making plans, surveys, maps and profiles, together with all necessary teams, help, tools, instruments, machinery and implements necessary therefor, without subjecting themselves to action of trespass.

Sec. 66. If the improvement or improvements be not carried out and performed by the Government of the United States as herein provided, the contract or contracts for such improvement or improvements shall be let by the navigation and canal commissioners, and the same shall be awarded to the lowest and best responsible bidder, after giving notice by advertising the same in one or more newspapers of general circulation in the State of Texas once a week for four consecutive weeks, and by posting notice for at least thirty (30) days in five (5) public places in the county of jurisdiction, one of which shall be at the courthouse door, and at least two (2) of which shall be within said district. Nothing herein contained shall prevent the making of more than one improvement, and where more than one improvement is to be made, the contract may be let separately for each one contract for all such improvements.

Sec. 67. Any person, corporation, or firm, desiring to bid on the construction of any work advertised for as provided under the preceding section of this Act, shall, upon application to the navigation and canal commissioners, be furnished at actual cost the survey, plans and estimates

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for the said work, and all bids or offers for any such work shall be in writing and sealed and delivered to the chairman of the navigation and canal commissioners, together with a certified check for at least five per cent (5%) of the total amount of bid, which shall be forfeited to the district in case the bidder refuses to enter into a proper contract, and give a proper bond, if his bid is accepted. Any and all bids may be rejected at the discretion of the navigation and canal commissioners.

Sec. 68. All contracts made by the navigation and canal commissioners shall be reduced to writing and signed by the contractors and navigation and canal commissioners, or any two of said commissioners, and a copy of same filed with the county clerk for reference.

Sec. 69. The party, firm or corporation, to whom any such contract is let, shall give adequate bond, payable to the navigation and canal commissioners for said district, in the amount of the contract price, conditioned that he, they or it, will faithfully perform the obligations, agreements and covenants of their contract, and that in default thereof will pay to said district all damages sustained by reason thereof. Said bond shall be approved by such navigation and canal commissioners.

Sec. 70. All work contracted for the navigation and canal commissioners, unless done under the supervision of the Government of the United States, or the proper department or officer thereof, shall be done under the supervision of the district engineer; and, when the work is completed according to contract, the engineer shall make a detailed report of the same to the navigation and canal commissioners, showing whether the contract has been fully complied with, according to its terms, and if not on what particular it has not been complied with.

Sec. 71. The navigation and canal commissioners shall have the right, and it is hereby made their duty, during the progress of the work being done under contract, to inspect the same; and upon the completion of any contract, they shall draw a warrant on the depository of the district for the amount of the contract price in favor of the contractor or his assignee, which warrant shall be paid out of the construction and maintenance fund of such district; provided, that, if the navigation and canal commissioners shall deem it advisable, they may contract for the work to be paid for in partial payments as the work progresses; but such partial payments shall not exceed in the aggregate eighty per cent (80%) of the contract price of the total amount of work done under the contract, the amount of work completed to be shown by a certificate of the engineer; and provided, further, that nothing in this Section shall affect the provisions of this Act providing for the carrying out and performing of the improvement or improvements by the Government of the United States.

Sec. 72. The navigation and canal commissioners shall make an annual report of their acts and doings as such commissioners, and file the same with the clerk of the County Court on or before the first day of January of each year; which report shall show in detail the kind, character and amount of work done in the district, the cost of same, and the amount paid out on order, for what purpose paid, and other data necessary to show the condition of improvements made under the provisions of this Act.

Sec. 73. The navigation and canal commissioners are hereby authorized and empowered to employ such assistant engineers and other employees as may be necessary, paying such compensation as they may determine; and the said commissioners are authorized to employ counsel to represent such district in the preparation of any contract, or the conducting of any proceeding in or out of court, and to be the legal advisor of the navigation and canal commissioners on such terms and for such fees as may be agreed upon by them; and such commissioners shall have the authority to draw warrant or warrants in payment of such legal services, and for the salary of the engineer, his assistant, or any other employees, and for all expenses incident and pertaining to the navigation district.

Sec. 74. The members of the navigation board or engineer shall not be directly or indirectly interested for themselves, or as agents for any one else, in the contract for the construction of any work to be performed by such navigation district.

Sec. 75. All navigation districts established under this Act may, by and through the navigation and canal commissioners, sue and be sued in all courts of this State in the name of such navigation district, and all courts of this State shall take judicial notice of the establishment of all districts.

Sec. 76. All navigation districts provided for in this Chapter and operating hereunder are hereby granted the right, power and authority to acquire, purchase, take over, construct, maintain, operate, develop and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, lands, towing facilities, and all other facilities or aids incident to or necessary to the operation or development of ports or waterways, within the district and extending to the Gulf of Mexico.

Sec. 77. Such districts shall have all the rights, power and authority herein granted, subject to the provisions of this law, and shall have all the authority granted by General or Special Law to navigation districts, and shall also have the fullest powers consistent with the State Constitution for the regulation of wharfage and of all facilities of or pertaining to ports and waterways within such navigation district, and shall have the right to assess and collect charges for the use of all facilities acquired or constructed in accordance with the provisions hereof, and to apply all amounts so collected to the maintenance and operation of the business of such districts and for the purpose of making themselves self-supporting and financially solvent and retiring the construction cost of their improvements within a reasonable period.

Sec. 78. Such districts shall have the right, power and authority to own lands adjacent or accessible to the navigable waters developed by them, and may lease same to any individual or corporation and charge therefor reasonable tolls, fees or other charges, and use such proceeds both for the maintenance and operation of the business of such districts and for the purpose of making themselves self-supporting and financially solvent and returning the construction cost of their improvements within a reasonable period.

Sec. 79. Such districts shall have the power to grant franchises and to charge fees therefor to persons or corporations on property owned or controlled by such districts, provided said franchises are granted for purposes consistent with the provisions of this Chapter; but no franchise shall be granted for a longer period than thirty (30) years, nor shall any franchise be granted except upon the affirmative vote of a majority of the navigation and canal commissioners at three separate meetings of such board, such meetings to be at least one week apart, and no franchise shall be granted until after the same as finally proposed to be passed shall be published at the expense of the applicant, in full, once a week for three consecutive weeks in some newspaper published within such district. Said franchise shall require the grantee therein to file his, its or their written acceptance within thirty (30) days from the time of the final passage of such franchise. Nothing herein shall be construed as preventing said navigation district from granting revocable licenses or permits for the use of limited portions of water front or facilities for the purposes consistent with the provisions of this Chapter. All fees so charged may be used for the maintenance and operation of such districts and to pay interest on bonds or other securities issued by the district for the construction of its improvements and to retire same at their maturity.

Sec. 80. Such navigation and canal commissioners may employ such persons as they may deem necessary for the construction, maintenance,

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operation and development of the navigation district, its business and facilities, prescribe their duties, and fix their compensation.

Sec. 81. Nothing herein shall repeal or affect the police powers of any municipality within the navigation district, or any law, ordinance or regulation authorizing and empowering such municipality to exercise such powers as to any navigable stream or aids to navigation and facilities therefor, in a navigation district, not in conflict with this Chapter; and such districts may also appoint peace officers to protect life and property within the district and the property of the district itself. Such officers shall have the same rights, powers and authority as policemen of a city or town.

Sec. 82. The navigation and canal commissioners of any district operating hereunder shall have all the rights, powers and duties provided for navigation and canal commissioners in Articles 8248 to 8257 inclusive, and said Articles shall apply fully and completely to all districts operating hereunder.

Sec. 83. Such districts are authorized to borrow money from the Reconstruction Finance Corporation at not exceeding eight per cent (8%) interest, for all legal purposes which they are authorized to effectuate, and may pledge therefor any authorized and unsold bonds or other securities in such amounts as may be reasonably necessary to secure such loans; provided, that neither the bonds nor the warrants of such district shall ever be sold for less than ninety per cent (90%) of the par value thereof and accrued interest thereon.

Sec. 84. A complete book of all accounts and records shall be kept by the district and annually in January of each year the County Auditor shall be employed to make a complete audit of such books and records and make a report thereon.

Sec. 85. The report of such auditor shall be in triplicate, one copy to be filed in the office of the district, one with the depository of the district, and one copy at the office of the County Auditor.

Sec. 86. Such districts may retire the original cost of construction of their improvements, or pay for such cost of construction, by borrowing money and pledging and mortgaging therefor all lands, wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, towing facilities and all other facilities or aids incident or necessary to the operation or development of ports or waterways of the district, and may issue their debentures or other evidences of debt secured by such mortgage, for such length of time, and at such rate of interest not to exceed eight per cent (8%) per annum as may be necessary, and may also secure such debentures, notes or other evidences of debt so issued, by the bonds of the district.

Sec. 87. Such debentures, notes or other evidences of debt may be retired by rents, tolls, fees or other charges other than by taxation, and by means of assessments against the taxable properties of the district equitably distributed on a basis of benefits derived by such properties from the district's improvements.

Sec. 88. All navigation districts heretofore created, organized, operating or doing business under the provisions of Chapter 5 of the Acts of the 39th Legislature, or of any local or special law, and purporting to come within the provisions of Section 59 of Article 16 of the State Constitution, are hereby legalized, approved and validated, and all orders, notices or other proceedings and Commissioners' Court of any county, or the board of navigation and canal commissioners of any such district, for the establishment of such district, or for the voting or issuing of any bonds, and all minutes of proceedings of such Commissioners' Court or board of navigation and canal commissioners as the case may be, pertaining to the establishment of such district or the voting or issuing of any bonds, whether by districts operating under the general provisions of said Chapter 5 of the

Acts of the 39th Legislature, or of any local or special law, and purporting to act under the provisions of Section 59 of Article 16 of the State Constitution, are hereby legalized, approved and validated, and certified copies thereof may be offered in evidence in any legal proceeding, whether in courts or otherwise, and all bonds heretofore executed under and by virtue of such orders by any such navigation and canal commissioners, or by the Commissioners' Court of any county for such navigation district, are hereby legalized, approved and validated as to form and substance, and such districts are hereby fully authorized and empowered to issue and sell such bonds at not less than ninety per cent (90%) of the face value thereof and accrued interest and to use the proceeds of such bonds for the purposes for which such bonds were voted, and said bonds as and when issued and sold at any time, or from time to time, shall be and are hereby declared to be the legal, valid and binding obligation of such districts, and the board of navigation and canal commissioners thereof are hereby fully authorized and empowered to pay off and discharge such bonds by any or all of the methods for retiring the cost of construction of their improvements provided in this Chapter.

Sec. 89. Candidates for navigation and canal commissioners must make application to the secretary to have their name printed on the ballot at least twenty (20) clear days before the date of such election; provided, that such names may also be placed thereon by petition of twenty (20) or more qualified voters of the district.

Sec. 90. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article 16 of the Constitution of Texas, and declares that all navigation districts created or validated hereunder are essential to the accomplishment of said constitutional provisions and declares them to be governmental agencies and bodies politic and corporate with such powers of government and with authority to exercise such rights, privileges and functions as are conferred in this Act and by said Constitutional provision.

Sec. 91. This Act is declared to be cumulative of all other Acts now in force as to Navigation Districts hereinafter to be organized; and in order to come within the purview of this Act, the petition for the organizing of such districts hereafter to be organized, shall state that it is the intention of the petitioners to organize same under and by virtue of this Act. In the event it is desired to organize under the provisions of Chapter 5 of the Acts of the 39th Legislature and Acts amendatory thereof, then such petition shall so state, and the provisions of this Act shall not apply to such district.

Sec. 92. If any provision of this Act shall be held to be invalid, it is hereby declared to be the intention of the Legislature that all other provisions of this Act shall remain in force and effect.

Sec. 93. Any navigation district organized under the provisions of Section 59 of Article 16 or of Section 52 of Article 3, of the Constitution, and not originally coming within the scope hereof, may avail itself of the provisions of this Act to become self-liquidating in character and to be made self-supporting and return the construction cost of its improvements within a reasonable period by means of tolls, rents, fees, assessments, or other charges other than by taxation, in the manner following:

The Board of Navigation and Canal Commissioners of such district shall adopt a resolution declaring that in their judgment it is for the best interests of such district and will be a benefit to the lands and property included in such district, to avail itself of the provisions of this Act providing for such districts to become self-liquidating in character and to make themselves self-supporting and return the construction cost within a reasonable period by means of tolls, rents, fees, assessments, or other charges other than by taxation, and shall designate in such resolution the sections of this Act of which such district wishes to avail itself. Such resolution shall be entered in the minutes of proceedings of said Board

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and notice thereof shall be given by publication in a newspaper having general circulation in the county or counties in which the district is situated. Such notice shall be published once each week for two consecutive weeks, and the first publication must appear not less than fourteen full days prior to the time set down for hearing. Said notice shall state the time and place of the hearing and shall set out said resolution in full; it shall notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution. Such hearing may be adjourned from day to day until all interested persons shall have had an opportunity to appear and present testimony. If upon hearing the Board of Navigation and Canal Commissioners shall find that it will be for the best interests of the district to avail itself of the provisions set out in said resolution and would be a benefit to the lands and property situated in said district, then, and in that event, said Board of Navigation and Canal Commissioners shall enter their order so finding. If they find it would not be for the best interests of the district and would not be a benefit to the lands and property situated in the district, they shall so find and enter their order to that effect. The adverse findings of said Board of Navigation and Canal Commissioners shall be final and not subject to appeal or review, and if such finding shall be favorable to the resolution, then said Board of Navigation and Canal Commissioners shall have the same right, power and authority to act under the provisions of this Act so adopted by such resolution as if such district had originally come within the purview of the Act itself. [Acts 1932, 42nd Leg., 3rd C. S., p. 63, ch. 27.]

[Art. 8263f. Validation of navigation districts created by Commissioners' Court]

Sec. 1. That whenever the county commissioners' court of any county shall have caused to be described upon its records any defined portion of contiguous territory located wholly or in part within said county, for the improvement of rivers, bays, creeks, streams, and canals within or adjacent to such districts, and the construction and maintenance of canals and waterways to permit of navigation, or in aid thereof, under authority of Article 3, Section 52 of the Constitution of this State and such district so created has been thereafter converted into a navigation district under Article 16, Section 59, of the Constitution and in accordance with Section 1, Chapter 103, Acts of the 41st Legislature, First Called Session, 1929, each such defined portion of contiguous territory is hereby recognized as a legal body politic and corporate of this state and as a navigation district for such purposes, under authority of Section 52, of Article 3, of the Constitution of Texas, and as the creation of each such navigation district is hereby validated and legalized, and the conversion thereof into navigation districts under Article 16, Section 59 of the Constitution of Texas, as hereinbefore set forth, is hereby validated and legalized.

Sec. 2. That the boundaries of each such navigation district are hereby designated as the same are described by metes and bounds upon the minutes or records of the county commissioners' court of any county wherein a navigation district has been heretofore established pursuant to any general or special law, and such boundaries are hereby designated as the same appear upon said record books of the county commissioners' courts of the several counties in the State of Texas, and upon certified copies of such records on file in the office of the State Comptroller of Public Accounts, and with like effect as though the metes and bounds description of each such navigation district were here severally set out at large.

Sec. 3. That where a two-thirds majority of the resident property taxpayers voting thereon voted in favor of the creation of any such navi-

gation district and the issuance of bonds and levy of a tax upon the taxable properties therein for the purpose of paying interest on said bonds and providing a sinking fund for the redemption thereof, for navigation district purposes, the canvass of said vote, revealing such majority, having been recorded in the minutes of said county commissioners' court, and where thereafter the county commissioners' court of such county, pursuant to authority conferred by the navigation and canal commissioners, by order adopted and recorded in its minutes, authorized the issuance of navigation bonds for such district in the amount so certified by the navigation and canal commissioners, and prescribed the date and maturity thereof and rate of interest the bonds were to bear, the place of payment of principal and interest, and provided for the levy of a tax on the valuation of taxable property in such navigation district according to the value thereof as fixed for state and county purposes, sufficient to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity, and said bonds were sold and delivered and the proceeds received by the County Treasurer of said county for the credit of such navigation district, each such election and all acts and proceedings had and taken in connection therewith by such county commissioners' court in respect of the establishment of such navigation district and the issuance of such bonds, levy of taxes, and construction of improvements, are hereby legalized, approved and validated.

Sec. 4. That taxes sufficient to pay the principal of and interest on said bonds, so levied for such purposes upon the valuation of taxable property in such navigation district, according to the value of taxable property as determined for state and county purposes, are hereby found and fixed as the amount to be raised in such navigation district, and constitute the basis for such taxation, and the assessment and levy of such taxes is hereby validated and legalized; and that said taxes in an amount sufficient to pay the principal of and interest on said bonds now outstanding shall be annually assessed and collected according to the value of taxable property as fixed for state and county taxes by the county commissioners' court of each such county, and express authority so to do is hereby delegated and granted to such commissioners' courts; and it is hereby found and determined that all lands within such navigation districts have been and/or will be benefited by reason of the creation of such districts and the construction of the improvements. [Acts 1933, 43rd Leg., 1st C. S., p. 217, ch. 81.]

SUPPLEMENT

TO THE

PENAL CODE

TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY, AND REVENUE

[Art. 107a. Information by Clerk of Court to State Comptroller as to estate for inheritance taxes]

[Sub] Sec. 9. Within ten (10) days after a will shall have been filed for probate, it shall be the duty of the Clerk of the Court in which same is filed to give written notice thereof to the State Comptroller, setting forth in such notice the name of the testator, his residence at the date of his death, the names and addresses of the executors, administrators or trustees, the location of said estate, the name and address, and relation to the testator, of each devisee, legatee and beneficiary under said will, and the appropriate value of the share of each, and said Clerk shall also give to the State Comptroller any other information which that official may call for in reference to any such estate or will, such information to be furnished within ten (10) days after being called for, such reports and information being for the purpose of enabling the State Comptroller to determine whether an inheritance tax is due and, if so, the amount thereof. If any County or Probate clerk shall fail or refuse to comply with any of the provisions or requirements of this Section, he shall be guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than Fifty (\$50.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars. [Acts 1933, 43rd Leg., p. 581, ch. 192, § 2b.]

Section 1 of the act cited to the text being a civil provision is published as Revised Civil St. art. 7076. Section 2 is published as art. 7076a, Section 2b, subsecs. 1-8, 10-12, 14-16, as art. 7144a, subsec. 13 as Penal Code art. 107b, subsec. 17 as art. 7142, subsec. 13 repeals art. 7140, subsec. 19 amends art. 7141 and subsec. 20 as art. 7122.

[Art. 107b. Filing inheritance tax reports with State Comptroller]

[Sub] Sec. 13. If any person, whose duty it is under the law to file inheritance tax reports in this State, shall fail to file with the State Comptroller the report provided for by this Act, stating the value at which any estate has been assessed by the Federal Government, he shall be guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than Twenty-five (\$25.00) Dollars nor more than Five Hundred (\$500.00) Dollars; but it shall be a defense to said prosecution if the offending party shows that his failure was not wilful and that he had good cause for failing in such duty. The State Comptroller is authorized and directed to confer quarterly with the Department of Internal Revenue of the United States to ascertain the value of estates in Texas which have been assessed or valued for taxes by the Federal Government, and he shall cooperate with said Department of Internal Revenue, furnishing to said Department all available information concerning estates of decedents in Texas which said Department may request. [Acts 1933, 43rd Leg., p. 581, ch. 192, § 2b.]

See art. 107a.

[Art. 107c. Misappropriating or making false reports concerning state relief funds]

Sec. 20. Any person or persons charged with the duty or responsibility of administering, disbursing, auditing, or otherwise handling the relief funds provided for in this Act, and who shall misappropriate any such relief funds or who shall knowingly make false reports concerning same or who shall by collusion or fraud with any other person wrongfully distribute the funds provided for in this Act, shall be deemed guilty of a felony and shall, upon conviction, be confined in the State Penitentiary for a term of not less than one year nor more than five years.

[Misrepresentations to procure state relief funds]

Sec. 21. Any person or persons who shall knowingly make any false statement or misrepresentation in order to procure any sum or sums of money provided for in this Act as relief funds, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than Ten (\$10.00) Dollars nor more than Fifty (\$50.00) Dollars, or by a jail sentence of not exceeding three months, or by both such fine and jail sentence. [Acts 1933, 43rd Leg., 1st C. S., p. 118, ch. 37.]

Sections 1-10, 12-19 of Acts 1933, 43rd as Revised Civil Statutes, art. 842b; section Leg., 1st C. S., p. 118, ch. 37 are published 11 as art. 5190a.

[Art. 131b. Repealed by Acts 1933, 43rd Leg., p. 383, ch. 153, § 22; Acts 1933, 43rd Leg., 1st C. S., p. 234, ch. 90, § 22]

Prior to its repeal this art. was Acts 1931, 42nd Leg., p. 111, ch. 73, §§ 14, 15.

See note to art. 131cc.

[Art. 131c. Repealed and reenacted by Acts 1933, 43rd Leg., 1st C. S., p. 234, ch. 90, § 1. For reenacted article, see Art. 131cc, following]

Prior to its repeal this article was Acts 1933, 43rd Leg., p. 383, ch. 153, §§ 11-25.

See note to art. 131a.

[Art. 131cc. Sale of cigarettes; counterfeiting stamps]

Sec. 11. Any person other than the Treasurer or his duly authorized agent who shall print or engrave or directly aid in or cause the printing or engraving of any stamps evidencing or purporting to evidence the payment of any tax levied by this Act, or who shall use or consent to the use of any counterfeit or unauthorized stamp or stamps in connection with the sale or offering for sale of any cigarettes; or shall place or cause to be placed on any individual package of cigarettes any such unauthorized or counterfeit stamps shall, upon conviction, be punished by imprisonment in the penitentiary not less than two (2) nor more than twenty (20) years.

[Venue]

Sec. 12. Venue of a prosecution under the preceding Section shall be in Travis County, Texas.

[Certain acts unlawful]

Sec. 13. It shall be unlawful for any person:

(a) To sell or offer for sale or possess for the purpose of sale at wholesale or at retail any cigarettes without first having procured a permit as a wholesale or a retail dealer, accordingly as the case may be; provided, nevertheless, that in the case of purchases of stocks in bulk, the purchaser may operate under the permit of the seller for ten (10) days, pending the application for and the granting of a permit to such buyer, and that in case of the dissolution of a partnership by death, the

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surviving partner may operate under the permit of the partnership until the time of its expiration, and the heirs, legal representatives of deceased persons and receivers and trustees in bankruptcy appointed by a competent authority, may operate under the permit of the person, firm, corporation or association of persons so succeeded in possession by such heir, representative, receiver or trustee in bankruptcy.

(b) To sell, offer for sale or possess for the purpose of sale, except as a licensed wholesale dealer engaged in interstate commerce as to cigarettes sold in interstate commerce, any cigarettes without the stamp or stamps herein provided for first being affixed as herein provided.

(c) To attach to any individual package of cigarettes any stamp that has been theretofore attached to a different individual package of cigarettes.

(d) To refuse to allow, on demand, the Comptroller to make a full inspection of any place of business where cigarettes are sold or in any other wise to hinder or prevent such inspection.

(e) To use any artful device or deceptive practice to conceal any violation of this Act or to mislead the said Comptroller in the enforcement of this Act.

(f) For any retail dealer to have in his possession in any place of business any cigarettes, unless the same shall have the proper stamps attached.

(g) For any wholesale dealer and/or retail dealer or his agents or employees to fail to produce on demand of the said Comptroller all invoices of all cigarettes and/or stamps bought by him or received in his place of business within two (2) years prior to said demand.

(h) For any person to make, use or present or exhibit to the Comptroller any invoice of cigarettes which bears an untrue date or falsely states the nature or quantity of the goods therein invoiced.

(i) For any wholesale dealer or retail dealer to fail or refuse to keep and preserve for the time and in the manner required herein all of the records required by this Act to be kept and preserved.

(j) For any person other than a common carrier to transport any package or packages of cigarettes on which there is required by this Act to be affixed the State revenue stamp which does not have the said stamp securely attached to such individual package of cigarettes.

(k) For any wholesale or retail dealer to fail or refuse to publicly display his permit in his place of business so that it may be easily seen by the public.

(l) Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be punished by fine not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00), by confinement in jail not exceeding six (6) months or by both such fine and imprisonment.

All agents, employees and others who aid, abet or otherwise participate in any wise in the violation of this Act or in any of the offenses hereunder punishable shall be guilty and punishable as principals to the same extent as any wholesale dealer or retail dealer violating the Act might be.

[Transportation without payment of tax; seizure and forfeiture of vehicle or vessel]

Sec. 14. (a) The transportation, carriage, or movement from point to point in this State by any automobile, truck, boat, conveyance, vehicle or other means of transportation of any cigarettes on which the tax is levied by this Act, upon which cigarettes the tax as levied by this Act has not been paid, is hereby prohibited, and the said automobile, truck, boat, conveyance, vehicle or other means of transportation so transporting any said cigarettes shall be subject to seizure by the Comptroller and forfeiture and sale in the manner provided for in this Section.

(b) The Comptroller is hereby authorized by an action against the owner or operator of any automobile, truck, boat, conveyance, vehicle or other means of transportation of any cigarettes on which a tax is levied by this Act and on which said tax has not been paid in the manner provided in this Act, demanding the forfeiture and sale of the said automobile, truck, boat, conveyance, vehicle or other means of transportation used in the said illegal transportation and in violation of this Act. Said cause may be tried at any time after two (2) days' notice of the filing thereof served upon the owner or operator of said vehicle.

(c) In all cases where it is made to appear by affidavit, that the residence of the owner of the said automobile, truck, boat, conveyance, vehicle or other means of transportation is out of the State, or is unknown to the Comptroller, the Court having jurisdiction of the proceeding shall appoint an attorney at law to represent the said absent owner, against whom the said cause shall be tried within ten (10) days after the filing of the same. The said affidavit may be made by the Comptroller or one of his assistants or by the attorney representing the Comptroller, if it be not convenient to obtain the affidavit from the Comptroller. The attorney so appointed to represent the absent owner may waive service and notice of the filing of said cause, but shall not waive any legal defense.

If upon the trial of the said proceeding, it is established by satisfactory proof that the said automobile, truck, boat, conveyance, vehicle or other means of transportation has been used to transport any cigarettes on which a tax is levied by this Act and upon which said tax has not been paid in the manner provided in this Act, then the Court shall render judgment accordingly, declaring the forfeiture of said automobile, truck, boat, conveyance, vehicle or other means of transportation, and ordering the sale thereof after ten (10) days notice by advertisement in the English language in any newspaper published in the county where the seizure is made, by the sheriff of the county in which the seizure herein provided for is made, at public auction at the courthouse to the highest bidder for cash and without appraisal; it being the intent and purpose of these proceedings to afford the owner of said automobile, truck, boat, conveyance, vehicle or other means of transportation a fair opportunity for hearing in a Court of competent jurisdiction. It is further the intent and purpose of these proceedings that the forfeiture and sale of the said automobile, truck, boat, conveyance, vehicle or other means of transportation shall be and operate as a penalty for the violation of this Act by illegal transportation; and the payment of the tax due on the cigarettes upon which a tax is levied by this Act at the moment of seizure or thereafter shall not operate to prevent, abate, discontinue, or defeat the said forfeiture and sale of the said property. All funds collected from the said seized and forfeited property after the payment of all costs shall be paid into the State Treasury and credited in the same manner as provided for the tax herein levied. The Court shall fix the fee of the attorney representing the owner when appointed by the Court, at a nominal sum not to exceed ten per cent (10%) of the gross amount realized from said sale to be taxed as costs and to be paid out of the proceeds of the sale of said property.

[Invoice evidencing purchase by retailer]

Sec. 15. All purchases of cigarettes by any retail dealer shall be evidenced by an invoice from the seller correctly showing the date of the purchase and the quantity of each of said articles bought by said retail dealer.

[Receiving unstamped cigarettes unlawful]

Sec. 16. It shall be unlawful for any person, firm, corporation, or association of persons to receive in this State any cigarettes when the same are not stamped, for the purpose and intention of violating the pro-

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

visions of this Act and to avoid payment of the taxes; and such a person, firm, corporation or association of persons shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as set out in Section 13 of this Act.

[Seizure and forfeiture of cigarettes for failure to pay tax]

Sec. 17. All cigarettes on which taxes are imposed by this Act, which shall be found in possession or custody or within the control of any person, firm, corporation or association of persons, for the purpose of being sold, or removed by him, in violation of the provisions of this Act, or with the design to avoid payment of said taxes, may be seized by the Comptroller in order to secure the same for trial, or investigation, and the same shall be forfeited to the State of Texas. The said Comptroller, when making a seizure, shall appraise the value of the same according to his best judgment, at the usual and ordinary retail price of the article seized, and shall deliver to the person, firm, corporation or association of persons, if any, found in possession of the same, a receipt showing the fact of seizure, and description of the goods, and appraised value; and a duplicate of said receipt shall be filed in the office of the Comptroller and shall be open to public inspection.

The proceeding to enforce such forfeiture shall be in the nature of a proceeding in rem in a Court of competent jurisdiction where such seizure is made. The proceeding shall be filed by the Comptroller and it may and shall always be tried by preference. The proceedings shall be directed against the owner or person in whose possession said cigarettes are found, demanding the forfeiture and sale of said property, as a penalty for the violation of this Act. Service of notice of said proceeding shall be made upon the owner or person in whose possession said cigarettes are found, if he is a resident of this State, or his residence is known to the plaintiff. In all cases where it is made to appear by affidavit that the residence of the owner of the seized articles is out of the State or is unknown to the Comptroller an attorney at law shall be appointed by the Court, which has jurisdiction of the proceedings, to represent the said owner, against whom the said cause shall be tried within ten (10) days from the date of the filing of same. The said affidavit may be made by the Comptroller, or by the attorney representing the Comptroller, if it be not convenient to obtain the affidavit of the Comptroller. The attorney so appointed to represent the owner of the seized articles may waive service and citation, but he shall not waive time nor any legal defense. Upon the trial of said proceedings, if it is established by satisfactory proof that with respect to the articles under seizure, that this act has been violated in any respect, then the Court shall render judgment accordingly, maintaining the seizure, declaring the forfeiture of said seized property, and ordering the sale thereof, after ten (10) days notice of advertisement at least twice in any newspaper published in the English language in the county where seizure is made of the cigarettes by the sheriff at public auction; it being the intent and purpose of this proceeding to afford the owner of said seized articles a fair opportunity of hearing in a Court of competent jurisdiction. It is further the intent and purpose of this proceeding that the forfeiture and sale of said seized property shall be and operate as a penalty for the violation of this Act as aforesaid, and payment of the tax due on said seized articles at the moment of seizure or thereafter, shall not operate to prevent, abate, or discontinue, or defeat the said forfeiture and sale of the said property. The Court may fix the fee of the attorney appointed by the Court to represent the owner of the seized articles at a nominal sum to be taxed as costs and to be paid out of the proceeds of the sale of the said property.

[Filing claim by person not participating in violation; release under bond]

Sec. 18. Any person, firm, corporation or association of persons who claims title to the said seized property or any lien existing thereon prior to the date of seizure, and who did not in any respect participate in the violation of this Act may file with the Comptroller, under oath, a detailed statement of his claim, and the further fact that the claimant did not in any way participate in the violation of this Act, and thereafter the said property may be released by the Comptroller and delivered to him; provided that the said claimant shall furnish to the Comptroller a good and solvent surety bond, in a penal sum not less than double the appraised value of the goods seized, and in no event less than Fifty Dollars (\$50.00), which said bond shall be conditioned to pay to the Treasurer the appraised value of the goods, and all costs in the event the claimant does not prosecute his claim to successful judgment. In the event bond has been furnished by the claimant, and the property has been released to him, the judgment of the Court if the contention of the Comptroller is sustained, shall be directed against both the claimant and the surety on the bond together with all costs from the beginning of the seizure up to the final disposition and settlement of the case.

If the claimant does not furnish bond as above provided, then the Comptroller or his agent may proceed against the claimant as set forth in Section 17 of this Act. In no event shall the property be seized and sold without first affording any claimant a fair opportunity of being heard in a Court of competent jurisdiction.

[Compromise or waiver of forfeitures; imposition of double tax; presumption of violation of act]

Sec. 19. Jurisdiction is hereby conferred upon the Comptroller to waive any proceedings for the forfeiture of any of the property seized under the provisions of this Act, or any part thereof, provided that the offender shall first affix to each of the individual packages of cigarettes seized the amount and value of the stamps necessary to represent the tax, and in addition to the stamps required, pay into the State Treasury through the Comptroller a sum equal to the value of the stamps required to be affixed to such cigarettes. The said Comptroller may make a compromise with any claimant, before or after the claim is filed in Court. A record of all such compromises and waivers of forfeiture shall be kept by the Comptroller and shall be open to public inspection.

After upon examination of invoices the Comptroller finds that cigarettes have been sold without stamps affixed as required in this Act, he shall have the power to require of such person, firm, corporation or association of persons to pay into the State Treasury through him a sum equal to twice the amount of the stamp tax due. If upon examination of invoices the dealer is unable to furnish evidence to the Comptroller of sufficient stamp purchases to cover unstamped cigarettes purchased by him, the prima facie presumption shall arise that such cigarettes were sold without the proper stamps affixed thereto. Refusal to comply with this provision shall be deemed a misdemeanor and punishable as set out in Section 13 of this Act.

[Payment of moneys collected to State Treasurer]

Sec. 20. All moneys collected by the Comptroller under the provisions of Section 19 of this Act, after payment of all costs and commissions shall be paid to the Treasurer and credited as the taxes levied hereunder are credited.

[Percentage of taxes collected used in administration and enforcement of Act]

Sec. 21. That two per cent (2%) of the gross amount of taxes and funds derived under the provisions of this Act shall be set aside in a special fund subject to the use of the Comptroller in the administration and enforcement of the provisions of this Act, and so much of the said proceeds of two per cent (2%) of said tax and funds shall be and same is hereby appropriated for said purpose, same to be paid monthly as needed; any unexpended portion of said funds so specified shall, at the end of each biennium, be paid, in the proper proportion to the funds to which the cigarette tax fund shall be proportioned. Provided, that the Comptroller shall not make an expenditure of said commissions, except and until same are duly itemized and designated for specific purposes as required by the State Constitution.

[Delinquent taxes under repealed statutes preserved]

Sec. 25. That all occupation or excise taxes, penalties and/or interest accruing to the State of Texas by virtue of any of the repealed provisions as set out in the last three preceding Sections of this Act before the effective date of this Act shall be and remain valid and binding obligations to the State of Texas for all taxes, penalties and/or interest accruing under the provisions of prior or existing cigarette tax laws, and all such taxes, penalties and/or interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State.

[Partial unconstitutionality]

Sec. 26. If any article, section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases should be declared unconstitutional. [Acts 1933, 43rd Leg., 1st C. S., p. 234, ch. 90.]

Sections 1-10 of said Acts 1933, 43rd Leg., 1st C. S., p. 234, ch. 90 are published as Rev. Civ. Stat. art. 7047cc-1.

art. 131b; Rev. Civ. St. art. 7047c, §§ 12, 13 and art. 7047, subd. 39).

Sections 22 and 23 of this Act specifically repealed Acts 1931, 42nd Leg., ch. 73, §§ 12 to 15 and ch. 212, § 1, subd. 39 (Pen. Code,

Section 24 of same Act repealed Acts 1933, 43rd Leg., p. 383, ch. 153 (Pen. Code, art. 131c; Rev. Civ. St. art. 7047cc).

Arts. 141a to 141d. [Repealed by Acts 1933, 43rd Leg., p. 75, ch. 44, § 18]

See art. 141a-1.

§ 17, as amended Acts 1931, 42nd Leg., p. 163, ch. 98, § 6.

Prior to their repeals those articles were Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88,

[Art. 141a-1. Sale of motor fuel without permit; destroying records or making false reports or statements]

(a) Whoever as distributor shall sell any motor fuel upon which a tax is required by the provisions of this Act to be paid without having at the time of said sale a valid permit as required by said Act, or whoever as the agent, employee or representative of a distributor, shall sell any such motor fuel knowing that such distributor, does not have a valid permit, or whoever shall destroy, mutilate or secrete any of the books and records required herein to be kept, or refuses access and examination of such records to the Comptroller or Attorney General or their authorized representatives, or whoever shall, as a distributor, dealer, agent, employee or representative of a distributor or dealer, knowingly make any false entry or fail to make entries in the books and records required by the provisions of

this Act to be kept by a distributor or a dealer, or whoever shall knowingly make a false or incomplete return or report as required by the provisions of this Act to be made, or whoever shall wilfully forge or falsify any invoice of exemption as herein provided for, or whoever shall knowingly transport in any manner any motor fuel, kerosene, naphtha, distillate, casinghead or natural gasoline under false billing, or whoever, while transporting any of the foregoing named commodities shall wilfully refuse to stop the motor vehicle he is operating when called upon to do so by a person authorized hereunder to stop said motor vehicle, or refuses to permit the examination of his records and cargo by said person, or whoever wilfully and knowingly makes any false statement in any claim for refund made or filed under the provisions of this Act, as to any material fact required to be given by the terms thereof, shall be guilty of a felony and shall be punished by confinement in the State penitentiary for not more than two (2) years or by confinement in the county jail for not less than one (1) month nor more than six (6) months or by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

(b) In addition to the foregoing penalties, it is herein provided that a conviction for any of the above named offenses shall automatically forfeit the right of said convicted person to obtain a permit as distributor, as herein provided, for a period of two (2) years. [Acts 1933, 43rd Leg., p. 75, ch. 44, § 15.]

Sections 1-14, 16-18 of said Acts 1933, 43rd Leg., p. 75, ch. 44 are published as Revised Civil Statutes arts. 7065a—1 et seq.

TITLE 6—OFFENSES AFFECTING THE RIGHT OF SUFFRAGE

[Art. 231a. Election officers]

Any officer, election officer or judge, clerk or supervisor of any primary election who shall violate any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty (\$50.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, or shall be confined in the county jail for any period not to exceed one year, or shall be punished by both such fine and imprisonment. [Acts 1933, 43rd Leg., p. 762, ch. 225, § 13.]

Sections 1-12 of Laws 1933, 43rd Leg., p. 1925, arts. 3022, 3033, 3034, 3124, 3125, 3127 762, ch. 225, amends Vernon's Rev. Civ. Sts. and repeals sections 3135, and 3883a.

[Art. 231b. Failure of election judge to make returns]

Any County Judge, County Chairman or any presiding judge of a precinct election who fails to make the complete official returns as required by this Act, shall be punished by a fine of not less than Fifty (\$50.00) Dollars, nor more than Two Hundred (\$200.00) Dollars, or by imprisonment in the county jail not to exceed thirty days; or by both such fine and imprisonment; provided, however, that the failure of any person named herein to make the election returns within the time prescribed by this Act shall not affect the validity of such returns when made. [Acts 1933, 43rd Leg., p. 769, ch. 228, § 3.]

Sections 1 and 2 of Laws 1933, 43rd Leg., p. 769, ch. 228, are published as Civ. Sts. arts. 30236a and 3123.

TITLE 7—RELIGION AND EDUCATION**Art. 288. Shall use English language**

Except as herein provided, each teacher, principal and superintendent employed in the public free schools of this State shall use the English language exclusively in the conduct of the work of the schools and recitations and exercises of the school shall be conducted in the English language, and the trustees shall not prescribe any texts for elementary grades not printed in English; provided however, that it shall be lawful to provide text books, as now provided by law, for and to teach any modern language in the elementary grades of the public free schools above the second grade, and in the High School grades as outlined in the State Course of Study; provided however, that it shall be lawful to provide text books for and to teach the Spanish language in elementary grades in the public free schools in Counties bordering on the boundary line between the United States and the Republic of Mexico and having a city or cities of five thousand or more inhabitants according to the United States Census for the year 1920. It is lawful to teach Latin and Greek as a branch of study in the High School grades as outlined in the State Course of Study. Any such teacher, principal, Superintendent, trustee, or other school official having responsibility in the conduct of the work of such schools who fails to comply with the provisions of this Article shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), cancellation of certificate or removal from office, or both fine and such cancellation or fine and removal from office. [As amended Acts 1927, 40th Leg., p. 267, ch. 188; Acts 1933, 43rd Leg., p. 325, ch. 125.]

[Art. 301c. Inquiry concerning religion of persons seeking employment in public schools]

Any person who, or any agency, bureau, corporation or association which shall violate any of the provisions of Sections 1 or 1-a of this Act, or who or which shall aid or incite the violation of any of said provisions shall for each and every violation thereof be liable to a penalty of not less than One Hundred Dollars nor more than Five Hundred Dollars, to be recovered by the person aggrieved thereby or by any resident of this State, to whom such person shall assign his cause of action, in any court of competent jurisdiction in the county in which the plaintiff or the defendant shall reside; and such person and the manager or owner of, or each officer of, such agency, bureau, corporation or association, as the case may be shall, also, for every such offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than One Hundred Dollars nor more than Five Hundred Dollars, or shall be imprisoned not less than thirty days nor more than ninety days, or both such fine and imprisonment. [Acts 1933, 43rd Leg., 1st C. S., p. 48, ch. 15, § 2.]

Sections 1, 1-a and 2 of said Acts 1933, 43rd Leg., 1st C. S., p. 48, ch. 15, are published as Revised Civil Statutes, art. 2899a.

TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE**Art. 367. [365] [257] [241] Applies to all officers**

The two preceeding articles apply to all persons holding any office to which fees are attached, and to the heads of the departments of the government in whose offices fees may be charged.

Within the purview of the two preceding articles the demand and receipt of any such fee or fees denominated therein, or money as set out therein, proof of the demand shall be prima facie evidence of the unlawful and wilful intent on the part of the person or officer mentioned therein, but such person or officer shall have the right to introduce evidence showing that such demand or receipt of money was made in good faith and without any intent to injure or defraud, and the Court shall charge the Jury with the provisions of this article. [As amended Acts 1933, 43rd Leg., p. 143, ch. 68.]

[Art. 395a. Repealed by Acts 1933, 43rd Leg., p. 10, ch. 8]

This article prior to its repeal was Acts 1931, 42nd Leg., p. 498, ch. 278, §§ 6-8.

[Art. 419a. Purchase of automobiles for State by officers or employees]

Sec. 1. That it shall be unlawful for any State officer or employee to purchase or contract for the purchase of any passenger automobile for himself or another to be paid for out of funds of the State of Texas, or for any department thereof, the cost of which passenger automobile exceeds Eight Hundred and Fifty (\$850.00) Dollars, inclusive of a trade-in on an older motor vehicle or automobile.

Sec. 2. It shall be unlawful for the Comptroller of the State of Texas to issue or pay any warrant in violation of this Act. [Acts 1933, 43rd Leg., p. 594, ch. 194.]

[Art. 419b. Failure of officers or governing board of institutions to perform duties]

Sec. 7. Any State officer, agent, employee or member of a governing board of any of the above named institutions, or any other person who violates any provision of this Act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than fifty (\$50.00) dollars, nor more than five hundred (\$500.00) dollars, and in addition, may be sentenced to not less than fifteen (15) days nor more than three (3) months in the county jail. Failure to print and furnish to the officers above named, the reports above specified, shall subject all of the members of the governing board of the institutions above mentioned to the penalties provided for in this section of the Act. Every day in excess of the number of days hereinabove provided for that any sum of money belonging to any of the funds enumerated in this Act, whether depositable in special depositories or whether those that should be deposited in the State Treasury, shall be withheld from deposit at its proper place of deposit, shall constitute a separate offense and each day of such withholding shall subject the officer, agent, employee or person so withholding said sum to the penalties herein provided for. [Acts 1933, 43rd Leg., p. 746, ch. 221.]

Sections 1-6, 8 and 8a of Laws 1933, 43rd Leg., p. 746, ch. 221, are published as Civ. Sts. art. 2654b-d.

[Art. 430a. Corporation or association practicing law; penalty]

Sec. 1. It shall be unlawful for any corporation or any person, firm, or association of persons, except natural persons who are members of the bar regularly admitted and licensed, to practice law.

Sec. 2. For the purpose of this Act, the practice of law is defined as follows: Whoever, (a) In a representative capacity appears as an advocate or draws papers, pleadings, or documents, or performs any act in connection with proceedings pending or prospective before a court or a justice of the peace, or a body, board, committee, commission or officer constituted by law and having authority to take evidence in or settle or determine controversies in the exercise of the judicial power of the State

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or subdivision thereof; or, (b) For a consideration, reward or pecuniary benefit, present or anticipated, direct, or indirect, advises or counsels another as to secular law, or draws a paper, document or instrument affecting or relating to secular rights; or, (c) For a consideration, reward, or pecuniary benefit, present or anticipated, direct or indirect, does any act in a representative capacity in behalf of another tending to obtain or secure for such other the prevention or the redress of a wrong or the enforcement or establishment of a right; or, (d) For a consideration, direct or indirect, gives an opinion as to the validity of the title to real or personal property, or (e) As a vocation, enforces, secures, settles, adjusts or compromises defaulted, controverted or disputed accounts, claims or demands between persons with neither of whom he is in privacy or in the relation of employer and employee in the ordinary sense; is practicing law. Nothing in this section shall be construed to prohibit any person, firm, association or corporation, out of court, from attending to and caring for his or its own business, claims or demands, or the claims, demands or traffic business of said corporation or of the individual members of said corporations or associations; nor from preparing abstracts of title, certifying, guaranteeing or insuring titles to property, real or personal, or an interest therein, or a lien or encumbrance thereon, nor shall anything in this section be construed as prohibiting any bank or trust company without resorting to court action from acting for its customer in enforcing, securing, settling or adjusting any item mentioned in subdivision (e) above, nor shall anything in this section prohibit any person or association of persons from pursuing as a vocation the business of adjusting insurance or freight rate claims; provided further that nothing in this Act shall prohibit any person, or association of persons from appearing before any Board, Commission or Administrative body in connection with their vocation of adjusting Insurance or Freight Rate claims; provided that subdivision (e) hereof shall not prohibit any individual, company, corporation or association, owning, operating, managing or controlling any collecting agency, commercial agency, or commercial reporting credit agency within this State, subject to an occupation tax under Article 7061, Chapter 2, Title 122, Revised Civil Statutes, 1925, of Texas, from furnishing reports and collecting, securing, settling, adjusting or compromising, out of court, defaulted, controverted or disputed accounts or claims growing out of contractual relations, provided that said individual, company, corporation or association complies with the above statute; and provided further that nothing in this Act shall be construed as prohibiting real estate agents from collecting rents for their employers; provided that nothing herein shall prevent Notaries Public from drawing conveyances for or without compensation.

Sec. 3. It shall be unlawful for any corporation to practice law as defined by this Act or to appear as an attorney for any person other than itself in any court in this State, or before any judicial body or any board or commission of the State of Texas; or hold itself out to the public or advertise as being entitled to practice law; and no corporation shall prepare corporate charters or amendments thereto, or other legal documents not relating to its authorized business, or draw wills; or hold itself out in any manner directly or indirectly as being entitled to do any of the foregoing acts; provided, that the foregoing shall not prevent a corporation, person, or association of persons from employing an attorney or other agent or representative in regard to its own affairs in any hearing or investigation before any administrative official or body.

Provided, further, that the above provisions of this Act shall not be construed to prohibit a person or corporation acting in a fiduciary capacity from transacting the necessary clerical business incidental to the routine or usual administration of estates, trusts, guardianships, or other similar fiduciary capacities, or filing accounts, preparing and filing tax returns of every nature, and other such administrative acts, nor from

participating through his or its own agent or attorney, in cooperation with testator's attorney, in the preparation of testator's will, where no compensation is charged for such service and no compensation whatever is charged or received, other than the usual commission allowed by the court for administering the estate or trust, or provided for by the instrument creating the trust or other fiduciary relationship.

And provided, further, that nothing herein shall prohibit any insurance company from causing to be defended, or prosecuted, or from offering to cause to be defended, through lawyers of its own selection, the insureds or assureds in policies issued or to be issued by it, in accordance with the terms of such policies; and shall not prohibit one such licensed attorney at law from acting for several common carriers or other corporations and associations or any of its subsidiaries pursuant to arrangement between said corporations or associations.

Sec. 4. It shall be unlawful for any attorney at law to share any fee or fees earned or received by him for legal services with any person or firm, not a licensed attorney or attorneys, or with any association or corporation.

Sec. 5. The county attorney and/or District Attorney and/or Criminal District Attorney of any county in Texas shall on his own initiative or upon the application of any Bar Association in the State of Texas bring such action in the name of the State of Texas in the proper court to enjoin any such person, corporation, or association of persons from violating any of the provisions of this Act, and it shall be the duty of the county attorneys and/or District Attorney and/or Criminal District Attorney of this State to file complaints in the proper court against any person, corporation, or association of persons upon the receipt of information of the violation of any of the provisions of this Act.

Sec. 6. Any person, firm, corporation, or association of persons violating any of the provisions of this Act shall be guilty of a misdemeanor. If any provision of this Act is violated by any person individually or by any person or persons representing a corporation, or association, or by a corporation, the defendant or defendants upon conviction shall be punished by a fine of not more than Five Hundred (\$500.00) Dollars nor less than One Hundred (\$100.00) Dollars.

Sec. 7. Any agreement by any person, corporation, or association in violation of this Act shall be illegal and such person, corporation, or association shall not be able to recover for any services rendered in violation of this Act, either on the contract or a quasi-contractual obligation. If any person, corporation, or association of persons shall, by any act or omission in violation of this Act, cause any loss, damage, or injury to any person, corporation or association of persons, such person, corporation, or association of persons, shall be liable in actual damages therefor to any person, corporation, or association of persons who sustained any such loss, damage or injury; and such liability shall be absolute and not dependent upon any question or showing of want of skill, care or diligence.

Sec. 8. All laws and parts of laws inconsistent herewith are hereby repealed, and in case any section, subdivision, paragraph, or sentence of this Act is declared unconstitutional the validity of the rest of this Act shall not be affected thereby. [Acts 1933, 43rd Leg., p. 835, ch. 238.]

TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE

[Art. 489b. Machine guns, sale, etc., restricted]

Sec. 1. Definition. "Machine gun" applies to and includes a weapon of any description by whatever name known, loaded or unloaded, from which more than five (5) shots or bullets may be automatically discharged from a magazine by a single functioning of the firing device.

"Person" applies to and includes firm, partnership, association or corporation.

Sec. 2. Whosoever shall possess or use a machine gun, as defined in Section 1, shall be guilty of a felony and upon conviction thereof, shall be confined in the State Penitentiary, for not less than two (2) nor more than ten (10) years.

Sec. 3. Whoever shall sell, lease, give, barter, exchange, or trade, or cause to be sold, leased, given, bartered, exchanged, or traded, a machine gun as hereinabove defined to any person shall be guilty of a felony and upon conviction thereof, shall be confined to the State Penitentiary, for not less than two (2) nor more than ten (10) years.

Sec. 4. Nothing contained in Section 2 of this Act shall prohibit or interfere with:

1. The possession of machine guns by the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose.

2. The possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake.

3. The possession of machine guns by officials and employees of the Texas State Prison System.

Sec. 5. Nothing contained in this Act shall prohibit or interfere with the sale, lease, barter, exchange or gift of a machine gun as defined in this Act, or the transportation required for such purpose to the Adjutant General of the State of Texas, the duly qualified and commissioned Sheriff of a county in Texas, to a duly qualified and commissioned Chief of Police of any municipality within the State of Texas, the duly authorized purchasing agent for the Texas State Prison System, the military forces or peace officers of the United States. [Acts 1933, 43rd Leg., 1st C. S., p. 219, ch. 82.]

TITLE 10—OFFENSES AGAINST MORALS, DECENCY AND CHASTITY

Art. 497. [488] [351] [331] Who women can not marry

No woman shall marry her father, her father's brother or half-brother, her mother's brother or half-brother, her own brother or half-brother, her son, the son of her brother or sister or her half-brother or half-sister, the son of her son or daughter, her mother's husband, her daughter's husband, her husband's son, the son of her husband's son or daughter. [As amended Acts 1933, 43rd Leg., p. 326, ch. 126.]

TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY

[Art. 570a. Penalty for acting as, or employing, life, health, or accident insurance agent without license]

Sec. 6. Any person who shall act as a life, health or accident insurance agent without having first obtained a license as herein provided, or who shall solicit life, health or accident insurance or act as a life, health or accident agent without having been appointed and designated by some duly authorized life, health or accident insurance company to do so as herein provided, or any person who shall solicit life, health or accident insurance or act as an agent for any person or insurance company not authorized to do business in Texas; or any officer or representative of any life, health or accident insurance company who shall knowingly contract with or appoint as an agent any person who does not have a

valid and outstanding license, as herein provided, shall be guilty of a misdemeanor and, upon conviction, shall be fined any sum not in excess of Five Hundred Dollars (\$500.00) and shall be barred from receiving a license as an insurance agent for a period of at least two (2) years. [Acts 1933, 43rd Leg., p. 356, ch. 138.]

Sections 1-5 of said Acts 1933, 43rd Leg., p. 356, ch. 138 are published as Rev. Civ. St. 5068b.

Art. 587. [Repealed by Acts 1933, 43rd Leg., p. 893, ch. 193, § 2]

[Art. 614—1. Boxing or sparring contests; Commissioner of Labor; jurisdiction and powers]

The promoting, conducting or maintaining of fistic combat or wrestling matches, boxing or sparring contests or exhibitions for money remuneration, purses or prize equivalent to be received by the participants or contestants, or where an admission fee thereto or therefor is charged or received, shall be lawful in Texas, except on Sunday, subject to such supervision by the Commissioner of Labor Statistics as such Commissioner possesses over theatres and employees thereof other than performers and under the further provisions hereof; provided, however, that any such contests or exhibitions between students of such institutions which are conducted by any school, college or university, which does not have for its primary or principal purpose the teaching of fistic combat, boxing or sparring; or troop, battery, or company of the Texas National Guard; within any building or upon any ground owned or occupied by such institution, shall not be subject to the fee or tax provisions of this Act, even though an admission fee is charged, unless the contestants shall receive money remuneration or purse or prize equivalent for their performance or services therein.

Sole jurisdiction and authority is hereby vested in the Commissioner of Labor to enforce the provisions of this Act regulating the promoting, conducting or maintaining of fistic combats, wrestling matches, boxing or sparring contests or exhibitions for money remuneration, purses or prize equivalent to be received by the participants or contestants, or where an admission fee thereto or therefor is charged or received, and he is hereby given specific authority to promulgate such rules and regulations as shall become necessary in carrying out the purposes of this Act, and shall have the power of refusal of license or permits to boxers, wrestlers, managers or promoters if after investigation applicant or applicants are found to be of questionable character or not entitled to same under the provisions of this Act. The definition of the words boxer, wrestler, manager, promoter together with the phrases "fistic combat," "wrestling match," "boxing contest" as used in this Act shall be accepted as defined by the National Boxing Association and the National Wrestling Association, and the rules governing ring regulations of boxing and wrestling contests or sparring contests or exhibitions, their seconds and referees shall be in accordance with those set out by the National Boxing and Wrestling Association.

If any person, firm, or corporation be dissatisfied with any order, ruling, or decision of said Commissioner, such aggrieved party may, within thirty (30) days from the entry of such order, ruling, or decision, appeal therefrom to the District Court of Travis County, and such Court may hear and determine such appeal, in term time or vacation, by trial de novo. If the aggrieved party shall prevail by final judgment, a certified copy thereof shall be presented to the Commissioner who shall comply with the terms thereof upon the payment of all fees incurred under the terms of this Act. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 1.]

[Art. 614—2. Boxing and wrestling fund; deposit of license and other fees]

The Commissioner of the Bureau of Labor Statistics shall deposit with the State Treasurer all monies received by him from license and all other fees under the provisions of this Act, to be held in a separate fund, known as the "Boxing and Wrestling Enforcement Fund," and to be used to the amount herein authorized, for expenses incurred in supervising, inspecting and regulating all ring exhibitions, including fistic combats or wrestling matches, boxing or sparring contests, or exhibitions for money remuneration, purses or prizes, printing blank licensing forms to be furnished applicants by the Commissioner of Labor Statistics, and the sum of Six Thousand Five Hundred Dollars (\$6,500.00) or so much thereof as may be necessary, and the same is hereby appropriated for said purposes; and all such expenditures shall be verified by the person to whom such payments are made and upon the approval of such expenditures by the Commissioner of Labor Statistics, it shall be the duty of the Comptroller of Public Accounts to draw his warrants on the State Treasurer for the amount of such expenditures in favor of the person claiming the same, to be paid out of the "Boxing and Wrestling Enforcement Fund." The unexpended balance remaining in said fund at the end of the fiscal year shall be transferred to the General Fund. The Commissioner may appoint, and at pleasure remove, a Secretary to the Commissioner, the duties of which Secretary shall be to keep, or assist the Commissioner, in keeping, a full and true record of all the proceedings of the Commissioner, to keep, or assist the Commissioner in keeping the books and records in the general office of the Commissioner, and to perform such other duties as the Commissioner may prescribe, the salary of which Secretary shall be Fifteen Hundred Dollars (\$1500.00) per year, to be paid out of the above Six Thousand Five Hundred Dollars (\$6,500.00) herein appropriated. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 2.]

[Art. 614—3. Promoter defined]

Each individual, firm, club, copartnership, association, company or corporation which conducts any fistic combat, boxing, sparring or wrestling match, contest or exhibition is a "promoter" within the terms of this Act; provided, that no individual, firm, club, copartnership, association, company or corporation, nor any member, shareholder, stockholder, officer, agent or representative of any firm, copartnership, association, company or corporation shall in any manner, either directly or indirectly, act as a promoter as herein defined before or prior to such person, member, shareholder, stockholder, officer, agent or representative becoming and being a bona fide inhabitant and citizen of the State of Texas, and each such officer, agent or representative of any such firm, club, copartnership, association, company or corporation shall likewise be a bona fide inhabitant and citizen of the State of Texas, and any person who shall aid or abet any person in endeavoring to act as or become such promoter, and any person so acting without being so qualified shall be deemed guilty of felony swindling and shall be punished accordingly, and the charter or any other business permit of any organization whose officer or officers, agents or representatives shall be so convicted shall thereby be forfeited and their right to conduct such promotion or contests terminated. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 3.]

[Art. 614—4. Registration fee of promoter]

Before any individual, firm, club, copartnership, association, company or corporation may act as a promoter as herein defined, such promoter shall file or cause to be filed with the Commissioner of Labor Statistics at Austin, Texas, on such form as may be furnished by him, or otherwise by such promoter, a verified declaration or registration, in duplicate

form, setting forth the true name, age, present actual residence and length of time thereof, place where promoter will operate, and such other information as may be required by such printed forms when furnished, and the registration filed with the Commissioner of Labor shall be accompanied with a registration fee, for which a permit may be issued by said Commissioner of Labor, such remittance to be in such form as by law provided for other remittances to such officer, and such registration fee shall be Fifty Dollars (\$50.00) for operating or promoting in a city not exceeding twenty-five thousand (25,000); One Hundred Dollars (\$100.00) in a city not exceeding seventy-five thousand (75,000); and Two Hundred Dollars (\$200.00) in a city of seventy-five thousand (75,000) or more inhabitants, and any person or group of persons acting as such promoter without so registering and remitting such registration fee, and having in their possession a duly authorized permit, shall be deemed guilty of felony swindling and shall be punished accordingly. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 4.]

[Art. 614—5. Bond by promoter]

Before any individual, firm, club, copartnership, association, company or corporation may conduct, hold or give any fistic combat match, boxing, sparring or wrestling contest or exhibition, such promoter shall execute and file with the Commissioner of Labor a good and sufficient surety bond in the sum of Two Thousand Five Hundred Dollars (\$2,500.00), conditioned for the payment of the tax hereby imposed, said bond to be in form and kind required of an administrator of an estate in Texas, and the Attorney General in a Court of competent jurisdiction in Travis County, Texas, or any other Court having jurisdiction, may institute suit upon such bond to recover any delinquent tax and the cost incurred in ascertaining the amount and recovery of such tax; provided, if such promoter conducts such contests or exhibitions as a continuing enterprise or promotion, such bond shall be annual in effect and continue in force until the last day of the calendar year in which same is filed and approved, unless default be made by the principal thereof or the sureties thereon become insufficient in the judgment of the Commissioner of Labor. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 5.]

[Art. 614—6. Report of gross receipts; payment of tax]

Each individual, firm, club, copartnership, association, company or corporation which conducts any fistic combat, boxing, sparring or wrestling match, contest or exhibition wherein the contestants or participants receive a money remuneration, purse or prize equivalent for their performance or services in same, and where an admission fee is charged or received, shall furnish to the Commissioner of Labor Statistics at Austin, Texas, within forty-eight (48) hours after the termination of such match, contest or exhibition, a duly verified written report thereof showing the number of tickets sold, the various prices received therefor and the amount of gross receipts for the total number of tickets sold therefor, and at the same time shall attach to the Commissioner of Labor's report legal tender or make proper form of money order or exchange payable to the State Treasurer in the amount of tax for three per centum (3%) of the total gross receipts from the sale of tickets of admission to such contest, which tax shall be placed in the General Fund by the State Treasurer; provided, that any service charge for printing and handling passes issued for any such match, contest or exhibition shall not be included as gross receipts, and no other fee or tax, either general or local, than as herein provided, shall be assessed against or levied upon any such match, contest or exhibition, contestant or manager, or promoter thereof. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 6.]

[Art. 614—7. Failure to report contest or remit gross receipt tax; penalty]

Whenever any such individual, firm, club, copartnership, association, company or corporation shall fail to make a report of any contest in the manner and within the time prescribed by this Act, and to pay or remit the gross receipts tax due thereunder pursuant to the provisions of this Act, and for a period of twenty (20) days after notice thereof to such delinquent persons, firm, club, copartnership, association, company or corporation by the State Commissioner of Labor, such delinquent individual, firm, club, copartnership, association, company or corporation and/or the officers thereof shall be deemed guilty of the theft of such tax and punished accordingly; provided further, that whenever any such report is unsatisfactory to the State Commissioner of Labor he may, by Court of Inquiry, examine or cause to be examined the books and records of such individual, firm, club, copartnership, association, company or corporation, and may subpoena or cause to be subpoenaed and examine or cause to be examined, under oath, such individual, copartners, or the officers of such firm, club, association, company or corporation, and other persons as witnesses for the purpose of determining the total amount of the gross receipts for any contest or contests and the amount of the tax due pursuant to the provisions of this Act, which tax he may, upon, and as the result of such examination, fix and determine, and in case of the default in the payment of any tax so ascertained to be due, together with the expenses incurred in making such examination, if a greater sum than reported and paid is so determined to be due, for a period of twenty (20) days after notice by the Commissioner of Labor to such delinquent individual, firm, club, copartnership, association, company or corporation, such individual, copartners, or the officers of such firm, club, association, company or corporation shall be deemed guilty of the theft of such tax and punished accordingly. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 7.]

[Art. 614—8. Registration of boxer or performer; fee]

Before any person may perform or act as a boxer, wrestler or manager of such boxer or wrestler, where such boxer, wrestler or manager performs or renders service for money remuneration, purses or prize equivalent, such person shall file with the Commissioner of Labor Statistics at Austin, Texas, on such form as may be furnished by him, or otherwise by such boxer, wrestler or manager, a verified declaration or registration, in duplicate form, setting forth the true name, age, present actual residence and length of time thereof, place where and party with whom filed if other than with the Commissioner of Labor Statistics at Austin, Texas, as is herein provided, and such other information as may be required by such printed forms when furnished, and the registration filed with the Commissioner of Labor which is to be furnished the Commissioner of Labor shall be accompanied with a registration fee, such remittance to be in such form as by law provided for other remittances to such officer, and such registration fee shall be Five Dollars (\$5.00) for each boxer or wrestler and Twenty-five Dollars (\$25.00) for such manager of a boxer or wrestler, and any person acting or performing without so registering and remitting such registration fee shall be deemed guilty of misdemeanor swindling and shall be punished accordingly. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 8.]

[Art. 614—9. Registration fee for year]

The registration fees herein provided shall be effective for one year after the date of the receipt of same by the Commissioner of Labor Statistics, and a duplicate original of the verified declaration shall be evidence of the payment of same until due receipt is issued therefor by the Commissioner of Labor Statistics; provided that any duly registered promot-

er may accept the registration declaration and fee for such boxer, wrestler or manager of such boxer or wrestler and issue his receipt therefor which shall be sufficient until such time as the Commissioner of Labor Statistics may issue his receipt, such promoter to be liable under the bond herein provided for the remittance of all registration fees so collected, and upon failure to remit the same to the Commissioner of Labor Statistics within ten (10) days after the receipt thereof shall cause him to be deemed guilty of theft thereof and punished accordingly. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 9.]

[Art. 614—10. Exhibition buildings provided with fire exits]

All the buildings or structures used for the purpose of conducting such fistic combat matches, boxing, sparring or wrestling contests or exhibitions shall be ventilated and provided with fire exits and fire escapes in such manner as by law provided for buildings where public gatherings are held and shall conform to all laws, ordinances and regulations pertaining to such buildings in the city, town or village where situated; provided, nothing herein contained is to be construed to prevent the holding of fistic combat matches, boxing, sparring or wrestling contests or exhibitions in the open air or tents. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 10.]

[Art. 614—11. Matters prohibited]

No individual, firm, club, copartnership, association, company or corporation shall:

(a) Hold or conduct any fistic combat match, boxing, sparring or wrestling contest or exhibition on Sunday; or;

(b) Knowingly permit any person under the age of eighteen (18) years to participate in any professional fistic combat match, boxing, sparring or wrestling contest or exhibition; or,

(c) Knowingly permit any person under the age of twenty-one (21) years to participate in any professional championship fistic combat match, boxing, sparring or wrestling contest or exhibition; or,

(d) Permit any gambling or betting or wagering of any character on the result of, or any contingency in connection with any fistic combat match, boxing, sparring or wrestling contest or exhibition, either before or during any such contests; or,

(e) Knowingly conduct or give or participate in or permit any sham or fake fistic combat match, boxing, sparring or wrestling contest or exhibition except it be as a burlesque; or,

(f) Knowingly permit any fistic combat match, boxing, sparring or wrestling contest or exhibition between any person of the Caucasian or "White" race and one of the African or "Negro" race; or,

(g) Permit any contestant for or participant in any fistic combat match, boxing, sparring or wrestling contests or exhibition to enter the same unless such contestant first shall have been examined, within two (2) hours prior to entering the ring, by a duly licensed and practicing physician who is a bona fide inhabitant and citizen of the State of Texas, nor then, if such physician finds the facts to be that such contestant is physically unfit to engage in such contest, and such physician shall so certify in writing if he finds the fact so to be, and the promoter of such contest shall deliver such report of examination to the Commissioner of Labor Statistics with the gross receipts tax report, and a duly licensed and practicing physician who is a bona fide inhabitant of the State of Texas shall remain in attendance during the entire time of such match, contest or exhibition; provided, in the event of an emergency in the nature of one or more of the contestants failing, refusing or otherwise being unable to perform as scheduled or agreed, nothing herein shall be construed to prevent the substitution of another contestant or contestants in

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place of those failing or refusing or being unable to perform as scheduled and any physical examination of a contestant required by this Act may thus be waived by such contestant upon the latter stating in writing that he is physically fit; or,

(h) Permit any fistic combat match, boxing or sparring contest or exhibition for more than ten (10) rounds duration, except in a championship match which shall not exceed fifteen (15) rounds; or,

(i) Permit one round of such match, contest or exhibition to extend for a longer period than three (3) minutes; or,

(j) Permit less than one minute intermission between each round; or,

(k) Permit any fistic combat match, boxing or sparring contest or exhibition without the use of padded gloves of standard make, weighing at least six (6) ounces each, or permit such gloves worn by each of the opposing contestants to be of other than equal weight; or,

(l) Knowingly sell or cause to be sold or issued for any fistic combat match, boxing, sparring or wrestling contest or exhibition more tickets or invitations or passes purporting to admit anyone to such match, contest or exhibition, or otherwise to admit to the same more persons than are admissible according to the authorized capacity of the building or the part thereof actually used for such purpose. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 11.]

[Art. 614—12. Presence of Commissioner of Labor Statistics or deputy in counting gross receipts]

The Commissioner of Labor Statistics or any deputy Commissioner of Labor Statistics may be present at and inspect or assist in the counting of the gross receipts and the preparing of the report thereon as herein provided, and delivery of an original copy thereof or any physician's examination report to him shall be the equivalent of delivering or mailing the same to the General Office of the Commissioner of Labor Statistics by or from the individual, firm, club, copartnership, association, company or corporation conducting such fistic combat match, boxing, sparring or wrestling contest or exhibition, and may in writing thereon approve such report if such statement is believed by him to be correct, otherwise he shall not sign same except to endorse his refusal thereon. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 12.]

[Art. 614—13. False swearing in statement or reports]

Any person who in verifying or swearing to any statement or report required by this Act, makes or causes to be made therein any statement which is knowingly and wilfully false shall be deemed guilty of false swearing and punished accordingly. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 13.]

[Art. 614—14. Penalty]

Any individual, copartner or officer of such firm, club, copartnership, association, company or corporation who violates any of the provisions of this Act, for which a penalty is not herein otherwise prescribed, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred and Fifty Dollars (\$250.00), and by the revocation of the license of such violator. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 14.]

[Art. 614—15. Partial invalidity]

In case any section or part of section of this Act shall be declared unconstitutional, it shall not affect the validity of the remainder. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 15.]

[Art. 614—16. Repeals]

All laws or parts of laws in conflict with this Act are hereby in all things expressly repealed. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 16.]

[Art. 614—17. Commissioner of Labor to provide forms]

The Commissioner of Labor shall have the full power and authority to make and issue such forms governing all reports he shall believe expedient and necessary in carrying out the purpose of this Act; provided further, that the terms of this Act shall be a part of any contract between the individual, firm, club, copartnership, association, company or corporation promoter hereunder and the contestants or managers of the contestants, whether such contract be oral, written or printed. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 17.]

[Art. 614—17a. Assignment of contract for exhibition invalid]

No contract or agreement for any exhibition or exhibitions under the term of this Act shall be transferred or assigned to any third person and shall only be valid and enforceable as between the original parties thereto. [Acts 1933, 43rd Leg., p. 843, ch. 241, § 17a.]

[Art. 614—17b. Provisions inapplicable to amateur non profit contests for entry into national or statewide tournaments]

Resolved by the House of Representatives of the State of Texas, the Senate of the State of Texas concurring, That the Commissioner of Labor Statistics of the State of Texas and all other officers charged with the enforcement of the provisions of House Bill Number 832, Chapter 241, Acts of the Regular Session of the Forty-third Legislature, be directed and they are hereby directed to refrain from enforcing the provisions of said Act as against any person, firm, or association of persons conducting any exhibition of wrestling or boxing not for profit, or the participants therein, where such participants are not receiving any remuneration, when such exhibition is held solely for the purpose of qualifying the participants therein to enter any statewide, national or olympic tournament, even though admission may be charged in order to defray the necessary expense of holding such exhibition. [Acts 1933, 43rd Leg., 1st C. S., p. 382, H. C. R. #40.]

The concurrent resolution cited to the text contained the following preamble: "WHEREAS, At the Regular Session of the Forty-third Legislature, House Bill Number 832, Chapter 241, Acts of the Regular was passed by the Legislature of the State of Texas, regulating and controlling wrestling and boxing within the State of Texas: and

"WHEREAS, It was not the intention of the Legislature of the State of Texas in passing said law, for the provisions thereof to apply to statewide and national sports bodies conducting amateur tournaments in these sports where such sports are not conducted for profit and the participants therein receive no remuneration for participating therein; and

"WHEREAS, There has been some uncer-

tainty existing in the minds of the Labor Commissioner and other officers of the State charged with the enforcement of said law as to whether or not the provisions thereof apply to exhibitions held by associations or individuals not for profit where the participants thereof receive no remuneration for participating therein, such as exhibitions held for the purpose of qualifying individuals to enter National and Olympic competitions; and

"WHEREAS, It is the sense of this Legislature that such amateur sports should be encouraged; and

"WHEREAS, It was not the sense of this Legislature, in enacting said law, to have the provisions thereof apply to such sports; now therefore, be it"

[Art. 643a. Wagers by election judges or officers prohibited]

If any judge or other officer of any election or primary election shall bet or wager on the election or nomination of any person, to any office, or shall bet or wager on the number of votes polled or cast, or to be polled or cast, in the voting precinct or voting box in which he is serving, he shall

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be guilty of a felony, and upon conviction, shall be confined in the State Penitentiary not less than two (2) years nor more than five (5) years. [Acts 1933, 43rd Leg., p. 69, ch. 38, § 1.]

[Art. 655a. Texas Racing Commission; horse racing and exhibitions authorized; licenses]

* * * * *

The Texas Racing Commission heretofore and hereby created shall consist of three (3) members, one of whom shall be the Commissioner of Agriculture of the State of Texas; one shall be the Tax Commissioner of the State of Texas; the third, who shall be the Chairman of the Commission, shall be appointed by the Governor of the State, with the advice and consent of the Senate, and shall have been a citizen of Texas and a bona fide owner and breeder of thoroughbred live stock in Texas for a period of at least two (2) years at the time of his appointment. Either the Chairman of the Commission or the Tax Commissioner may at any time be dismissed by the Governor for good cause, the reasons for such dismissal to be specified and filed with the Secretary of State. Two (2) Commissioners shall constitute a quorum with the power to act.

The Chairman of such Commission shall draw a salary of Three Thousand Dollars (\$3,000.00) a year for this biennium and to be fixed by appropriations thereafter, payable in equal monthly installments.

The Commissioners in office when this Act takes effect shall continue to hold their respective offices until their respective terms expire under the now existing law, unless removed for cause. All permits and licenses which shall have been issued and outstanding when this law takes effect shall remain and be in force and effect for the time for which they were issued, and all officers and employees heretofore elected or employed by the Commission shall continue as such for the time elected or appointed, unless removed by the Commission; provided, however, such licensee shall pay the license fees herein prescribed for the unearned part of the term of such license.

The Commission shall establish an office at Austin, Texas. It shall select a secretary and as many as two (2) clerks if the business of the Commission shall so require, all of whom shall serve at the will of the Commission. The total expenditure of the Commission shall not exceed Twenty Thousand Dollars (\$20,000.00) annually.

The secretary and clerks shall receive such salaries as allowed by the Commission, provided, however, the secretary's salary shall not exceed Two Hundred Dollars (\$200.00) per month, and the clerks shall not exceed One Hundred Dollars (\$100.00) per month each. After August 31, 1935, all salaries shall be set by the Legislature.

The Commission shall have power to pay all reasonable and necessary traveling and other expenses incident to the conducting of its business.

A Chairman shall be appointed, whose term of office shall be the same as the term of office of the Commissioner of Agriculture, unless removed by the Governor for good cause, as hereinbefore provided, and, thereafter, the Chairman shall be so appointed as that his term of office will conform to the term of office of the Commissioner of Agriculture. The Chairman shall be eligible for reappointment. In the event of a vacancy in the chairmanship arising from any cause, or a vacancy arising from any cause in that place on the Racing Commission provided herein to be held by the Tax Commissioner, the Governor shall by appointment, with the advice and consent of the Senate, fill such vacancy.

The Racing Commission shall have the power, and it shall be its duty, to prescribe and enforce reasonable rules and regulations, reasonable restrictions and conditions under which all horse races and exhibitions of riding horses are held under this Act; likewise prescribe and enforce rules

governing the conduct of all persons who engage in or carry on the racing or such exhibitions of horses. The Commission shall have power to exclude from participation in such races or exhibitions any person or persons who omit, fail or refuse to comply with the reasonable rules, regulations, restrictions and conditions prescribed by said Commission, and to impose, as a penalty for such omission, failure or refusal, the denial of the right of such persons to conduct or participate in such races or exhibitions.

The Commission shall have the power and authority to permit and to authorize the racing of horses under what is here designated the "certificate system." Under this system the Commission shall permit, authorize, and issue a license on the compliance by an applicant for a license with the requirements of this Act, to conduct races and use in connection therewith the said certificate system, which system shall expressly authorize and make lawful the right of a licensee to collect and receive contributions of money from any person present at such race toward the entry of any horse in a horse race selected by such person to run first in such race, and the person so contributing such money shall acquire an interest in the total money so contributed on all horses in such race as first winners in proportion to the amount of money contributed by such person.

Such licensee shall receive the said contributions of money and issue to the contributors thereof certificates on which shall be shown the number of the race, the amount contributed and the number or name of the horse, respectively, selected by such person as first winner.

As each race is run the licensee shall be authorized to deduct from the total sum contributed on all horses as first winners, respectively, ten per cent (10%) of the amount thus contributed, and the odd cents of the redistributions over the next lowest multiple of five (5), and the balance remaining on hand shall be paid out to the holders of certificates on the winning horse, respectively, equally in proportion as the amount contributed by each such person bears to the total amount contributed toward the entry of all the horses in said race to run first.

Subsec. 2. The licensee, in like way, may receive such contributions on horses selected to run second, third, or both, the method and procedure, and the right of the licensee, to be as specified in the next preceding section hereof.

The Commission shall be authorized to grant a license for the use and operation of the said certificate system as to contents and exhibitions of riding horses and also for steeplechase racing of horses, on condition that one seeking such license shall comply with the requirements of this Act.

The said certificate system as herein authorized shall not be construed to be either pool selling, betting or bookmaking within the meaning of Articles 645, 647 and 648 of the Penal Code of the State of Texas, Title 2, Chapter 6, according to the 1925 revision.

Subsec. 3. The use of such system shall not be permitted at any other place than within the enclosure stated in the license, nor shall the said certificate system be permitted to be used on any races except races and contests of horses.

No such certificate shall be purchased by or sold to a minor.

Races authorized under this Act may be held only between the hours of 9:00 A. M. and 7:00 P. M. of the racing days fixed by the Commission.

No license shall be issued to any one applicant for the holding of more than two meetings on any one race course in any twelve (12) months period. No person shall receive a license except upon satisfactory showing made to the Commission that such person has adequate facilities, equipment and proper provisions made for the conducting of such races, and is of good standing; provided, however, the Commission shall have power, at its discretion, and for good cause shown by an applicant, to issue a license to an applicant of good standing who does not,

at the time of the making of the application or the granting of a license, then have the said facilities, but, in such case, the Commission shall require an obligation in writing of such applicant, with such security as the Commission shall determine, that such applicant will construct, or procure the construction of, such facilities by the date of the racing meet authorized.

Such person so receiving a license shall give bond payable to the Racing Commission, with good security, in such amount as the Commission shall determine, not, however, to exceed the sum of Fifty Thousand Dollars (\$50,000.00), to be approved by the Commission, conditioned, in effect, that such applicant will conduct such races and the operation of such certificate system as contemplated by this law, and shall account to and pay over to the State Treasurer of the State of Texas the amounts required by this Act to be so paid.

Subsec. 4. The Racing Commission may designate representatives, whose compensation shall not exceed Ten Dollars (\$10.00) per day and reasonable expenses when on the business of the Commission, to attend any horse race meeting licensed under this Act, whose duty it shall be to supervise the conducting of such races and to see to it that the rules of the Commission are faithfully enforced. Such representatives shall have full and free access to the place or enclosure where the certificate system is conducted or supervised; and, for the purpose of ascertaining whether or not the licensee is retaining only the commission provided for in this Act, they shall have access to the books, records and papers pertaining to the operation and the results of the said certificate system at such races. A licensee shall keep true and correct records, in such form as the Racing Commission shall prescribe, which shall show all financial operations of said certificate system at such races.

Subsec. 5. Any person or persons, association or corporation desiring to conduct racing of horses in Texas and to use in connection therewith the said certificate system, as in this Act authorized, shall make application in writing to the Racing Commission for license so to do. On the filing of such application, the Commission shall promptly cause to be published in a newspaper of general circulation in the county where the license to conduct racing is sought, and if there be no such newspaper in such county, then in a newspaper of general circulation in the nearest county, a brief notice of the contents of the application. If the newspaper used shall be a daily paper, then there shall be three insertions of such notice four (4) days apart. If the newspaper used be a weekly paper, then in two successive issues thereof. The expense of such publication shall be paid by the applicant, and the Commission shall have the right to require from the applicant a deposit with it of the estimated amount prior to the making of such publication.

On the completion of such publication, and if there shall be opposition to the granting of such application, the Commission shall set a hearing on the application, and give written notice to all interested parties of the time and the place of the hearing, allowing reasonable time and opportunity for interested parties to be so heard.

The application shall be acted on by the Commission within not exceeding twenty (20) days from the completion of the giving of such notice unless for good cause the Commission shall postpone action thereon. The application shall be finally acted on by the Commission within not exceeding sixty (60) days from the date of the filing of the application.

The application shall state the days on which such racing is desired to be conducted; it shall describe the place and race track or course at which the races are to be conducted; it shall be in such form and supply such facts as the Commission shall prescribe, and such application shall be verified. If the applicant is eligible to receive a license under the provisions of this law, it shall be the duty of the Racing Commission to

fix the racing days as it determines shall be allotted to such applicant, and the Commission shall issue a license for the holding of the meeting or meetings so sought to be held. The license issued shall describe the place and track or race course at which the licensee is authorized to hold such meeting or meetings, and the authority conferred in any one license shall be limited to a twelve (12) months period from the date of the license; provided, however, the commission may, in its discretion, for good cause, to be shown in writing by the applicant, issue such license for a three (3) year period from the date thereof. The rights granted by the license shall not be assignable, except on application to the Commission for authority so to do, and the permission of the Commission obtained.

The licensee shall pay to the Commission in advance, as a condition of the granting of the license, a license fee for each race meeting authorized to be held, the amounts respectively thus stated, to wit:

If the race meet is to be conducted in a city or town of a population not exceeding three thousand (3,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be One Hundred Dollars (\$100.00); if in a city of more than three thousand (3,000) and not exceeding ten thousand (10,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of Two Hundred Dollars (\$200.00); if in a city of more than ten thousand (10,000) and not exceeding twenty thousand (20,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of Five Hundred Dollars (\$500.00); if in a city of more than twenty thousand (20,000) and not exceeding fifty thousand (50,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of One Thousand Dollars (\$1,000.00); if in a city of more than fifty thousand (50,000) and not exceeding one hundred thousand (100,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of Fifteen Hundred Dollars (\$1500.00); and if in a city of more than one hundred thousand (100,000) inhabitants, or within twenty-five miles thereof, such license fee shall be the sum of Two Thousand Dollars (\$2,000.00); such population to be determined by the last preceding census of the United States.

The license fees so received by the Racing Commission shall be promptly remitted to the Treasurer of the State of Texas through the State Comptroller of Public Accounts, and shall become and be a part of the Special Racing Fund hereinafter mentioned.

Cancellation, for any cause authorized under this Act, shall not entitle the licensee to a refund of the fee or any part thereof paid for such license.

The Commission, may, within its discretion, limit the issuance of licenses to one per county in any one calendar year.

The license issued shall expressly provide that the licensee shall, in addition to license fees paid, remit to the Treasurer of the State of Texas, through the State Comptroller, at the end of each race meeting, one-fourth of the ten per cent (10%) received as commission or compensation by the licensee, as authorized by this Act. This fund, when received by the Treasurer, shall be held by him and credited as a Special Racing Fund.

The expenses incurred and authorized by virtue of this Act, shall be payable out of the Special Racing Fund, not otherwise, and so much thereof as may be necessary, is hereby appropriated, and all amounts shall be paid upon accounts approved by the Chairman of the Racing Commission and warrants drawn against said fund by the Comptroller on the State Treasurer.

The Treasurer of the State of Texas, in December of each year, shall make a complete statement of the amount he has received within the calendar year under the provisions of this Act. After there shall have been charged against this fund the theretofore paid out operating ex-

penses of the Racing Commission in that year as herein authorized, and the additional amount which the Racing Commission shall estimate as being required to be paid out in that year, and, in addition thereto, such amount as the said Racing Commission shall estimate as the expenses for the operating of the Commission for the next succeeding calendar year, the amount then remaining in this fund shall be held for and disbursed thus, viz:

After providing for the operating expenses of the Racing Commission as aforesaid, an amount equal to twenty-five per cent (25%) of the funds remaining in the Special Racing Fund shall by the Treasurer of the State of Texas be paid into and credited to the available public free school fund of the State as provided by the Constitution of the State of Texas. An amount equal to twenty-five per cent (25%) of the funds then remaining in the Special Racing Fund shall be used by the Commissioner of Agriculture of the State of Texas to purchase, transport, and deliver for distribution well-bred and approved stallions and jacks throughout the State of Texas, and, in connection therewith, defray the actual reasonable expense incident to the purchase, transportation and maintenance of such animals, in order thereby to promote the breeding of better live stock in the State of Texas. After deducting from said Special Racing Fund the operating expenses of the Racing Commission as aforesaid, and after deducting from said Special Racing Fund the said twenty-five per cent (25%) going to the available public free school fund, and after deducting the said twenty-five per cent (25%) to be so used by the Commissioner of Agriculture of the State of Texas as aforesaid, the balance remaining in said Special Racing Fund, so far as it may be required, shall be used for the payment of the appropriations by the Legislature for the support and maintenance of the State Department of Agriculture as said appropriations for that Department shall be fixed and allowed by the Legislature of the State of Texas from time to time. It is further provided that any excess left in the Special Racing Fund shall be by the State Treasurer divided into as many equal parts as there are counties in the State of Texas, and he shall thereupon immediately remit one of such equal parts to the County Treasurer of each county in the State of Texas, who shall pay the same into such lawful fund or funds of said county, as shall be determined by the Commissioners Court of said county.

Subsec. 6. The payments herein required to be made by the licensee to the Treasurer of the State of Texas shall be in lieu of all other or further excise or occupation taxes to the State of Texas, or any county, city, town, or political subdivision thereof.

Subsec. 7. The titles of such animals so purchased shall be in the State of Texas. The Commissioner of Agriculture shall keep appropriate written records showing the price paid for each animal, from whom, and where purchased, the age and breeding of such animal, the location and the custodian from time to time of such animal. He shall also procure from time to time a report from the County Agent or County Judge of the county where such animal is located, as to the condition and the use made of such animal, and the number of colts foaled in the calendar year in that county.

For the service of such animals so distributed, the Commissioner of Agriculture is authorized to make a charge of not exceeding Five Dollars (\$5.00) for colts foaled. The amount so collected by the Commissioner of Agriculture shall be remitted by him through the State Comptroller to the State Treasurer, and shall be deposited to the credit of the Special Racing Fund.

The Commissioner of Agriculture shall adopt and carry out reasonable rules and regulations with respect to the distribution, care, use and maintenance of such animals. All expenditures thus authorized shall

be paid upon accounts approved by the Commissioner of Agriculture, and warrants drawn by the Comptroller on the State Treasurer.

In allotting or distributing said stallions and jacks, the Commissioner of Agriculture shall request and give consideration to the recommendations of the Commissioners Court of the particular counties seeking the distribution of such animals.

The Commissioner of Agriculture annually, in the month of November, shall make and file with the Governor and the Racing Commission a written report showing prices paid for animals purchased by him under this Act, from whom and where purchased, the age and breeding of each respective animal, and the location of such animal, and the name of the then custodian thereof, the amount collected by him as service charges on animals, and the amount paid out in the way of maintenance expense of animals and to whom paid.

Subsec. 8. Any person or persons, corporation or association who shall operate the said certificate system on the racing of horses, except when licensed under the provisions of this Act, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00) for each day of such unauthorized use.

Subsec. 9. In event any licensee shall intentionally violate any provision of this Act or any rule promulgated by the Racing Commission, the Commission shall have the power, on reasonable notice to the licensee, and after giving such licensee an opportunity to be heard, to cancel such license. In event of such cancellation, the licensee shall not be eligible to receive another license within a period of twelve (12) months from the date of such cancellation.

Any licensee or other party at interest shall have the right to have any decision of the Commission reviewed by the District Court of the county where a license was sought or obtained for the holding of a race meeting, and the procedure shall be the same as is now applicable to a review by a District Court of Travis County, Texas, of an order of the Railroad Commission of Texas.

Subsec. 10. Nothing in this Act shall be construed to apply to the racing of horses when the operation of the certificate system of racing is not used in connection with such racing.

Sec. 2. The amounts of revenue derived under this Act for the two year period beginning September 1, 1933, and ending August 31, 1935, are hereby appropriated for the purposes and in the amounts as herein set out.

Sec. 2a. It is hereby declared to be the intention of this Act that all the salaries and expenses of the operation of the Commission shall never become a charge against the General Revenue of the State, and in the event the fees and licenses authorized herein shall not provide sufficient revenue to pay all the salaries and expenses authorized, then in that event the funds derived from the sources authorized herein shall be prorated for the salaries and expenses of the Commission.

Sec. 3. A private corporation may be formed for any or all of these purposes, namely: To construct, own, maintain or operate a racing course with the usual facilities in connection therewith; or to engage in the racing or exhibition of horses. [Acts 1933, 43rd Leg., p. 428, ch. 166, as amended Acts 1933, 43rd Leg., 1st C. S., p. 32, ch. 10.]

The Act of 1933, 43rd Leg., p. 428, c. 166, cited to the text, was a temporary appropriation act. This amendment establishes the Racing Commission as herein set out.

The omitted provisions of section 1 of this act, preceding the asterisks made an appropriation to carry out the purposes of the act.

Art. 666. Sale of intoxicating liquor, etc.

Provisions inapplicable to beer of 3.2% alcoholic content, see Pen. Code art. 694a.

[Art. 694a. Manufacture, sale and distribution of vinous or malt beverages authorized; local option; "beer" defined]

Sec. 1. (a) The manufacture, sale and distribution of vinous or malt beverage containing one-half ($\frac{1}{2}$) of one per cent (1%) or more of alcohol by volume and not more than three and two-tenths per centum (3.2%) of alcohol by weight is hereby authorized within the State of Texas, subject to the terms and conditions herein imposed.

(b) Upon and after the effective date of this Act (as provided in subsections (c) and (d) of Section 28 of this Act) in all counties in the State of Texas and in all political subdivisions thereof wherein the sale of intoxicating liquors had been prohibited by local option election held under the laws of the State of Texas and in force at the time of taking effect of Section 20, Article 16 of the Constitution of Texas, it shall continue to be unlawful to manufacture, sell, barter or exchange in any such county or any such political subdivision of said county any vinous or malt liquors containing in excess of one per cent (1%) of alcoholic content by volume, unless and until a majority of the qualified voters in said county or political subdivision thereof voting at an election held for such purpose shall determine it to be lawful to manufacture, sell, barter or exchange in such county or in such political subdivision of said county any vinous and malt liquors containing not more than three and two-tenths per centum (3.2%) alcoholic content by weight;

(c) Provided further that in all counties in the State of Texas and in all political subdivisions thereof wherein the sale of intoxicating liquors had not been prohibited by local option election held under the laws of Texas and in force at the time of the taking effect of Section 20, Article 16 of the Constitution of Texas, it shall be lawful to manufacture, sell, barter or exchange in any such county or in any such political subdivision thereof vinous or malt liquors containing not more than three and two-tenths per centum (3.2%) alcoholic content by weight upon complying with the terms and conditions of this Act unless and until otherwise determined by a majority of the qualified voters voting in an election held in such county or held in such political subdivision thereof at an election held for that purpose.

(d) The word "beer" as hereinafter used in this Act and for the purposes of this Act shall mean beer containing one-half ($\frac{1}{2}$) of one per cent (1%) or more of alcohol by volume and not more than three and two-tenths per centum (3.2%) of alcohol by weight.

[Containers]

Sec. 2. (a) Beer can be manufactured, sold and distributed in barrels, kegs, bottles and other containers.

(b) As a standard of measure the word "barrel" shall mean a container containing thirty-one (31) standard gallons.

[Definitions; general distributor's license]

Sec. 3. (a) A "manufacturer" is hereby defined to be any person licensed to manufacture or brew beer and to distribute and to sell same to others in the original package.

(b) A "general distributor" is hereby defined to be any person licensed to distribute or to sell beer to local distributors, retail dealers and/or others in the original package.

(c) A "local distributor" is hereby defined to be any person licensed to sell and distribute beer to retail dealers and ultimate consumers in the county of his residence in unbroken packages not to be consumed on the premises where sold.

(d) A "retail dealer" is hereby defined to be any person licensed to sell beer in bottles and from kegs, barrels or other containers to the ultimate consumer.

(e) A "general distributor" shall procure the primary license in the county of his domicile or residence, and if he desires to establish any place of business in any other county, he shall present his license secured from the county of his residence to the Tax Collector of such County together with a license fee of Fifty Dollars (\$50.00) and it shall be the duty forthwith of such Tax Collector to issue a license for such general distributor in such county.

(f) A distributor, local or general, may maintain necessary warehouses, for storage purposes only, from which delivery may be made without such warehouses being licensed.

(g) "Person" shall include any corporation, partnership, association and person or group of persons.

[License]

Sec. 4. It shall be unlawful for any person to manufacture or brew for the purpose of sale or to sell or distribute any beer without first having applied for and secured a license as required by this Act.

[License fees and regulations]

Sec. 5. Before any license required by this Act shall be issued the license fee required therefor shall be paid to the County Tax Collector of the county where such license is issued for the use and benefit of the General Fund of the State of Texas. Annual fees required for license authorized by this Act shall be as follows:

(a) For a license authorizing the manufacture and sale by a manufacturer, Five Hundred Dollars (\$500.00).

(b) For a general distributor, Two Hundred Dollars (\$200.00).

(c) For a local distributor, Fifty Dollars (\$50.00).

(d) For a license authorizing the sale of beer by retail dealer for consumption on or off the premises where sold, One Hundred Dollars (\$100.00).

(e) For license authorizing the sale of beer by retail dealer in the original container direct to the consumer, but not for resale, and not to be consumed on the premises where sold, Fifty Dollars (\$50.00).

(f) All licenses issued under the terms of this Act shall terminate at midnight on the thirty-first day of December of each year and no license shall be issued for a longer term than one year. On or before the first day of January 1934 and annually thereafter each and every person owning a license issued under the terms of this Act may by written application filed with the Tax Collector of the county of his residence, not more than thirty (30) days prior to the first day of January, renew such license so held by him. Such application shall be in writing, signed by the applicant and contain full and complete information as to the business to be conducted and all other information as set out and required in the original application upon which such original license was issued, accompanied by a fee of Two Dollars (\$2.00), which said sum of Two Dollars (\$2.00) shall be in addition to the amounts in this Act required to be paid for annual licenses, as a renewal fee charge. Such sums so paid as renewal fee charges shall be retained by the respective County Tax Collectors as fees of office and be so accounted for by them respectively. Upon the presentation of such application for renewal of license, together with the sums required by this Act for an annual license, plus the said renewal fee of Two Dollars (\$2.00), it shall be the duty of the County Tax Collector to forthwith issue such renewal license upon the form to be prescribed by the Comptroller; provided, however, that no applicant for a license under the terms of this Act shall be required to pay at any one time more than the annual fees required for licenses hereunder; but such applicant shall always be required to pay such fees in advance and if such license so sought is for a portion of a year only, then the fee required to be paid for the issuance of such license shall cover the period

of time from the date of such license to midnight of the thirty-first day of December following, and only such proportionate part of such annual license fee as required under the terms of this Act as the period of time between the date of such license and the thirty first day of December following bears to the calendar year shall be required to be paid by such applicant.

(g) No manufacturer, general distributor, local distributor or retail dealer shall carry on such business at more than one place under the same license, but a separate license must be obtained for each place of business, nor shall any such license be voluntarily assigned more than once, but before assignee of such license can engage in business thereunder he or they shall comply with the provisions of this Act as required by original licensee and provided further that the sale of such license, whether in the name of the original licensee or assignee, may be made under execution or mortgage and the purchaser of such license in such sale shall have the right to surrender such license to the State or County which issued the tax receipt which is the basis thereof and shall receive therefor the pro rata unearned portion of such license, provided that should said original licensee or his assignee desire to change the place designated in said license he may do so by applying to the County Judge as in the case of the original application for license as provided in this Act.

(h) The Commissioners Court of each County in this State shall have the power to levy and collect from every person that may be licensed hereunder in said county a license fee equal to one-half ($\frac{1}{2}$) of the State fee; and where any such license fee is assessed in any incorporated city or town, it shall have the power to levy and collect a license fee not to exceed one-half ($\frac{1}{2}$) of the State fee, but no other fee or tax shall be levied by either. But nothing shall be construed as preventing the levying, assessing, and collecting general ad valorem taxes on the property of the said persons, individuals, partnerships or corporations so licensed.

[Beer tax; stamps]

Sec. 6. (a) There is hereby levied and assessed a tax at the rate of One Dollar and Fifty Cents (\$1.50) per barrel on all beer sold, stored or distributed in this State or imported into this State. On imported beer the duty of paying said tax and affixing and cancelling the tax stamp as required under this Act shall rest primarily on the importer, and it is hereby declared to be unlawful to import beer into this State unless said tax has first been paid and the tax stamp evidencing such payment has been first affixed and cancelled as required by this Act.

It is the intention of this Section to impose upon all persons importing beer into this State the duty of paying said tax and affixing said stamp as required by this Act before said beer is imported into the State. Provided, however, if it should be determined that this subsection imposes an undue burden on interstate commerce and for that reason is invalid, then, it is hereby declared to be the legislative intent, nevertheless, to levy and collect the tax at the rate herein prescribed upon all beer sold, stored or distributed in this State, or imported into this State, and the duty of paying this Tax shall rest upon the first person selling, storing or distributing said beer in this State; providing further, however, that the tax herein prescribed shall be paid but one time.

No manufacturer, however, shall be required to affix any stamps on any container of beer to be transported out of this State while same is stored in any brewery where same is brewed.

It shall be unlawful to transport to destinations in this State any beer upon which said tax has not been paid.

(b) Said tax shall be paid and evidenced by placing stamps as hereafter provided in the denomination required on each original barrel, keg, box, carton or other container in which beer in bulk or in bottles is

packed; provided, however, that such container shall not contain more than the content of one (1) barrel of beer; and provided further that at the time such stamp is affixed the person affixing the same shall by indelible ink or stamp cancel said revenue stamp by placing the date and his or its full name or initials on said revenue stamp.

(c) Provided further that if at the time said beer is received in this State, said stamps, as required by this Act, have already been affixed and/or dated and initialed, the person receiving the same shall be relieved therefrom, but he shall not be relieved from dating or initialing the same if no initial or date appears on said stamp upon receipt of said beer.

(d) Said stamp shall be placed on each barrel, keg, carton, box or other container upon which the stamp is required to be affixed in such way that such container cannot be conveniently and practically opened without mutilating or defacing said stamp. Every person opening any such container upon which a stamp has been placed shall at the time mutilate or otherwise deface such stamp so that the same cannot be used again.

(e) No bottled beer shall be stored in this State unless the same be in a container, unless the same is exposed for sale or is being cooled for sale, except when the same is legally in the possession of the ultimate consumer; nor shall any beer be stored or sold in this State except to the ultimate consumer, unless the same is packaged or contained in a container properly stamped.

(f) If any person has paid the tax on any containers of beer by affixing stamps thereon, and thereafter said beer is shipped out of Texas for consumption, a claim for refund may be made on paying a fee of Five Dollars (\$5.00) to the Comptroller of Public Accounts at the time and in the manner prescribed by such officer. So much of said fund as may be necessary, not to exceed two per centum (2%) thereof is hereby appropriated for such purpose. Said officer may promulgate rules and regulations generally for the enforcement of this Act.

[Tax to be paid and stamps affixed at source]

Sec. 7. It is the purpose and intent of this Act to require the tax to be paid and the stamp evidencing the same to be affixed on the first sale, distribution, storage or transportation and at the source, to the end that it will preclude any person evading the payment of this tax, and so as to relieve as nearly as possible the consumer and retail dealer from having to affix said stamps.

[Printing or engraving stamps; appropriation]

Sec. 8. (a) It shall be the duty of the State Treasurer to have engraved or printed the stamps necessary to comply with this Act and to sell same to all persons upon demand and payment therefor, and one-half ($\frac{1}{2}$) of the proceeds of such sale shall be placed to the credit of the State Available School Fund and one-half ($\frac{1}{2}$) to the General Fund, and the State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds of such sales under his official bond. Such stamps shall be of such design and denomination as the State Treasurer shall from time to time prescribe and shall state the amount of tax, the payment of which is evidenced thereby, and shall contain the words "Texas State Tax Paid."

(b) The sum of Fifty Thousand Dollars (\$50,000.00), or so much thereof as may be necessary, is hereby appropriated out of the General Fund with which to pay the costs of providing such stamps. The sum of Fifty Thousand Dollars (\$50,000.00), or so much thereof as may be necessary, is hereby appropriated out of the General Fund for the purposes of printing licenses, employment of inspectors and other necessary expenses incurred by the Comptroller for the ensuing biennium beginning September 1, 1933, said two amounts to be returned to the General Fund from

the first revenue realized therefrom and provided further that no inspector shall be paid more than the inspectors and investigators are now authorized to be paid by the Comptroller.

[Manufacturer or distributor not to be interested in retail business]

Sec. 9. No manufacturer or distributor shall own any interest in the business of any retail dealer in beer either directly or indirectly through any officer, agent or employee or own any interest of any kind in the premises in which any such retail dealer conducts his or its business.

[Procedure to obtain license]

Sec. 10. (a) Any person desiring a license as manufacturer, distributor or retail dealer may in vacation or in term time file a petition with the County Judge of the county in which the applicant desires to engage in such business, which petition shall state as follows:

If a manufacturer:

(1) That he is a law abiding, taxpaying citizen of this State, over twenty-one (21) years of age; that he has not been convicted of a felony within two (2) years immediately preceding the filing of said petition, and has been a resident of the county wherein such license is sought for more than two (2) years next preceding the filing of said petition.

(2) If a co-partnership, that all of the individuals have the same qualifications as provided in paragraph (1) above.

(3) If a corporation, that applicant is organized and chartered under and has complied with all corporation laws of this State applicable to such corporation; the principal place of business in such county where such license is sought, and the President or Manager shall make an affidavit that he is a law abiding, taxpaying citizen of this State, over twenty-one (21) years of age, and that he has not been convicted of a felony within two (2) years immediately preceding the filing of said petition.

If a distributor:

(1) Such applicant shall give the same information required of a manufacturer, including the place or places where such business is to be transacted.

If a retail dealer:

(1) The same information required of a manufacturer.

(2) Whether he desires to sell beer for consumption on or off the premises.

If an individual:

(1) That the applicant shall make an affidavit duly signed and sworn to before any person authorized to administer oaths under the laws of this State, showing that he has not, since the effective date of this Act, naming the date in the affidavit, and within two (2) years next preceding the making of said application and while engaged in the manufacture, sale or distribution of beer, paid, contributed or furnished any money or thing of value to any candidate for any public office in this State.

If the application is in behalf of a corporation, the affidavit shall be by the president, vice-president, secretary or treasurer of such corporation and shall contain a statement that the corporation has not paid, contributed or furnished any money or thing of value to any candidate for any public office in this State since the effective date of this Act, naming the date in the affidavit, and within two (2) years next preceding the making of said application and while engaged in the business of manufacturing, sale or distribution of beer. Any person who makes a false affidavit in reference to the matters and things required by this section, shall be guilty of a felony, and upon conviction shall be punished as now provided by law for having committed the offense of false swearing.

(b) Such manufacturer, distributor, or retail dealer desiring to be licensed shall file said petition with the County Judge who shall set same

for a hearing at a date not less than five (5) nor more than ten (10) days from the filing of same, and if upon hearing, he finds the facts stated in such petition are true, he shall authorize a license to be granted as prayed for, provided, however, that upon the filing of such petition, the clerk shall first give notice thereof by posting at the courthouse door a written notice of the filing of said petition and a copy of the substance thereof, and such notice shall state when the petition shall be heard. Said petition may be inspected by any person. Any citizen shall be permitted to contest the facts stated in such petition and the applicant's right to secure license upon giving security for all costs which may be incurred in such suit, should the same be decided in favor of the applicant; provided, however, no county or district attorney shall be required to give bond for such costs but the County or State as the case may be shall be liable therefor.

(c) Upon the court's authorizing a license to be issued, the Judge shall so certify and deliver a copy of such certification to the applicant, who shall thereupon present the same to the County Tax Collector and pay the fee required, whereupon it shall be the duty of the Tax Collector to issue such license on a form prescribed by the Comptroller, showing the amount paid, date, classification and such other information that may be required by the Comptroller, including the correct address of the place of business. A copy of such license shall be sent by the County Tax Collector forthwith to the office of the Comptroller and a record thereof kept in said office.

(d) In the event the County Judge denies the application for a license, he shall enter his judgment accordingly and the applicant may within thirty (30) days thereafter appeal to the District Court of the county where said application is made, and such District Court may hear and determine such appeal in term time or vacation by trial de novo. If the applicant shall prevail by final judgment, a certified copy thereof shall be presented to the Tax Collector, who shall thereupon accept the fees required and license shall be issued as provided herein.

(e) As to applications, this provision of this Act shall become effective on September 1, 1933. Any time after September 1, 1933, said petitions or applications can be filed and acted on as provided in this section, but no license shall be finally issued by the Tax Collector until on or after September 15, 1933.

(f) Any manufacturer, distributor or person shipping or consigning beer into this State shall file with the Secretary of State a certificate certifying the name of his agent upon whom service may be had, his or its street address and business, and if such be not done within fifteen (15) days from the effective date hereof then service may be had on the Secretary of State in any cause of action arising out of the violation of this Act, and it shall be the duty of the Secretary of State to send any such citation served on him to such person who may be in a foreign state, registered, return receipt requested and such receipt will be prima facie evidence of service on such person.

[Form of license; disposition of unearned portion of license; statements by Tax Collector]

Sec. 11. (a) Upon the payment of the fee to the Tax Collector and the proper evidence from the County Judge that such applicant should be licensed, such Tax Collector shall issue to the applicant the proper license which shall be by him signed, be under the seal of his office, be dated, state on its face for what it is issued, date when it will expire, by whom and where such business is to be conducted and shall describe the place where same is to be kept and whether licensee is authorized to act as manufacturer, general distributor, local distributor, or retail dealer of beer as set out in the application.

(b) In the event of the death of any licensee or the dissolution of any corporation or association of persons, leaving unearned portion of any license issued, the legal representatives of such deceased person or surviving partner or director of any such corporation may present the license of such person to the State and county and receive payment of the unearned portion of license fee collected, the State's portion to be paid out of the foregoing appropriation to the Comptroller.

(c) The Tax Collector shall make statements to the Comptroller of the amounts collected by him at the times and in the manner as required by the Comptroller.

[Penalty]

Sec. 12. (a) If any person manufactures or sells beer in this State as a manufacturer, distributor or retail dealer without then and there being licensed as a manufacturer, distributor or retail dealer respectively, or

(b) If any person as agent or representative of any manufacturer, distributor or retail dealer shall manufacture or sell beer for any manufacturer, distributor or retail dealer without such manufacturer, distributor or retail dealer being duly licensed as required by this Act, or,

(c) If any persons shall sell, transport, store or otherwise handle in intrastate commerce, or conspire to sell, transport, store or otherwise handle in intrastate commerce any beer without the stamp required in Section 6 of this Act being placed on the container as required in such section, or,

(d) If any person shall open any such container having a stamp without then and there mutilating or otherwise defacing such stamp so that it cannot be again used, or,

(e) If any person shall attach to any container of beer any stamp that has been theretofore attached to a different container of beer, or,

(f) Shall refuse to allow on demand the Comptroller or any representative of said Comptroller to make a full inspection of any place where beer is being stored, transported, manufactured or otherwise handled or,

(g) If any person shall knowingly or wilfully sell any beer to any person under the age of twenty-one (21) years, or,

(h) If any person fails to display any license required by the provisions of this Act in some conspicuous place in the house where such business is conducted, or,

(i) If any person shall sell or offer for sale in this State, whether as principal or agent, any beer unless the same be in or from the original container bearing the original label with the full name of the brewer or manufacturer of such beer both upon the label or bottle and/or upon the cap or cork of such bottle or upon the keg.

No female or any male person under eighteen (18) years of age shall be employed to work in or perform any labor in any establishment where beer is sold by retail to be consumed on the premises where sold and where the sale of beer is the principal business conducted at such place of business. Or,

(j) If any person shall violate any provision of this Act whether specifically enumerated above or not,

(k) He shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine in the sum not less than Twenty-five Dollars (\$25.00) and not more than Five Hundred Dollars (\$500.00), or by imprisonment in the County Jail not more than one year or by both such fine and imprisonment except when some other penalty is specifically provided by this Act, in which event the penalty specifically provided shall apply to the specific act or omission.

[Records; penalty; other regulations]

Sec. 13. (a) Each manufacturer and distributor shall be required to keep records of the amount of beer manufactured and/or bought or received by them and the amount sold, the amount of stamps purchased by them and the amount of stamps used by them and such other records as may be required to be kept by the Comptroller, which records at all times shall be open for the inspection by him or his duly authorized representative at reasonable office hours.

(b) If any person shall commit any offense prescribed by Section 13 or violate any other provision of this Act, he shall also forfeit to the State a penalty not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) to be recovered by the State in a suit filed in Travis County or in any county in which such violation may have occurred, which money shall be paid into the State Available School Fund, and each day of such violation shall constitute a separate and distinct violations.

(c) Each sale to any person under twenty-one (21) years of age under the provisions of this Act shall constitute a separate offense.

(d) It shall be unlawful for any person in all counties or subdivisions thereof wherein the sale of beer as defined by this Act is authorized to be sold, to sell beer on the day of any general primary election or general election held in this State, between the hours of seven o'clock A. M. and eight o'clock P. M. on the day and

(e) It shall be unlawful for any person engaged in or having any interest in any business which manufactures, sells or distributes beer, as defined in this Act, to contribute any money or any other thing of value toward the campaign expenses of any candidate for any office in this State.

(f) No person who may engage in the sale of beer, as a principal business and which is to be consumed on the premises, under the provisions of this Act shall offer for sale or sell such beer between the hours of twelve o'clock midnight and seven o'clock A. M. on each day as herein provided and from and after twelve o'clock midnight Saturday until seven o'clock A. M. Monday of the following week.

(g) The Commissioners Court of any county in the territory thereof outside of incorporated cities and towns and the governing authorities of any city or town within the corporate limits of any such city or town may prohibit the sale of beer by any dealer whose principal business is the sale of beer where the place of business of any such dealer is within three hundred (300) feet of any church, school or other educational institution, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur. No license or permit shall ever be granted, nor shall beer ever be sold in or upon any property, State Parks excepted, owned by or under lease by the State or within three hundred (300) feet of the grounds of the State Capitol. This shall not apply to property of the State which is under lease and being used and occupied by others.

(h) The County Judge of any county after ten (10) days notice and hearing may revoke the license of any licensee of such county:

1. When disorderly or immoral practices are permitted on the premises, or spiritous, vinous or malt liquors are illegally sold on the premises.

2. Where the word "saloon" is printed, painted or placed upon the door, window or in any other public place on or about the premises or when the word "saloon" is used in any advertisement by the licensee.

[Counterfeiting stamps]

Sec. 14. Any person, other than the State Treasurer or his duly authorized agent who shall print or engrave or directly aid in or cause the printing or engraving of any stamp or stamps evidencing or purporting to evidence the payment of any tax levied by this Act, or who shall use

or consent to the use of any counterfeit or unauthorized stamps in connection with the sale or offering for sale of any beer, or shall place or cause to be placed on any container containing or to contain such beer any such unauthorized or counterfeit stamps, or if any person shall knowingly possess any counterfeit stamps or shall counterfeit any license to be used in lieu of the stamps or license as required by this act, he shall be guilty of a felony and upon conviction be punished by imprisonment in the penitentiary for not less than two (2) years nor more than five (5) years.

[Penalty for unlawfully permitting opening or consuming beer on premises where sold]

Sec. 15. Any person, whether as principal or agent of any firm, corporation or association of persons engaged in the business of manufacturing and selling or in the business of distributing and selling or in the retail business of selling beer under license which does not permit such beer to be opened and consumed on the premises where sold, who shall permit any such beer so manufactured and sold or distributed and sold to be opened and consumed on the premises where sold, shall be guilty of a misdemeanor and upon conviction, be punished by a fine of not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00).

[Forfeiture of license]

Sec. 16. In addition to the penalties herein provided the license of any person convicted of violating any of the provisions of this Act shall be subject to forfeiture in a suit filed by the State for such purpose by reason of such conviction; and no license shall be reissued to any person whose license for any of such occupations has been revoked or forfeited within one (1) year next preceding the filing of his application for a new license.

[Effect of forfeiture of license]

Sec. 17. In case the license of any licensee hereunder is forfeited under the provisions of this Act, nevertheless such licensee shall be authorized to sell or dispose of in bulk any stock of beer he may have on hand at the time such license is forfeited.

[Transportation of beer]

Sec. 18. It is hereby declared to be lawful to transport beer, as herein defined, from any place in this State, where the sale, manufacture and distribution thereof is authorized by law, to any other place within this State where the same may be lawfully manufactured, sold or distributed; and from the State boundary to any such place, even though in the course of such transportation the route over which the same is being transported may traverse local option territory in which the manufacture, sale and distribution of said beer is prohibited. Provided, however, that any such shipments must be accompanied by a written statement furnished and signed by the shipper showing the name and address of the consignor and the consignee, the origin and destination of such shipment and it shall be the duty of the person in charge of such cargo while it is being so transported to exhibit such written statement to any peace officer making demand therefor, and said statement shall be accepted by such officer as prima facie evidence of the lawful right to transport such beer.

[Local option elections; frequency]

Sec. 19. The Commissioners Court of each county in the State, whenever they deem it expedient, may order an election to be held by the qualified voters in said county or of any justice precinct, incorporated city or town, to determine whether or not the sale of beer containing not more

than three and two-tenths per centum (3.2%) of alcohol by weight shall be prohibited or permitted in such county, justice precinct, incorporated town or city, provided it shall be the duty of said Commissioners Court to order the election as aforesaid whenever petitioned to do so by as many as ten per cent (10%) of the qualified voters of said county or of said political subdivision, not to exceed five hundred (500) qualified voters in any county, taking the vote for Governor at the last preceding general election as the basis for determining the qualified voters in any county or political subdivision. After the first local option election held as provided in this Act in any county, justice precinct, incorporated town or city, no subsequent election in the same political subdivision shall be held for the purpose of determining whether or not beer as defined in this Act shall be permitted or prohibited earlier than six (6) months from the date of the preceding local option election in said county or said political subdivision of said county.

[Order for election; time and place]

Sec. 20. When the Commissioners Court, of their own motion or upon the petition provided for, shall order an election as herein provided for, it shall be the duty of said court to order such election to be held at the voting places within such subdivision or 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 or to clothe the Court with jurisdiction to make it valid, have been fully complied with, provided that said court shall appoint such officers to hold such election as now required to hold general elections.

[Posting order for election; general laws to control election]

Sec. 21. The Clerk of said court shall post or cause to be posted at least one (1) copy of said order in each election precinct in such political subdivision or county affected, for at least six (6) days prior to the day of election, which election shall be held and the returns thereof made in conformity with the provisions of the General Laws of the State, and by the election officers appointed and qualified under such laws.

[Ballots]

Sec. 22. (a) At said election the vote shall be by official ballot which shall have printed or written at the top thereof in plain letters the words "Official Ballot." Said ballot shall have also written or printed thereon the words "For the sale of beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight," and the words, "Against the sale of beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight," and the Clerk of the County Court shall furnish the presiding officer of each such voting box within such subdivision or county with a number of such ballots, to be not less than twice the number of qualified voters at such voting boxes and the presiding officer of each voting box shall write his name on the back of each ballot before delivering the same to the voter and each person offering to vote at such election shall, at the time he offers to vote, be furnished by such presiding officer with one such ballot; and no voter shall be permitted to depart with such ballot and shall not be assisted in voting by any person except such presiding officer or by some officer assisting in the holding of such election, under the direction of such presiding officer when requested to do so by such voter.

(b) Those who favor the sale of beer containing not more than three and two-tenths per centum (3.2%) alcohol by weight shall erase the words, "Against the sale of beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight," by making a pencil mark through

same, and those who oppose it shall erase the words, "For the sale of beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight," by making a pencil mark through same. No ballot shall be received or counted by the officers of such election that is not an official ballot, and that has not the name of the presiding officer of such election written thereon in the handwriting of such presiding officer as provided by this Act.

[Election officers]

Sec. 23. The officers holding such election shall, in all respects not herein specified, conform to the general election laws in force regulating elections; and after the polls are closed proceed to count the votes and within three (3) days thereafter make due report of said election to the aforesaid Court. The provisions of the general election laws shall be followed in calling and conducting said election where not inconsistent herewith.

[Canvassing votes and certifying result of election]

Sec. 24. Said Court shall hold a special session on the fifth day after the holding of said election, or as soon thereafter as practicable for the purpose of canvassing the votes and certifying the results, and if a majority of the votes are "Against the sale of beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight," said court shall immediately make an order declaring the results of said vote, and absolutely prohibiting the sale of beer containing not more than three and two-tenths per centum (3.2%) alcohol by weight within the said political subdivision after thirty days from the date of declaring the result thereof, and thereafter until such time as the qualified voters therein may thereafter at a legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held to be prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes, and declaring the results thereof.

[Publication of order declaring result of election and prohibiting sale of beer]

Sec. 25. The order of said Court declaring the result and prohibiting the sale of beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight shall be published for four successive weeks in some newspaper published in the county wherein such election has been held. If there be no newspaper published in the county, then the County Judge shall cause publication to be made by posting copies of said order at three public places within the county for the aforesaid length of time. The fact that publication has been made, in either mode, shall be entered by the County Judge on the minutes of the Commissioners Court. An entry thus made, or a copy thereof certified under the hand and seal of the clerk of the Court shall be sufficient prima facie evidence of such fact of publication.

[Order permitting sale of beer]

Sec. 26. If a majority voting at such election vote "For the sale of beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight," the Court shall make an order declaring the results and have the same entered of record in the office of the clerk of said Court, whereupon it shall be lawful in such political subdivision to manufacture, sell and distribute beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight, and thereafter until such time as the qualified voters therein may thereafter at a legal election held for that purpose by a majority vote decide otherwise, and the order thus

made shall be held to be prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof.

[When local option procedure becomes effective]

Sec. 26-a. From and after the passage of this Act and the filing of the same in the office of the Secretary of State, the authority and procedure herein prescribed for the calling of local option elections shall be effective, and may be exercised prior to September 15, 1933, to determine whether the sale of beer as herein defined shall be lawful or unlawful in counties or such political subdivisions thereof, and an order shall be entered on the records of the Commissioners Court declaring the results of such elections as herein provided for; provided, however, said order shall not become effective unless and until House Joint Resolution No. 43 of the Forty-third Legislature shall have been adopted as an amendment to the Constitution of the State of Texas as otherwise provided in this Act. Provided, however, no such election shall be held prior to July 1, 1933; and no such election shall be held between July 1, 1933, and the fourth Saturday in August, 1933, unless the Commissioners Court shall otherwise order.

[Refunding fee for unexpired term]

Sec. 27. In all cases where any person pursuing the occupation of selling beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight under licenses issued in accordance with the laws of this State has been or shall hereafter be prevented from pursuing such occupation for the full time to which he would be otherwise entitled by reason of the adoption of local option in any county or subdivision thereof the proportionate amount of license fees paid by him for the unexpired term shall be refunded to him.

[Obstructing view of interior of places of business]

Sec. 27-a. No "blinds" or barriers of any kind or character shall be installed or maintained in the openings or doors of any establishment whose principal business is the sale of beer; neither shall any windows on said establishments be painted in such a way as to obstruct the views from the general public.

[Construction of act; effective date of act; partial invalidity]

Sec. 28. (a) None of the provisions of Title 80 of the Revised Civil Statutes, 1925, or of Title 2, Chapter 7 of the Penal Code, shall have application to the manufacture, sale, possession, distribution, advertisement or transportation of vinous or malt beverages as herein defined in those counties or political subdivisions thereof wherein the manufacture, sale, possession, distribution, advertisement and transportation of such beverages are legalized under the terms of this Act.

(b) Nothing contained in this Act shall be construed as authorizing or permitting the sale, manufacture, transportation or possession for sale of spiritous liquors or medicated bitters capable of producing intoxication or vinous or malt liquor containing more than three and two-tenths per centum (3.2%) alcoholic content by weight in any county in this State regardless of whether or not the sale, manufacture, transportation or possession for sale of beer as defined in this Act has been permitted and nothing herein contained shall be construed as preventing the enforcement of all laws now in force, or which may hereafter be in force, regulating or prohibiting the sale of such spiritous liquors or medicated bitters or vinous or malt liquors containing more than three and two-tenths per centum (3.2%) alcoholic content by weight in this State.

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(c) This Act shall take effect and become a law on September 15, 1933. If the complete returns by the Texas Election Bureau, however, show that House Joint Resolution 43 of the Forty-third Legislature has been adopted by the people by a majority of not less than 20,000 votes, then in that event the officers charged with the duty of engraving or having engraved said stamps shall begin immediately to do so and may distribute the same for use when under the laws of this State the same may be required, and the Comptroller shall also begin to discharge those duties incumbent on him on such date.

(d) If, however, House Joint Resolution 43 of the Forty-third Legislature shall not have been adopted as an Amendment to the Constitution of the State of Texas, then, and in that event, this Act shall no longer be effective.

(e) If any Section, paragraph, sentence or phrase of this Act be invalid, then such invalid portion shall not in any way affect the remainder of this Act, and it is hereby declared as the Legislative intent that the remainder of this Act would have been passed by the Legislature, notwithstanding the invalidity of such section, paragraph, sentence or phrase. [Acts 1933, 43rd Leg., p. 288, ch. 116.]

TITLE 12—PUBLIC HEALTH

[Art. 719b.] Penalty for violation of Act relating to standardization of Citrus Fruit

Any person, firm, corporation, association or other organization which violates any provisions of this Act or wilfully interferes with the Commissioner, his agent, inspectors or employees, in the performances or on account of the execution of his or their duties as provided by this Act shall be deemed guilty of a misdemeanor. Any person convicted under this Act shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than ninety (90) days, or both such fine and imprisonment in the discretion of the Court. [Acts 1933, 43rd Leg., p. 550, ch. 180, § 20.]

Effective May 26, 1933. Sections 1-19 of said Acts 1933, 43rd Leg., p. 550, ch. 180, are published as Rev. Civ. St. art. 118a.

[Art. 725a. Regulating traffic in narcotics]

Sec. 1. (a) "Narcotic drug," as used herein shall mean and include opium, morphine, heroin, coca leaves, cocaine, marihuana, or any compound, manufacture, salt, derivative, or preparation thereof. "Drug" when used herein shall mean narcotic Drug.

(b) It shall be unlawful for any person to possess, have under his control, or deal in, dispense, sell, deliver, transport, distribute, prescribe, traffic in, or give away any narcotic drug. Any person violating this Section shall be guilty of a felony, and, upon conviction, thereof, shall be punished for the first offense by fine not exceeding Two Thousand (\$2,000.00) Dollars, or by imprisonment in the State penitentiary for not more than five (5) years, or by both such fine and imprisonment; and, for the second offense, by fine of not less than One Thousand (\$1,000.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars, or by confinement in the State penitentiary for not less than one year nor more than ten years, or by both such fine and imprisonment.

[Exceptions from penalty]

Sec. 2. Said foregoing Section shall not apply: (a) To the possession or control of any of the said drugs, in the regular course of a lawful business, profession, employment, occupation, or duties by manufacturers of

said drugs; importers or exporters of said drugs; persons engaged in the wholesale drug trade; registered pharmacists actually engaged as retail druggists; bona fide owners of pharmacies or drug stores; duly licensed and practicing physicians; duly licensed and practicing dentists; duly licensed and practicing veterinarians; warehousemen, or common carriers, engaged bona fide, in handling or transporting said drugs; persons regularly and lawfully in charge of drugs in dispensaries, hospitals, asylums, sanatoriums, poor houses, jails, penitentiaries, or other public or private institutions; nurses under the supervision of a physician; persons in charge of laboratory where such drugs are used for the purpose of scientific and medical research only; captains, or proper officers, of ships upon which no regular physician is employed, for actual medicinal needs of the officers and crews of their own ships only; persons in the employ of the United States, or of this State, or any county or municipality of this State, and having such drugs in their possession by reason of their official duties, and having such drugs in their possession by reason of their employment. Provided, however, that said persons are duly registered under the laws of this State and the laws of the United States, if required by said laws to be registered; provided, further, that all original stamped packages of said drugs received in this State by said persons must bear the manufacturer's numbers to identify the lot of shipment.

(b) To the possession of any of the said drugs by persons who have obtained them, bona fide, from a duly licensed and practicing physician, dentist or veterinarian, or in pursuance of a written prescription given them by a duly licensed and practicing physician, dentist or veterinarian, and that the drugs are contained in a proper labeled container, showing if obtained upon written prescription, serial number of prescription, name and address of the physician, dentist, or veterinarian who issued prescription, his own name and address, or, if obtained direct from a physician, dentist or veterinarian, the name and address of said physician, dentist or veterinarian, his own name and address.

(c) To the sale, barter, exchange, or giving away any of the said drugs in the conduct of a lawful business, by a manufacturer, exporter, importer, or person engaged in the wholesale drug trade, to a manufacturer of said drugs; an exporter of said drugs; a person engaged in the wholesale drug trade; a duly licensed pharmacist or retail druggist; a duly licensed physician, dentist or veterinarian; a bona fide hospital, dispensary, asylum or sanatorium; the captain or proper officer of a ship upon which no regular physician is employed, for the actual medicinal needs of the captain and officers of such ship only, Provided, however, such transactions are made pursuant to and on receipt of a written order signed and dated in ink or indelible pencil by the person to whom the drugs are furnished, and said orders are to be preserved for a period of at least two years by the person furnishing the drugs, in such manner as to be readily accessible to inspection by duly authorized officers, employees, and agents of the United States or of this State, or of any county or municipality of this State. Provided further, that all parties to the transactions are duly licensed and registered according to the laws of this State and the laws of the United States, if required by said laws to be licensed and registered.

(d) To the sale, dispensing, distribution, furnishing, or giving away, any of the said drugs in the conducting of lawful business by a duly licensed pharmacist in connection with the sale of said drugs at retail to a duly licensed physician, dentist or veterinarian; a bona fide hospital, dispensary, asylum, sanatorium or a person in charge of a laboratory where such drugs are used for the purpose of scientific and medical research only; the captain, or proper officer, of a ship upon which no regular physician is employed, for the actual medicinal needs of the officers and crew of such ship only; a person in the employ of the United States,

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or of this State, or of any County, or Municipality of this State, purchasing and receiving the same in his official capacity. Provided, such transactions are made on a written order signed and dated in ink or indelible pencil by the person to whom the drugs are furnished, said order should be preserved for a period of two years by the person furnishing the drugs, and should be readily accessible to inspection by duly authorized officers, employees, and agents of the United States, or of this State, or any county or municipality of this State. Provided, further, that all parties are duly licensed and registered in accordance with the laws of this State and the laws of the United States, if required by said laws to be licensed and registered.

(e) To the sale, dispensing, distribution, furnishing or giving away, in the conduct of a lawful business, any of the said drugs by a duly licensed pharmacist or druggist in pursuance to, and on receipt of, the original written prescription of a duly licensed and practicing physician, dentist or veterinarian, which prescription must be signed in ink or indelible pencil by the prescriber, dated as of the day on which signed, and bear the full name and address of the person for whose personal and medicinal use it was issued. Provided, said prescription is serially numbered by the druggist and the name of the person filling it; has endorsed on the back thereof the name and address of the person to whom the drug is delivered, and is preserved for at least two years in such manner as to be readily accessible to inspection by duly authorized officers, employees, and agents of the United States, or of this State, or of any county or municipality of this State. Provided, further, that the person filling said prescription affixes to the container of the drugs furnished a label showing the serial number of the prescription, the name and address of the store where the prescription was filled, the name and address of the prescriber, and the name and address of the person to whom the drugs are delivered. Provided, further, however, that all parties to such transactions are duly licensed and registered in accordance with the laws of this State and the laws of the United States, if required by said laws to be licensed and registered.

(f) To the sale, dispensing, prescribing, administering, any of the said drugs to a bona fide patient by a duly licensed and practicing physician, dentist or veterinarian, duly registered under the laws of this State and the laws of the United States. Provided, said drugs are furnished in good faith for legitimate and medicinal purposes, and not for the purpose of evading the provisions and intentment of this Act. Provided, further, that a record of all said drugs so furnished, except such as are personally administered by said physician, dentist or veterinarian in case of emergency, be made and preserved for at least two years in such manner as to be readily accessible to inspection by duly authorized officers, employees, and agents of the United States, or of this State, or of any county or municipality of this State, which record must show the kind and quantity of drugs dispensed, the date on which dispensed, and the name and address of the person to whom dispensed. Provided, further, however, that all such drugs furnished by said physician, dentist or veterinarian for administering to the patient during the absence of said physician, dentist or veterinarian shall be contained in a labeled receptacle, the name and address of the patient, the name and address of the physician, dentist or veterinarian who furnished the drugs.

[Orders in duplicate]

Sec. 3. All written orders in pursuance of which any of the aforementioned drugs are purchased by any person authorized under the laws of this State and the laws of the United States to possess such drugs in the conduct of a lawful business or profession, shall be executed in duplicate by the person purchasing the drugs. The original of said order shall

be sent or given to the person from whom the drugs are ordered and the duplicate of said order shall be retained by the person purchasing the drugs. Upon receiving the drugs ordered the purchaser shall file in a safe place the duplicate copy of the order and shall preserve same for at least two years in such manner as to be readily accessible to inspection by duly authorized officers, employees and agents of the United States, or of this State, or of any county or municipality of this State. Any person failing to comply with, or violating any of these provisions shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than Twenty-five (\$25.00) Dollars, nor more than Five Hundred (\$500.00) Dollars.

[Prescribing and sale to habitual user forbidden]

Sec. 4. No duly licensed and practicing physician, dentist or veterinarian shall sell, dispense, prescribe, administer, distribute or give away any of the aforesaid drugs to any person known to such physician, dentist or veterinarian to be an habitual user of any of the said drugs, unless said drugs are prescribed, dispensed, administered, or given for the treatment or cure of some malady other than the drug habit. Provided, however, if any duly licensed and practicing physician duly registered under the laws of this State, desires to undertake, in good faith, the cure of the habit of taking or using opium or any of its derivatives in any form, such physician may prescribe or dispense opium or its derivatives to a patient under confinement in some public or private institution licensed as such by the State Board of Health or in a public jail or penal institution; provided that in every such case, the physician shall himself make a physical examination of the patient, and shall report within seventy-two hours, in writing, to the State Health Officer, the name and address of such patient, the name and address of the institution in which such patient is confined, or the character of such other restraint imposed to prevent such patient from obtaining said drugs from other sources, together with his diagnosis of the case and the amount and nature of the drug prescribed or dispensed in the first treatment; and, provided, further, that such physician shall also report, in writing, to the State Health Officer, every thirty days thereafter, and when the patient leaves his care, the details and the result of the treatment. Any person divulging any information contained in any report required under this Section, except for the purpose of enforcing this Act, or to a physician who may, in the opinion of the State Health Officer be entitled to such information for the purpose of enabling him to comply with the provisions of this Act, shall be sentenced to pay a fine not exceeding One Thousand (\$1,000.00) Dollars, or be confined in the county jail not exceeding one year, or both by fine, and imprisonment.

[Physical examination required before prescribing]

Sec. 5. It shall be unlawful for any physician, dentist, or veterinarian to administer, dispense, give away, deliver, or prescribe any of the aforesaid drugs, except after physical examination of the person or animal for whom said drugs are intended, said examination to be made at the time said prescription is issued, or at the time said drugs are administered, dispensed, given away, or delivered by said physician, dentist, or veterinarian. No veterinarian shall sell, dispense, distribute, give or prescribe any of said drugs for the use of a human being. Any person who violates any provision of this Section shall be punished as provided in Section 1 of this Act.

[No prescriptions refilled]

Sec. 6. No prescription for any of the aforesaid drugs shall be refilled. No licensed pharmacist, or druggist, duly registered under the laws of this State and the laws of the United States, and regularly engaged in

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the sale of the aforesaid drugs at retail, shall fill any prescription for any of the said drugs without first verifying the proper issuance and correctness of said prescription, if for any reason, the proper issuance or presentation thereof appears questionable. The filling of a prescription for any of the said drugs later than the third day following the day on which said prescription was issued, shall be prima facie evidence which may be rebutted, that the drugs were dispensed for unlawful purposes.

[Self administration forbidden]

Sec. 7. It shall be unlawful for any licensed and practicing physician, dentist, or veterinarian, duly registered under the laws of this State and the laws of the United States, to administer to himself as a habitual user, any of the aforesaid drugs merely to satisfy his craving for the same, or to prescribe for the use of narcotic drugs with the purpose that the drugs be returned to him. Any person violating this Section shall be punished as provided in Section 1.

[Administration by practicing physician required]

Sec. 8. It shall be unlawful for any person to use, take or administer to himself, or cause to be administered to himself, or administer to any other person or cause to be administered to any other person, any of the aforesaid drugs, except under the advice and direction, and with the consent of, a licensed and practicing physician or dentist, duly registered under the laws of this State and the laws of the United States; and, the use, in any manner, of any of the aforesaid drugs by any person for the satisfaction of his craving therefor is prohibited. The possession of any of the aforesaid drugs by any person not authorized by law to have such possession, shall be prima facie evidence of the unlawful possession of the aforesaid drugs. Any person violating the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Hundred (\$500.00) Dollars, or by commitment to an institution approved under this Act for the treatment of drug addicts, for such period as may be necessary for a cure, but not exceeding one year at any one time; and upon being discharged as cured such patient shall be released on parole for a further period of one year under such rules and restrictions as may be specified by the State Board of Health as convicts are now paroled. Any person so committed who has been confined in such institution for at least six months and who has been refused a certificate of cure and release by the Superintendent of such institution, may obtain a trial of the question of the cure of his addiction to the use of the aforesaid drugs in the same manner and with the same effect as is provided by the laws of this State, for the trial or retrial of insane persons. The State Board of Health, acting through the State Health Officer, shall make provisions for the public treatment at one or more of the State institutions, of such addicts committed under this Section. It shall be the duty of the Board of Control to co-operate with the State Health Officer and provide for the care and keeping of such addicts. Provided, that any drug addict voluntarily offering and submitting himself for treatment under this Section at any of the institutions specified under this Act for the treatment of drug addicts shall not be liable for any violation of this Section theretofore committed by such voluntary patient.

[Possession limited to lawful business]

Sec. 9. It shall be unlawful for any person authorized under the laws of this State and the laws of the United States to have in his possession, deal in, sell, dispense, distribute, give away, or dispose of in any manner any of the aforesaid drugs, in the conduct of a lawful business or profession, to obtain possession of said drugs for any purpose other than the

use thereof in the conduct of a lawful business or profession. Whoever violates the provisions of this Section shall be punished as provided in Section 1 of this Act.

[Possession by other person than physician or licensed person as prima facie unlawful]

Sec. 10. Any person purchasing or obtaining in any manner any of the aforesaid drugs contrary to the provisions of this Act shall be punished as provided in Section 1 of this Act. The possession of any of the said drugs by a person not a licensed physician, dentist, veterinarian, or any other person authorized to have possession thereof because of a lawful business or profession, which drugs are not in a container properly labeled in accordance with the provisions of this Act, shall be prima facie evidence of a violation of this Section, and the burden of justifying his possession by proving lawful acquirement shall be upon the accused.

[False representations to obtain possession]

Sec. 11. Whoever, for the purpose of evading or assisting in the evasion of any provision of this Act, shall falsely represent himself to be a person lawfully authorized to have in his possession, deal in, sell, dispense, distribute, administer, give away or dispose of in any manner any of the aforesaid drugs; or whoever shall make false representations, in writing or orally, or give a false name or address to any physician, dentist, veterinarian, pharmacist, or druggist, for the purpose of securing a prescription, for said drugs or the delivery of said drugs; or whoever shall forge or alter, or assist or abet another in forging or altering any prescription or other order for any of the said drugs, or shall utter any forged prescription or other order for any of the said drugs, shall be punished as provided in Section 1 of this Act.

[Revocation of license on second conviction]

Sec. 12. The license of any physician, dentist, veterinarian, pharmacist or nurse, duly registered under the laws of this State and the laws of the United States, who shall be twice convicted of a felony under this Act, either on voluntary plea of guilty or by a court or jury verdict, shall be revoked, and he shall forever thereafter be ineligible to secure a license within this State.

[Hearing on revocation of license]

Sec. 13. The Board of Medical Examiners or Officers of this State duly empowered to issue a license to a physician, dentist, veterinarian, pharmacist, or nurse, authorizing the practice of his profession in this State, may, at any time, and after a fair hearing held upon reasonable notice, revoke such license upon the production of sufficient evidence that the licensee is addicted to the use of any of the aforesaid drugs. Whenever it shall appear to such board of officers that such physician, dentist, veterinarian, pharmacist, or nurse is no longer addicted to the use of said drugs they may reissue said license. Provided, however, that an appeal may be prosecuted to one of the district courts of Travis County by the person whose license is revoked in the same manner as orders of the Railroad Commission fixing rates on railroads may be appealed from.

[Medical remedies excepted from act]

Sec. 14. The provisions of this Act shall not apply to the possession, manufacture, sale, dispensing, or giving away, of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth grain of morphine, or more than one-eighth grain of heroin, or more than one grain of codeine, or any salt, or derivative of them in

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one fluid ounce or if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use only, and which are unfit for internal use, and do not contain any cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them; or to decocanized coca leaves; provided, that such remedies and preparations are manufactured, sold, dispensed, distributed, given away, or possessed for legitimate and medicinal purposes and not for the purpose of evading the provisions and intendment of this Act; provided, further, that any manufacturer, producer, compounder, or vender of said preparations and remedies is duly licensed and registered under the laws of this State and the laws of the United States, and makes or causes to be made, a record of all sales, exchanges, or gifts of such preparations, showing the date of sale, the name and address of the person to whom sold, the nature and quantity of preparation or remedy sold, and the purpose for which sold, which record shall be preserved for a period of at least two years in such manner as to be readily accessible to the inspection by duly authorized officers, employees, and agents of the United States, or of this State, or of any county or municipality, of this State. Provided, further, however, that none of these preparations or remedies may be sold, dispensed, distributed, or given away to, or for the use of any known habitual user of the aforesaid drugs, or any child of twelve years of age or under, except in pursuance of the original written prescription of a duly licensed physician or dentist.

[Construction as to application to coca leaves and other plants]

Sec. 15. The provisions of this Act, as applying to coca leaves, marihuana, or any compound, manufacture, salt, derivative or preparation thereof, shall equally apply to the flowering tops of the young shoots of cannabis indica, cannabis americana and cannabis sativa, or to any preparation or derivative of them, and to the smoking thereof; and no person shall plant, cultivate or knowingly have growing upon his property any cannabis indica, cannabis americana or cannabis sativa, except for legitimate medical scientific or commercial purpose and then only on permit from, and under regulations prescribed by, the State Board of Health. Provided, that the provisions of this Section shall not apply to preparations produced, manufactured, possessed, controlled, sold, prescribed, administered, dispensed, compounded, or used in good faith for medicinal and scientific purposes, which do not contain more than four grains of the extract of cannabis indica, cannabis americana or cannabis sativa, or any other derivative or preparation of cannabis indica, cannabis americana or cannabis sativa of any greater pharmacologic potency, in one fluid ounce, if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments or other preparations containing cannabis indica, cannabis americana or cannabis sativa or derivatives thereof, which are prepared for external use and are susceptible of such use alone; but, all such exempt preparations shall otherwise be subject to the provisions of Section 14 of this Act.

[Places frequented by addicts as common nuisance]

Sec. 16. Any store, shop, warehouse, building, vehicle, steamboat, vessel, or any place whatever, which is resorted to by drug addicts for the purpose of using habit-forming drugs, as defined in this Act, or which is used for the illegal possession or sale of such, shall be deemed a common nuisance, shall, upon conviction, be penalized in accordance with the provisions of Section 1 of this Act.

[Visiting resorts]

Sec. 17. Every person who visits or resorts to any place described in the foregoing Section for the purpose of using, smoking, or in any way

taking habit-forming drugs as defined in this Act, shall, upon conviction, be guilty of a misdemeanor and shall be penalized according to the provisions of Section 8 of this Act.

[Forfeiture of automobile unlawfully transporting]

Sec. 18. Any automobile or other vehicle, or any vessel, used to convey, carry or transport any of the drugs mentioned in this Act, which are not lawfully possessed or transported, is hereby declared to be forfeited to the State, and may be seized by any duly authorized peace officer; provided, that nothing contained in this Section shall apply to common carriers, or to an employee acting within the scope of his employment under this Act.

[Unnecessary to negative exceptions in indictment]

Sec. 19. It shall not be necessary to negative in any complaint, indictment, or information any of the exceptions set out in this Act, and, when the defendant shall rely upon any of the said exemptions as a defense or justification, the burden of proving the exemption shall be upon him.

[Charging grand juries]

Sec. 20. It shall be the duty under this Act of all judges of Courts having criminal jurisdiction in this State at every regular term thereof to charge all regularly empanelled grand juries to diligently inquire into and investigate all cases of the violation of the provisions of this Act, and to make a true presentment of all persons guilty of such violations.

[Enforcement by State Health Officer]

Sec. 21. The provisions of this Act shall be enforced by the State Health Officer and the State Health Officer and his representatives shall have the right to examine, at any time, any or all of the records required by this Act to be kept; and the State Health Officer may further require persons dealing in, buying, selling, handling, or giving away any of the drugs specified in this Act to make such reports to him, as he may deem necessary or advisable. This Section shall not be construed to exclude the other duly constituted authorities in this commonwealth from enforcing the provisions of this Act.

[State Board of Health to promulgate rules]

Sec. 22. The State Board of Health shall have the power to promulgate rules and regulations for the enforcement of the provisions hereof, and if any person shall violate any of the provisions hereof or any such rule or regulation, he shall forfeit to the State of Texas as a penalty not less than One Thousand (\$1,000.00) Dollars nor more than Ten Thousand (\$10,000.00) Dollars for each such violation, and each day's violation thereof shall constitute a separate offense. Said penalties shall be collected by the Attorney General and/or County or District Attorney, and suits to collect the same may be instituted in Travis County, Texas.

[Seizure of drugs and appliances]

Sec. 23. All drugs, opium smoking appliances, unlawfully possessed under this Act may be seized by any peace officer acting under his authority under the laws of this State and turned over to the State Health Officer. Said seized drugs and appliances shall either be destroyed, or disposed of by gift to State Institutions or by sale to wholesale druggists or for scientific purposes, all in the discretion of the State Health Officer.

[No retroactive effect]

Sec. 24. This Act shall not affect any act done, ratified or confirmed, or any offense committed, or any action or proceeding had or commenced in a civil or criminal cause before this Act takes effect. [Acts 1931, 42nd Leg., p. 154, ch. 97, as amended Acts 1933, 43rd Leg., p. 609, ch. 204.]

Section 2 of Laws 1933, 43rd Leg., p. 609, ch. 204, repeals all conflicting laws and parts of laws.

[Art. 734a. Texas Barber Law]

Sec. 7. Any person is qualified to receive a certificate of registration to practice barbering:

(a) Who is qualified under the provisions of Section 8 of this Act.

(b) Who is at least eighteen (18) years of age and who has practiced as an assistant barber under authority of a certificate issued by the Board of Barber Examiners, as such, for at least eighteen months.

(c) Who is of good moral character and temperate habits; and

(d) Who has passed a satisfactory examination conducted by the Board to determine his fitness for practicing barbering.

Provided, however, that an applicant for a certificate of registration to practice as a registered barber who fails to pass a satisfactory examination conducted by the Board must continue to practice as an assistant barber for an additional six months before he is again entitled to take the examination as a registered barber. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1933, 43rd Leg., p. 802, ch. 235, § 1.]

Sec. 16. That any person who has for two (2) years immediately preceding the taking effect of this Act been continuously engaged in the practice of barbering at one or more established places of business, shall be granted a certificate of registration as a registered barber without examination by making application to the Board on or before the expiration of sixty (60) days after the passage of this Act, and by paying the required fee of Ten (\$10.00) dollars. The required fee, as referred to herein, shall mean ten dollars (\$10.00), but certificates shall be issued to those entitled thereto according to the classification under which they fall, to-wit, "Class A" and "Class B". [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1930, 41st Leg., 5th C. S., p. 134, ch. 15; Acts 1933, 43rd Leg., p. 802, ch. 235, § 2.]

This section as originally enacted by Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, required the application to the Board to be made on or before Nov. 1, 1929, and did not contain the last provision as to the required fee added by the amendment.

Sec. 17. That any person who on and prior to the taking effect of this Act was practicing as an assistant barber under the supervision of a practicing barber, shall be granted a certificate of registration to practice as an assistant barber by making application to the Board on or before the expiration of sixty (60) days after the passage of this Act, and paying the required fee of Ten (\$10.00) dollars, and shall be given by the board credit for the time previously spent in such practice, according to the classification under which they may fall, to-wit, "Class A" or "Class B". [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1930, 41st Leg., 5th C. S., p. 134, ch. 15; Acts 1933, 43rd Leg., p. 802, ch. 235, § 2.]

This section as originally enacted by Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, required the application to the Board on or before Nov. 1, 1929.

Sec. 19. Every holder of a certificate of registration shall display it in a conspicuous place adjacent to or near his work-chair in the shop in which he is working or employed. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65.]

Sec. 20. That every registered barber and every registered assistant barber, who continues in active practice or service, shall annually on or

before the first day of November of each year renew his certificate of registration which shall be issued by the Board of Barber Examiners, upon the payment of a renewal fee of Two Dollars and Fifty Cents (\$2.50). Every certificate of registration which has not been renewed prior to that date shall expire on the first day of November of that year. A registered barber or a registered assistant barber, whose certificate of registration has expired, may, within thirty (30) days thereafter, and not later, have his certificate of registration restored upon making a satisfactory showing to the Board, supported by his personal affidavit, which, in the opinion of the Board, will excuse the applicant for having failed to renew his certificate within the time required by this Act. Any registered barber who retires from the practice of barbering for not more than five (5) years may renew his certificate of registration by making proper showing to the Board, supported by his personal affidavit, which in the opinion of the Board would justify the Board in issuing a certificate to such applicant as upon an original application upon payment of a fee of five (\$5.00) dollars when filing affidavit as fee for making examination. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1933, 43rd Leg., p. 802, ch. 235, § 1.]

Sec. 23. That the fees to be paid to the Board by an applicant for an examination to determine his fitness to receive a certificate of registration to practice barbering shall be Ten Dollars (\$10.00).

The fees to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice as an assistant barber, which entitles the applicant to receive an examination to practice barbering without further charge, shall be Ten Dollars (\$10.00). [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1933, 43rd Leg., p. 802, ch. 235, § 1.]

Sec. 24. That each of the following offenses shall constitute a misdemeanor punishable upon conviction in a court of competent jurisdiction by a fine of not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars;

(a) The violation of any of the provisions of Sections 1, 2 and 3 of this Act;

(b) Permitting any person in one's employ, supervision, or control to practice as a barber or assistant barber unless that person has a certificate of registration as a registered assistant;

(c) Obtaining or attempting to obtain a certificate of registration by fraudulent representation.

(d) The wilful failure to display a certificate of registration as required by Section 19 of this Act. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1933, 43rd Leg., p. 802, ch. 235, § 1.]

Sec. 28. The State Board of Health shall make, establish and promulgate reasonable sanitary rules and regulations for the conduct of barber shops and barber schools. The State Board of Barber Examiners, by and through the Health Department of the State of Texas, shall have authority, and it is made its duty to enter upon the premises of all barber shops and barber schools and inspect same at any time during business hours. That a copy of the sanitary rules and regulations adopted by said Board shall be furnished to the Secretary of the State Board of Barber Examiners who shall in turn forward to each barber and barber school a copy of same. That a copy of the sanitary rules and regulations promulgated and adopted by the State Board of Health shall be kept posted in all barber shops and barber schools in this State. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1929, 41st Leg., 2nd C. S., p. 129, ch. 62; Acts 1933, 43rd Leg., p. 802, ch. 235, § 3.]

The original Act of 1929, 41st Leg., 1st C. S., p. 166, ch. 65, § 28 gave the authority to enter and inspect barber shops to any member of the Board, or its agents or assistants and did not contain the requirement that a copy of the rules and regula-

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tions adopted by the Board be furnished to the Secretary of the State Board of Barber Examiners.

Section 4 of Laws 1933, 43rd Leg., p. 802, ch. 235 amending subsections 7, 16, 17, 20, 23

and 24 of this article repeals all conflicting laws and parts of laws and provides that if any part or parts of the act is invalid, such invalidity shall not affect the remaining provisions.

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

Art. 791. Exceptions to speed law

Section 8, of Article 827A, of the Acts of 1929, 41st Legislature, 2nd Called Session, Page 72, Chapter 42, as amended by the Acts of 1931, 42nd Legislature, Regular Session, Page 507, Chapter 282, relating to the speed of motor vehicles, shall not apply to fire patrols or motor vehicles operated by the fire department of any city, town or village responding to calls, nor to police patrols or physicians and/or ambulances responding to emergency calls; provided that incorporated cities and towns may by ordinance regulate the speed of ambulances. [As amended Acts 1933, 43rd Leg., p. 545, ch. 176.]

Art. 794. [Repealed by Acts 1933, 43rd Leg., p. 112, ch. 56]

[Art. 827a. Regulating operation of vehicles on highways]

Sec. 9. Every motor vehicle, other than any road roller, road machinery or farm tractor, having a width at any part in excess of seventy (70) inches shall carry two clearance lamps on the left side of such vehicle, one located at the front and displaying a white light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, and the other located at the rear of the vehicle and displaying a red or yellow light visible under like conditions from a distance of five hundred (500) feet to the rear of the vehicle, both of which lights shall be kept lighted while any such vehicle is upon the highway from one-half hour after sunset to one-half hour before sunrise. A motor vehicle requiring clearance lights hereunder may, in lieu of such clearance lights, be equipped with adequate reflectors conforming as to color and marginal location to the requirements for clearance lights. No such reflector shall be deemed adequate unless it is so designed, located as to height and maintained as to be visible for at least two hundred (200) feet when opposed by the light of motor vehicle displaying lawful undimmed headlights at night on an unlighted highway. Reflectors herein referred to must be approved by the Department as to specifications before they can be lawfully used on a vehicle, and it shall be unlawful and constitute a misdemeanor to use a reflector on a motor vehicle unless it has been approved by the Department, and such approval by the Department shall be firmly affixed to such reflector.

All vehicles not heretofore by law required to be equipped with specified lighted lamps shall carry one or more lighted lamps or lanterns displaying a white light visible under normal atmospheric conditions from a distance of not less than five hundred (500) feet to the front of such vehicle and displaying a red or yellow light visible under like conditions from a distance of not less than five hundred (500) feet to the rear of such vehicle, which light shall be kept lighted while the vehicle is upon a highway from one-half hour after sunset to one-half hour before sunrise. Provided, however, that vehicles drawn by animal power may in lieu of such lamps or lanterns be equipped with adequate reflectors.

Every owner, driver or operator of a vehicle while it is upon the main traveled portion of the highway during the period from one-half hour after sunset to one-half hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible any person upon the highway from a distance of at least two hundred (200) feet ahead, shall

keep lighted all lamps or lighting devices with which such vehicle is required to be equipped, whether the vehicle is in motion or not.

It shall be unlawful for any person to operate or move any vehicle upon a highway with a red light thereon visible directly from the front thereof, except, that this provision shall not apply to law enforcement officers, fire departments, and ambulances.

Every motor vehicle other than a motorcycle when operated upon the highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels. Any motor vehicle or combination of motor vehicles, trailer, or semi-trailer or other vehicle, shall be equipped with brakes upon one or more of such vehicles adequate to stop such combination of vehicles in dry weather upon a reasonably level surface within a distance of forty-five (45) feet from the spot where such brakes are first applied when such vehicle or combination of vehicles are traveling at a rate of speed of twenty (20) miles per hour.

Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting sounds audible under normal conditions for a distance of not less than two hundred (200) feet, and it shall be unlawful for any vehicle to be equipped with or for any person to use upon a vehicle any bell, siren, compression or exhaust whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device, except that vehicles operated in the performance of duty by law enforcement officers, fire departments and ambulances may attach and use a bell, siren, compression or exhaust whistle.

Every motor vehicle engaged in the transportation of passengers for hire or lease shall be equipped with at least one quart of chemical type fire extinguisher in good condition and conveniently located for immediate use.

Except as otherwise provided herein, it shall be unlawful for any person to operate or permit to be operated any commercial motor vehicle for hire or lease upon the highways of this State without first having obtained a chauffeur's license as provided in Article 6687 of the Revised Civil Statutes of Texas, 1925; and provided further, however, the driver or operator of such vehicle who has secured a driver's license under the provisions of any other statute of this State, shall not be required to secure the chauffeur's license under Article 6687 of the Revised Civil Statutes of Texas, 1925. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended Acts 1931, 42nd Leg., p. 507, ch. 282; Acts 1933, 43rd Leg., p. 45, ch. 20.]

[Art. 827b. Temporary registration for out of state visitors]

"Occasional Trip" means not to exceed five trips into this State during any calendar month nor to exceed five days on any one trip.

"Non-resident" means every resident of a state or country other than the State of Texas whose sojourn in this State, or whose occupation, or place of abode, or business in this State, if any, covers a total period of not more than one hundred and twenty days in the calendar year.

"Department" means the State Highway Department of this State, acting directly or through its duly authorized officers and agents. [Acts 1930, 41st Leg., 5th C. S., p. 141, ch. 18, as amended Acts 1931, 42nd Leg., p. 34, ch. 27.]

Sec. 2. A non-resident owner of a motor vehicle, trailer, or semi-trailer which has been duly registered for the current year in the State or country of which the owner is a resident and in accordance with the laws thereof, may, in lieu of registering such vehicle as otherwise requir-

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ed by law, apply to the State Highway Department through a County Tax Collector for the registration thereof as provided in this Act, except that the privileges granted as otherwise provided for in this Act shall not apply to any motor vehicle, trailer, or semi-trailer operated within this State for the transportation of persons or property for compensation or hire. Provided, however, that motor vehicles properly licensed in another State or country operated for compensation or hire may be allowed to make not to exceed two trips during any calendar month and remain on each of said trips within the State not to exceed four days, without being registered in this State, in the event that under the laws of such other State or country like exceptions are granted to motor vehicles registered under the laws of and owned by residents of this State. [Acts 1930, 41st Leg., 5th C. S. p. 141, ch. 18, as amended Acts 1931, 42nd Leg., p. 34, ch. 27; Acts 1933, 43rd Leg., 1st C. S., p. 158, ch. 56, § 1.]

[Art. 827d. Regulating transportation of persons for hire; transportation agencies for obtaining co-travelers to share expenses; licenses]

Sec. 1. It shall be unlawful for any person, firm, corporation, company, partnership, association or joint stock association, or organization or association of persons, firms or corporations to engage in the business of transporting persons for hire or compensation over the public roads, highways and bridges of this State, whether as a common carrier, contract or charter carrier, or as a transportation agency, or as a travel bureau or as a broker for hire to obtain a co-traveler or co-travelers to share the expense of the trip proportionately or otherwise, as to distance covered or as to money expended or in any other manner, or to act as an intermediary in connection therewith or as a broker for hire, agent or otherwise, whereby the expense of a trip or trips is to be shared with a co-traveler or co-travelers, unless the person, operator, driver or chauffeur in charge of the motor vehicle to be used on or in connection with said trip shall first have obtained a chauffeur's, operator's or driver's license in accordance with the existing laws of the State of Texas, and unless the motor vehicle used in connection therewith is properly equipped with a license plate issued by the Railroad Commission of the State of Texas, under the laws of the State of Texas, and unless the owner of said vehicle has complied in all respects with the law of the State of Texas in connection with the transportation of passengers over the public roads, highways and bridges of this State.

Sec. 2. This Act shall not apply to the owner, lessee or operator of vehicles operated exclusively within the boundaries of any incorporated city or town, and within a radius of five (5) miles from such city or town; and shall also not apply to the owner, lessee or operator of any vehicle who is not engaged in the business of transporting persons for hire or compensation over the public roads, highways and bridges of this State.

Sec. 3. That it shall be the duty of any person, firm, corporation, company, partnership, association or joint stock association, or organization or association of persons, firms, or corporations before entering into any contract with the owner, lessee, driver, or chauffeur of any motor vehicle whereby the expenses of the trip or trips are to be shared by the co-traveler or co-travelers to first make an examination of the public records of the State of Texas in order to ascertain whether or not the owner, lessee, chauffeur or operator of the motor vehicle to be used in the transportation of persons for hire has properly complied with the laws of the State of Texas as to chauffeurs', drivers', or operators' licenses, and to ascertain whether or not such owner, chauffeur or operator has complied with the laws of the State of Texas regulating the operation of motor vehicles for hire.

Sec. 4. Should any person, firm, corporation, company, partnership, association or joint stock association, or organization or association of

persons, firms or corporations violate any of the provisions of this Act, the same shall be a misdemeanor and shall be punishable by fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense or by imprisonment for not less than thirty (30) days nor more than ninety (90) days, or both, at the discretion of the court. Each day of the violation of any of the provisions of this Act shall constitute a separate offense and may be punishable as such. [Acts 1933, 43rd Leg., 1st C. S., p. 316, ch. 114.]

Art. 879. [Repealed by Acts 1930, 41st Leg., 4th C. S., p. 29, ch. 19, § 1]

Acts 1930, 41st Leg., 4th C. S., p. 29, ch. 19, § 1 (Art. 879a-3 post) fixed an open sea- son for mourning doves and repealed all conflicting laws and parts of laws.

[Art. 879a—2. Open season for doves in Archer and other counties]

Acts 1933, 43rd Leg., Spec. L., p. 48, ch. 41, repeals this article in so far as it affects Smith and Wood Counties, and also all other laws or parts of laws in conflict therewith.

[Art. 879e—1. Open season for wild ducks, geese and brant]

Sec. 1. The open season or period of time when it shall be lawful to take wild ducks, geese or brant shall be, for the North zone, from twelve o'clock noon November 1st to December 31st inclusive, and for the South zone from twelve o'clock noon November 16th to January 15th inclusive, except that there shall be no open season for Wood-duck, Ruddy-duck, Bufflehead-duck and Swans, and it shall be unlawful in any one day to take more than twelve (12) ducks of which not more than eight (8) of any one or eight (8) in the aggregate are of the following species: Canvasback, Redhead, Greater Scaup, Lesser Scaup, Ringneck, Blue-winged Teal, Green-winged Teal, Cinnamon Teal, Shoveler and Gad-wall; and it shall be unlawful for any person to have in possession at any one time more than two days' bag limit of ducks. It shall be unlawful for any person, in any one day, to take more than four (4) geese and/or brant or to possess at any one time more than eight (8) geese and/or brant.

Sec. 2. The zone line referred to in this Act shall be the same as defined by Article 878, Penal Code, 1925, as amended by Chapter 222, Acts of Fortieth Legislature.

Sec. 3. Any person who takes any wild duck, goose or brant at any time other than the open season provided therefor, or who takes any wild duck, goose or brant for which there is no open season provided, or who takes any wild duck, goose or brant in excess of the daily bag limit, or any person who has in possession more than the possession limit of wild ducks, geese or brant, as defined in this Act, shall be guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars and each such duck, goose or brant taken or possessed in violation of this Act shall constitute a separate offense. [Acts 1933, 43rd Leg., 1st C. S., p. 52, ch. 18.]

Section 4 repeals all conflicting laws or parts of laws.

[Art. 879f—3. Repealed by Acts 1933, 43rd Leg., p. 212, ch. 96]

The act repealed was Acts 1932, 42nd Leg., 3rd C. S., p. 112, ch. 44, effective Sept. 22, 1932.

Art. 880. Hunting with dogs

It is hereby declared unlawful for any person or persons to make use of a dog or dogs in the hunting or pursuing or taking of any deer. Any person or persons owning or controlling any dog or dogs, and who permits or allows such dog or dogs to run, trail or pursue any deer at any time,

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shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00); provided however, that this Article shall not apply to the Counties of Matagorda, Wharton, Jackson, and Fort Bend. And, provided, further that it shall be lawful to use one dog for the purpose of trailing a wounded deer in the Counties of Kimble, Sutton, Edwards, Medina, Dimmit, Uvalde, Zavala, Kerr, Mason, Gillespie, Tom Green, Shackelford, San Saba, Llano, Blanco, Burnet, Bandera, Comal, Real, Kendall, Wharton, Schleicher, Crockett, Guadalupe, Jackson, Wilson, Concho, Karnes, Jones, Atascosa, Baylor, Bexar, Brewster, Caldwell, Denton, DeWitt, Frio, Gonzales, Haskell, Hayes, Hidalgo, Jack, Kaufman, and Cameron. [As amended Acts 1926, 39th Leg., 1st C. S., p. 42, ch. 24; Acts 1927, 40th Leg., 1st C. S., p. 227, ch. 83; Acts 1929, 41st Leg., p. 463, ch. 214; Acts 1931, 42nd Leg., p. 853, ch. 361; Acts 1932, 42nd Leg., 4th C. S., p. 12, ch. 4, § 1.]

Art. 909. Storage after closed season

It shall be unlawful for any person to place in any public cold storage plant, or for any operator or employee of any such cold storage plant to place or accept for placing in such cold storage plant, any game bird or game animal of this State at any time except during the open season provided for the taking of same and for a period of three days immediately thereafter.

The owner or operator of any public cold storage plant, which intends to accept or does accept, any game bird or game animal of this State for storage, before accepting same shall provide a book in which he shall keep a legible record. Such record shall show the name of each and every person placing any game bird or game animal on storage in such public cold storage plant, the name of the person for whom it is placed on storage, the number of same, the kind of game bird or game animal placed on storage and the date on which such game bird or game animal is placed on storage. For the purpose of this Act, any plant in which game is stored for any person, other than the owner of such plant, is hereby defined as a public cold storage plant. Any public cold storage plant, or the record book required to be kept in such a plant, shall be subject to inspection by any game and fish warden of this State at any time and no warrant shall be required therefor.

Provided, however, that it shall be unlawful to place on storage or keep on storage, any migratory bird or migratory waterfowl protected under the provisions of the Migratory Bird Treaty Act with Great Britain, at any time other than during the open season for taking same and for a period of ten days thereafter.

Any person placing any game bird or game animal in any public cold storage plant, in violation of any provision of this Act and/or any person accepting any game bird or game animal for storage or keeping same in storage in violation of any provision of this Act, or any person failing to keep the record required under the provisions of this Act, or any operator of a public cold storage plant refusing to permit any game and fish warden to inspect his plant or the record book, as required under the provisions of this Act, shall be guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars. [As amended Acts 1933, 43rd Leg., p. 55, ch. 26.]

Art. 923h. Sale or purchase of game

Whoever shall sell or offer for sale or have in his possession after purchase any wild deer, wild antelope, or Rocky Mountain sheep, killed in this State, the carcass, hide or antlers of such animal, shall be fined not less than Ten Dollars, (\$10.00), or more than One Hundred Dollars (\$100.00). [As amended Acts 1933, 43rd Leg., p. 324, ch. 124.]

[Art. 923U—4. Squirrels in Colorado and other counties]

Sec. 1. It shall be unlawful for any person to hunt, take or kill squirrel, except during the months of May, June, July, October, November, and December of any year in the following named counties: Colorado, San Patricio, Titus, Morris, Smith, Walker, San Jacinto, Waller, Fort Bend, Rusk, Matagorda, Brazoria, Bowie, Cherokee, Austin and Panola.

Sec. 2. Any person who shall hunt, take or kill any squirrel in violation of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten (\$10.00) Dollars, nor more than Fifty (\$50.00) Dollars. [Acts 1929, 41st Leg., 2nd C. S., p. 35, ch. 21, as amended Acts 1931, 42nd Leg., Spec. L., p. 101, ch. 36; Acts 1933, 43rd Leg., Spec. L., p. 18, ch. 17.]

[Art. 923U—7. Squirrels in Polk and other counties]

Sec. 1. It shall be unlawful for anyone to hunt, take or kill any squirrel in Polk, Trinity, Nacogdoches, Shelby and Kaufman Counties, except during the months of November, December and January in each year; and unlawful for anyone to hunt, take or kill any squirrel in Jefferson County, except during the months of June, July, November, December and January of each year.

Sec. 2. Anyone who shall hunt, take or kill any squirrel in the counties named in this Act at any time, except during the months of November, December and January, for the Counties of Polk, Trinity, Nacogdoches, Shelby, Angelina and Kaufman; and June, July, November, December and January, for the County of Jefferson, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00), and his hunting license shall be automatically cancelled and he shall not be entitled to receive another such license for a period of one (1) year from the date of his conviction. Provided that each squirrel taken or killed in violation of this Act shall constitute a separate offense. [Acts 1932, 42nd Leg., 3rd C. S., p. 9, ch. 8.]

[Art. 923qa—5. Trapping fur-bearing animals in Panola and other counties; exceptions]

Sec. 1. It shall be unlawful for any person at any time to take fur-bearing animals of this State with a steel trap, snare or deadfall or any other mechanical device other than a gun or pistol in any of the Counties to which this Act applies; provided, however, that this provision shall not apply to a trapper employed by the United States Government, the State of Texas, or by the Commissioners' Court of any of the Counties mentioned herein, and that this provision shall not apply to trapping within the bounds of the State Game Preserves that may be located in any of the Counties mentioned when doing so is under direction of the Game Fish and Oyster Commission; provided, however, that this Act shall apply only to the Counties of Nacogdoches and Houston.

Sec. 2. Any person who violates any provisions of this Act shall be deemed guilty of a misdemeanor and shall be fined in any sum not less than Ten Dollars (\$10.00), nor more than One Hundred Dollars (\$100.00), and his trappers and dealers license shall be forfeited at the time of conviction and he shall not be entitled to purchase another such license for a period of one year. [Acts 1932, 42nd Leg., 3rd C. S., p. 7, ch. 6, as amended Acts 1933, 43rd Leg., Spec. L., p. 15, ch. 15.]

[Art. 923qa—6. Animals designated as fur bearing; application to certain counties]

Sec. 1. All the fur-bearing animals of this State are hereby declared to be the property of the people of this State for the purposes of this Act, wild beaver, wild otter, wild mink, wild ringtail cat, wild badger, wild

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polecats or skunks, wild raccoons, wild muskrats, wild opossums, wild foxes and wild civet cats, are hereby declared to be fur-bearing animals.

Sec. 2. It shall be unlawful for any person to kill, take, or have in his possession for barter or sale, after the passage of this Act, any wild beaver, wild otter, or wild fox, or the pelts thereof. Providing that this section shall apply to Nacogdoches, Polk, Trinity, Walker, San Jacinto, Shelby, Rusk and Jefferson Counties.

Sec. 3. Every person violating any provision of this Act shall, upon conviction, be punished by a fine of not less than Ten Dollars (\$10.00), nor more than One Hundred Dollars (\$100.00). [Acts 1932, 42nd Leg., 3rd C. S., p. 8, ch. 7.]

Art. 934. [Repealed by Acts 1933, 43rd Leg., 1st C. S., p. 85, ch. 29, § 7]

[Art. 934a. Commercial fisherman and wholesale dealer's license]

Sec. 1. The following words, terms and phrases used in this Act are hereby defined as follows:

(a) A "Commercial Fisherman" is any person who takes fish or oysters or shrimp or other edible aquatic products from the waters of this State, for pay, or for the purpose of sale, barter or exchange.

(b) A "Wholesale Fish Dealer" is any person engaged in the business of buying for the purpose of selling, canning, preserving or processing, or buying for the purpose of handling for shipments or sale, fish or oysters or shrimp or other commercial edible aquatic products, to Retail Fish Dealers, and/or to Hotels, Restaurants or Cafes and to the Consumer.

(c) A "Retail Fish Dealer" is any person engaged in the business of buying for the purpose of selling either fresh or frozen edible aquatic products to the consumer.

(d) A "Bait Dealer" is any person engaged in the business of selling either minnows, fish, shrimp or other aquatic products, for fish bait.

(e) A "Fish Guide" is any person who operates a boat for pay or anything of value, in accompanying or transporting any person engaged in fishing in the waters of this State.

(f) "Person" shall include the plural as well as the singular, as the case demands, and shall include individuals, partnerships, associations and corporations.

(g) "Population" is determined as shown by the last or any subsequent Federal Census.

Sec. 2. Before any person in this State shall engage in the business of a "Commercial Fisherman", "Wholesale Fish Dealer", "Retail Fish Dealer", "Bait Dealer", "Fish Guide"; or use or operate a shrimp trawl, net or seine, oyster dredge, boat or skiff, for the purpose of catching or taking any edible aquatic life from the waters of this State for pay, barter, sale or exchange, the proper license provided for in this Act privileging them so to do shall first be procured by such person from the Game, Fish and Oyster Commission of Texas or from one of its authorized agents.

Sec. 3. The licenses and the fees to be paid for the same, are hereby provided for in this Act and are as follows:

1. Commercial Fisherman License, fee Three Dollars (\$3.00).

2. Wholesale Fish Dealer License, fee Two Hundred Dollars (\$200.00).

3. (a) Retail Fish Dealer License, fee Three Dollars (\$3.00) in any city or town of less than five thousand (5,000) population.

(b) Retail Fish Dealer License, fee Ten Dollars (\$10.00) in any city or town of not less than five thousand (5,000) and not more than forty thousand (40,000) population.

(c) Retail Fish Dealer License, fee Twenty Dollars (\$20.00) in any city or town of more than forty thousand (40,000) population.

4. Bait Dealer License, fee Two Dollars (\$2.00).

5. (a) Shrimp Trawl License, for each boat operating or towing a

trawl not more than ten feet in width at the mouth, and not more than twenty feet in length, fee Two Dollars (\$2.00).

(b) Shrimp Trawl License, for each boat operating or towing a trawl more than ten feet wide at its mouth or more than twenty feet in length, fee Fifteen Dollars (\$15.00); which said license shall permit the use of a "try net" as auxiliary to said trawl.

6. Seine or Net License, to be of metal, for and to be firmly attached to each one hundred (100) feet or fraction thereof, fee One Dollar (\$1.00) for each one hundred (100) feet of the length thereof.

Provided, no license shall be issued for any seine or net longer than eighteen hundred (1,800) feet, and also provided that after September 1, A. D. 1934, no license shall be issued for any seine or net, the meshes of which are less than one and three-fourths ($1\frac{3}{4}$) inches from knot to knot.

7. Fish Boat License, for boats equipped with a motor of any kind or with sails, fee Three Dollars (\$3.00).

8. Skiff License, for boat propelled by oars or poles, to be of metal and firmly attached to skiff, fee One Dollar (\$1.00).

9. Oyster Dredge License, fee Fifteen Dollars (\$15.00).

10. Bait Dealer License, fee Two Dollars (\$2.00).

11. Fish Guide License, fee Two Dollars (\$2.00).

Sec. 4. All aquatic products handled by or in the possession of any Commercial Fisherman, Wholesale Fish Dealer, or Retail Fish Dealer in this State, shall at all times and at any place, be subject to inspection by any employee of the Game, Fish and Oyster Commission of Texas; and the refusal to grant for such inspection shall constitute a violation of this Act.

Sec. 5. All Wholesale Dealer's Licenses, Oyster Dredge Licenses, Commercial Fishing Licenses, Boat Captain Licenses, Boat Registration Permits, and Seine, Net and Trawl Permits heretofore issued by the Game, Fish and Oyster Commission of Texas, shall become null and void on the effective date of this Act; provided, that the owner of any such license or permit, shall be entitled to a rebate on the amount paid for same for the unused period of time as shown on such license or permit, when said owner shall return such license or permit to said Commission attached to a claim for the amount of rebate due therefor. When such claim is found to be correct and approved by the Executive Secretary of the said Commission, the same shall be paid out of any moneys available in the State Treasury upon warrant issued by the State Comptroller.

Sec. 6. Any person failing to comply with or violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine in a sum not less than Ten Dollars (\$10.00), nor more than Two Hundred Dollars (\$200.00), and his license shall be automatically cancelled and he shall not be entitled to receive another such license or permit for one year from the date of such conviction.

Sec. 7. All laws or parts of laws in conflict herewith, or contrary to this Act, and especially Articles 934, 936, 937, 938, 939, 940 of the Penal Code of the State of Texas, and Articles 4031, 4032, 4033, 4034 and 4044 of the Revised Civil Statutes of the State of Texas, be and the same are hereby repealed. Provided, however, that all license fees and taxes accruing to the State of Texas by virtue of laws repealed by this Act, before the effective date of this Act, shall be and remain valid and binding obligations due the State for all fees and taxes accruing under the provisions of prior or existing laws and all such taxes now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State. And further provided, that no offense committed and no fine, forfeiture or penalty incurred under such above repealed laws before the effective date of this Act, shall be affected by the repeal herein of any such laws, but the punishment of such offense and the recovery of such fines and forfeiture shall take place as if the law

repealed had remained in force. Also providing, any person now or hereafter shown by a final judgment of a Court of competent jurisdiction to be indebted to and owing the State of Texas any amount for any license, fees or taxes on aquatic products handled, shall not receive any license named in this Act, until the time such indebtedness shall have been paid the Game, Fish and Oyster Commission of Texas.

Sec. 8. All license fees provided for in this Act, are annual fees and all licenses shall be effective on and after September 1st of each year and shall be valid until August 31st of the year following.

All moneys collected under the provisions of this Act, or because of fines paid for violations of the provisions of this Act, shall be remitted to the Game, Fish and Oyster Commission at its office in Austin, Texas, not later than the tenth day of the month following their collection and shall be deposited by said Game, Fish and Oyster Commission in the State Treasury to the credit of the Fish and Oyster Fund.

Provided, however, this Act shall become effective on January 1, A. D. 1934, and the license fees from that date until August 31, A. D. 1934, shall be two-thirds the amount of the annual fees provided for in this Act. [Acts 1933, 43rd Leg., 1st C. S., p. 85, ch. 29.]

Arts. 936-940: [Repealed by Acts 1933, 43rd Leg., 1st C. S., p. 85, ch. 29, § 7]

[Art. 952aa-2. Fishing in Cherokee and other counties]

Acts 1933, 43rd Leg., Sp. L., p. 45, ch. 37 of laws, so far as they may be in conflict
repeals this article in so far as it relates to with this Act.
Cherokee County and also all laws or parts

[Art. 952l-1. Fishing in Gillespie and other counties]

Sec. 1. It shall be unlawful for any person to fish for, take or attempt to catch any fish in any of the public fresh waters or tributaries of such waters in the Counties of San Saba, Gillespie, Blanco, Kendall, Kerr, Comal, Llano, Mason or Kimble by any means or device other than by ordinary pole and line, set line or throw line equipped with more than two hooks, except in the waters of the Colorado River; and providing that these restrictions shall not apply to artificial lures; and provided that the possession of any tackle, the use of which is prohibited by the provisions of this Act, within two hundred (200) yards of any fresh waters in the Counties named herein, shall be prima facie evidence of the violation of this Act.

Sec. 2. It shall be unlawful in the Counties of San Saba, Gillespie, Blanco, Kendall, Kerr, Comal, Llano, Mason, Kimble or Val Verde to sell, offer for sale or have in possession for the purpose of sale any black bass, crappie, catfish, or sunfish commonly called perch.

Sec. 3. No person, firm or corporation or their agents shall take, catch or have in their possession any black bass, perch or crappie taken from any fresh waters in said Counties from the 1st day of March to the 1st day of May of any year or to have in possession at any time any black bass of less length than eleven (11) inches, any catfish of less length than nine (9) inches or any crappie (commonly called white perch) of less length than seven (7) inches.

Sec. 4. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00). [Acts 1929, 41st Leg., p. 442, ch. 202, as amended Acts 1929, 41st Leg., 1st C. S., p. 258, ch. 108; Acts 1929, 41st Leg., 2nd C. S., p. 44, ch. 28; Acts 1930, 41st Leg., 4th C. S., p. 43, ch. 23; Acts 1931, 42nd Leg., Spec. L., p. 374, ch. 187; Acts 1931, 42nd Leg., 1st C. S., p. 5, ch. 3; Acts 1933, 43rd Leg., Spec. L., p. 7, ch. 6.]

Acts 1933, 43rd Leg., Spec. L., p. 43, ch. 35, take, catch, seine, entrap by any means, or
reads as follows: "Sec. 1. No person, have in their possession any bass, catfish,
firm, or corporation or their agents shall perch, or crappie taken from any of the

fresh waters of the Counties of Gillespie and Mason during the months of March and April of any year.

"Sec. 2. It shall be unlawful for any person, firm, corporation, or their agents, to take, catch, seine, entrap by any means or to have in possession any bass of less length than eleven (11) inches, any catfish of less length than twelve (12) inches, any crappie or white perch of less length than seven (7) inches, taken from any fresh water of the Counties of Gillespie and Mason.

"Sec. 3. It shall be unlawful for anyone to catch and retain in any one day or have in his or her possession caught in any one day in the Counties of Gillespie and Mason more than ten (10) bass or catfish.

"Sec. 4. That Acts, 1931, 42nd Legislature, 1st Called Session, Page 5, Chapter 3, Section 3 and Section 4 are hereby in all things amended in so far as Sections 3 and 4 affect Gillespie and Mason Counties only."

Acts 1933, 43rd Leg., 1st C. S., p. 263, ch. 97 reads as follows:

"Sec. 1. It shall be unlawful for any person to fish for, take, or attempt to catch any fish in the fresh waters of Kendall County by any means or device other than by ordinary pole and line, set line, throw line, casting rod and reel, or dowagiac, or other artificial bait or minnow seine of not more than twenty (20) feet in length for catching bait. Possession of any tackle not authorized by this Act within two hundred

(200) yards of any stream, lake, or other fresh waters in Kendall County shall be prima facie evidence of violation of this Act.

"Sec. 2. No person, firm or corporation, or their agent, shall take, catch, seine, entrap by any means, or have in their possession any bass, perch, crappie, or catfish taken from any fresh waters of Kendall County during the months of February, March, and April of any year.

"Sec. 3. It shall be unlawful for any person, firm, or corporation, or their agent, to take, catch, seine, entrap by any means, or to have in their possession any bass of less length than eleven (11) inches; any catfish of less length than twelve (12) inches; any crappie or white perch of less length than seven (7) inches, taken from any fresh waters of the County of Kendall.

"Sec. 4. It shall be unlawful for anyone to catch and retain in any one day, or have in his or her possession, caught in any one day in the County of Kendall more than ten (10) bass or catfish.

"Any person found guilty of the violation of any provision of this Act shall be fined in any sum of not less than Five Dollars (\$5.00) nor more than Twenty-five Dollars (\$25.00).

"Sec. 5. That Acts, 1931, Forty-second Legislature, First Called Session, Page 5, Chapter 3, Sections 1, 3, and 4 are hereby in all things amended in so far as Sections 1, 3, and 4 affect Kendall County only."

[Art. 952L—7. Regulating fishing in Dimmit and other counties]

Sec. 1. Any and all persons shall be permitted to take or catch suckers, buffalo, carp, shad or gar during the months of July, August, September and October in any of the fresh waters of Bosque, Dimmitt, Zavala, Medina, Uvalde, DeWitt, Brown, Hamilton, Coryell, Gonzales, Lamar, Bell, Collin, Grayson, Gillespie, Kendall, Menard, Kimble, Mills, Comanche, Blanco, Llano, Mason, McCulloch, San Saba, Cook, Denton, Jefferson, Orange, Mitchell, Fisher, Nolen, Chambers, Travis, Hardin, Lampasas, Fannin, Burnet, Williamson and Parker Counties with a seine or net, the meshes of which shall be not less than one inch square, and any and all persons shall be permitted to take or catch suckers, buffalo, carp, shad or gar with wire, rope, or gig at any time of the year, provided, however, that any bass, crappie or white perch, catfish, perch, bream or trout caught by the above mentioned methods shall be immediately released in the waters from which they are caught. [Acts 1931, 42nd Leg., Spec. L. p. 194, ch. 90, as amended Acts 1933, 43rd Leg., Spec. L., p. 41, ch. 33.]

[Art. 952L—9. Sale of fish from Sabine and other rivers and tributaries]

It shall be unlawful for any person to sell, offer for sale or have in his possession for the purpose of sale, any black bass, trout, white perch, or catfish of less than eighteen (18) inches in length, that shall have been taken from the waters of the Sabine, Attoyoc, Angelina and Neches Rivers, or any of their tributaries, or lakes through which the flood stream of said Rivers or any of their tributaries flow, in the counties of Newton and Jasper.

Sec. 2. It shall be lawful for any person in the Counties of Angelina, Tyler, Newton and Jasper to use a net not under three (3) inches square mesh for the purpose of catching any fish allowed by law to be caught in said Counties. Any use of a net of smaller mesh than herein mentioned is hereby declared illegal.

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Sec. 3. Any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Twenty-five Dollars (\$25.00) or more than Five Hundred Dollars (\$500.00), or be imprisoned in the county jail not less than ten (10) days or more than thirty (30) days or by both imprisonment and fine, and each sale or each violation of the provisions hereof shall constitute a separate offense. [Acts 1931, 42nd Leg., 1st C. S., p. 35, ch. 22, as amended Acts 1932, 42nd Leg., 3rd C. S., p. 100, ch. 35.]

[Art. 952I—10. Regulating taking of fish and shrimp in tidal waters and Galveston Bay]

Sec. 1. It shall be lawful to use strike nets, gill nets, trammel nets or shrimp trawls as defined by the Statutes of this State for the taking of fish and shrimp from the waters of East Galveston Bay in the Counties of Galveston and Chambers except the small abutting bodies known as follows: Swan Lake, Moses Lake, Clear Lake, Dickinson Bayou west of a line running from Miller's Point to April Fool Point, Turtle Bay and all waters lying northwest of a line extending from Kemah, in Galveston County to a point known as Mesquite Knoll in Chambers County, during the period beginning August 15th and ending May 15th of each year. It shall be unlawful for any person to use a strike net, gill net, trammel net or shrimp trawl contrary to the provisions of Chapter 119, Page 269, Acts of the Regular Session of the 41st Legislature.

Sec. 2. It shall be unlawful to have in possession any seine, strike net, gill net, trammel net or shrimp trawl in or on any of the tidal waters of this State where the use of said seine, strike net, gill net, trammel net or shrimp trawl is prohibited from being used in taking or catching fish and/or shrimp, unless such seine, strike net, gill net, trammel net or shrimp trawl is on board a vessel when such vessel is at port or in a channel while en route to or from the Gulf of Mexico.

Sec. 3. When any officer of this State sees any seine, strike net, gill net, trammel net or shrimp trawl in or on any of the tidal waters of this State where the use of such seine, strike net, gill net, trammel net or shrimp trawl is prohibited from being used for the purpose of taking fish and/or shrimp, and has reason to believe and does believe that the same is being used or possessed in violation of the provisions of this Act, it shall be his duty to arrest the party using or possessing said seine, strike net, gill net, trammel net or shrimp trawl and, without warrant, shall seize such seine, strike net, gill net, trammel net or shrimp trawl as evidence. It shall be the duty of such officer to deliver such seine, strike net, gill net, trammel net or shrimp trawl to the County Judge or Justice of the Peace in the county in which it was seized, where it shall be held as evidence until after the trial. If the defendant is found guilty of possessing or using such seine, strike net, gill net, trammel net or shrimp trawl unlawfully, the Court shall enter an order directing the immediate destruction of such seine, strike net, gill net, trammel net or shrimp trawl by the sheriff or constable of the county where the case was tried, and the sheriff or constable of the county shall immediately destroy such seine, strike net, gill net, trammel net or shrimp trawl, and make a sworn report to said County Judge or Justice of the Peace showing how, when and where said seine, strike net, gill net, trammel net or shrimp trawl was destroyed. When such device is found by any officer of this State in or on any of the tidal waters of this State without any one in possession where its use is prohibited, it shall be seized by such officer, without warrant, and delivered to the County Judge or Justice of the Peace in the county in which it was found. Said officer shall make affidavit that such seine, strike net, gill net, trammel net or shrimp trawl was found in the tidal waters of this State at a point where its use was prohibited, which said affidavit shall describe said seine, strike net, gill net, trammel net or shrimp trawl and the Court shall direct the sheriff or any constable of the county to

post a copy of said affidavit in the courthouse of the county in which said seine, strike net, gill net, trammel net or shrimp trawl was seized, and said officer shall make his return to the Court showing when and where said notice was posted. Thirty (30) days after such notice is posted, the Court, either in term time or in vacation, shall enter an order directing the immediate destruction of such seine, strike net, gill net, trammel net or shrimp trawl by the sheriff or any constable in the county, and said officer executing said order shall, under oath, make his return to said Court showing how, when and where such seine, strike net, gill net, trammel net or shrimp trawl was destroyed.

Sec. 4. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00), and his fisherman's license or dealer's license, or both, shall be automatically cancelled and he shall not be entitled to receive another fisherman's license or dealer's license for one year from the time of such conviction.

Sec. 5. All laws or parts of laws in conflict herewith shall be and the same are hereby repealed. [Acts 1932, 42nd Leg., 3rd C. S., p. 91, ch. 28.]

[Art. 955. Sale of fish caught in Anderson and other counties]

If any person shall sell or offer for sale any bass, white perch, crappie, channel or catfish, caught, trapped or ensnared in the streams of the Counties of Anderson, Burnet, San Saba, Mills, Brown, McCulloch, Edwards, Coleman, Concho, Menard, Mason, Gillespie, Kimble, Sutton, Kinney, Uvalde, Real, Kerr, Comal, Val Verde, Bandera, Reeves, Ward, Loving, Pecos, Medina, Bexar, Hunt, Runnels, Rains, Williamson, Zavala, Dimmit, Lampasas or Llano, State of Texas, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than Five (\$5.00) Dollars, nor more than Fifty (\$50.00) Dollars. No person shall take or catch any fish in the fresh water rivers, creeks, lakes, bayous, pools or lagoons in the Counties above named by any other means than by ordinary hook and line or trot line or artificial bait, and no person shall place in the fresh water rivers, creeks, lakes, bayous, pools or lagoons of the counties above mentioned, any seine, net or other device, or trap for taking or catching fish; provided, however, that persons may use a minnow seine which is not more than twenty feet in length for the purpose of catching minnows for bait; or a net, the meshes of which are not less than three inches for the purpose of catching carp and suckers in the Colorado River. In seining for bait as herein permitted, all fish and minnows more than three inches in length shall be returned to the water at once while alive. No person shall use the minnow seine herein permitted for the purpose of taking any fish other than minnows for bait. Any person violating any provisions of this Section shall be fined not less than Five (\$5.00) Dollars nor more than One Hundred (\$100.00) Dollars.

No person shall take from the fresh waters of any County mentioned more than thirty-five of such fish in any one day. Any person violating this provision of this Article shall be fined not less than Five (\$5.00) Dollars nor more than One Hundred (\$100.00) Dollars. The taking of such fish in excess to the number herein allowed shall be a separate offense.

No person shall knowingly place, throw or deposit upon the banks or grounds adjacent to any of the fresh waters, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in the Counties above named any catfish, perch, crappie, white perch, bass, trout, or other edible fish, and leave such fish to die without any intention upon the part of such person either to eat such fish or use same for bait. Any person found guilty of the violation of this Provision shall be fined not to exceed Twenty-five (\$25.00) Dollars. The allowing of each fish to die shall be a separate offense. [As

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amended Acts 1929, 41st Leg., p. 111, ch. 55; Acts 1929, 41st Leg., p. 533, ch. 257; Acts 1931, 42nd Leg., p. 764, ch. 304; Acts 1931, 42nd Leg., 2nd C. S., p. 20, ch. 11; Acts 1933, 43rd Leg., Spec. L., p. 16, ch. 16; Acts 1933, 43rd Leg., Spec. L., p. 113, ch. 86.]

[Art. 978g. Repealed by Acts 1932, 42nd Leg., 3rd C. S., p. 93, ch. 29, § 1]

Prior to its repeal this art. was Acts 1930, 41st Leg., 5th C. S., p. 242, ch. 78.

[Art. 978j. Deer in Anderson and other counties]

Sec. 1. It shall be unlawful for any person to hunt, trap, ensnare, kill, or attempt to kill, by any means whatsoever, any wild deer, buck, doe, fawn, or wild-turkey in the Counties of Anderson, Haskell, Henderson, Jones, Navarro, Shackelford, Throckmorton, Brown, and Coleman, in the State of Texas, for a period of five (5) years from and after the passage of this Act.

Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined in any sum of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) and shall forfeit his right and license to hunt with a gun in this State for a period of one (1) year following the time of his conviction. [Acts 1933, 43rd Leg., Spec. L., p. 25, ch. 20.]

The following fish and game laws are applicable only to the named counties:

Acts 1933, 43rd Leg., Spec. L., p. 3, ch. 2 reads as follows: "Sec. 1. It shall hereafter be unlawful for any person to hunt, trap, ensnare, kill, or possess dead or alive any wild quail of any species within the limits of County Commissioners Precinct Number 2 of the County of Karnes, State of Texas, as the same is now recognized by the Commissioners Court of said County, for a period of five (5) years from and after the passage of this Act.

"Sec. 2. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than Fifty Dollars (\$50.00), nor more than Two Hundred Dollars (\$200.00)."

Acts 1933, 43rd Leg., Spec. L., p. 4, ch. 3 reads as follows: "Sec. 1. That thereafter, for a period of three (3) years from and after the passage of this Act, it shall be unlawful to kill or capture or take possession of any quail, doves, or pheasants in Glasscock County, Texas.

"Sec. 2. Anyone violating the provisions of this Act shall, upon conviction in a Court of competent jurisdiction, be fined not less than twenty-five (\$25.00) dollars, or more than two hundred (\$200.00) dollars, or imprisoned in jail for not more than ninety (90) days, or both such fines and imprisonment."

Acts 1933, 43rd Leg., Spec. L., p. 5, ch. 4 reads as follows: "Sec. 1. It shall be unlawful for any person to hunt, trap, ensnare, kill, or attempt to kill, by any means whatsoever, any wild deer, buck, doe, fawn, or wild turkey in the counties of Freestone, and Leon, in the State of Texas, for a period of five (5) years from and after the passage of this act.

"Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and shall, upon con-

viction, be fined in any sum of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500), and shall forfeit his right and license to hunt with a gun in this state for a period of one (1) year following the time of his conviction."

Acts 1933, 43rd Leg., Spec. L., p. 10, ch. 8 reads as follows: "Sec. 1. It shall be unlawful to use any seine or net for the purpose of taking fish from any of the waters of Nacogdoches County except during the months of June, July, August, September, October, November or December of any year, and providing that no seine or net used for the purpose of taking fish shall be of less size than three (3) inch mesh, and that no bass (commonly called trout) or any crappie (commonly called white perch), taken in any seine or net shall be retained but shall be returned to the water immediately and while alive. Nothing in this Act shall prohibit the use of a minnow seine not more than twenty (20) feet in length for the purpose of taking minnows for bait.

"Sec. 2. Any person violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten (\$10.00) Dollars nor more than Fifty (\$50.00) Dollars and the possession of any bass or crappie at the time any person is operating any seine or net shall be prima facie evidence that such fish were caught in a seine or net.

"Sec. 3. All laws or parts of laws in conflict with this Act are hereby repealed."

Acts 1933, 43rd Leg., Spec. L., p. 11, ch. 9 reads as follows: "Sec. 1. It shall be unlawful for anyone to hunt, take or kill any squirrel, except during the months of November and December of each year in the Counties of San Augustine and Sabine.

"Sec. 2. Anyone who shall hunt, take or kill any squirrel in the Counties named in this Act at any time except during No-

ember and December shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00), and his hunting license shall be automatically cancelled and he shall not be entitled to receive another such license for a period of one (1) year from the date of his conviction."

Acts 1933, 43rd Leg., Spec. L., p. 12, ch. 10 reads as follows: "Sec. 1. It shall hereafter be unlawful for any person to hunt, trap, ensnare or kill any wild deer, buck, doe or fawn within the limits of San Augustine and Sabine Counties for a period of five (5) years from and after the passage of this Act.

"Sec. 2. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00)."

Acts 1933, 43rd Leg., Spec. L., p. 14, ch. 13 reads as follows: "Sec. 1. It shall be unlawful to use any seine or net for the purpose of taking fish from the waters of the Counties of Morris or Titus, except nothing contained in this Act shall prohibit the use of a minnow seine not to exceed twenty (20) feet in length for the purpose of taking minnows for bait; and providing that it shall be lawful, except during the months of March and April, to use a seine or net of any kind in any of said waters, provided that such seine or net is of not less than two (2) inch mesh; and providing that no black bass of less length than eleven (11) inches, or no crappie of less length than seven (7) inches taken with such device, shall be retained.

"Sec. 2. Any person violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00).

"Sec. 3. All laws or parts of laws in conflict with this Act are hereby repealed."

Acts 1933, 43rd Leg., Spec. L., p. 34, ch. 27 reads as follows: "Sec. 1. From and after the passage of this Act, it shall be unlawful for any person to hunt, trap, shoot, or kill any Blue Quail, Bob Whites or Doves, within the County of Yoakum, for the period of five years from and after the passage of this Act.

"Sec. 2. Any person violating the provisions of Section 1 hereof, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Five (5) nor more than Twenty-five (25) Dollars."

Acts 1933, 43rd Leg., Spec. L., p. 35, ch. 28 reads as follows: "Sec. 1. Any person taking, hunting, shooting at, wounding, pursuing or attempting to take, hunt, pursue, wound or shoot at any wild deer in the County of Galveston for a period of five (5) years following the passage of this Act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

"Sec. 2. All laws or parts of laws in conflict with this Act are hereby repealed."

Acts 1933, 43rd Leg., Spec. L., p. 44, ch. 36 reads as follows: "Sec. 1. It shall be unlawful to use any seine or net for taking any fish in any of the waters of Lamar County except a seine or net of not less than two inch square mesh; further providing that no seine or net shall be used in any of the waters of Lamar County during the months of March or April, and providing that nothing contained in this Act shall prohibit the use of a minnow seine not more than twenty (20) feet in length used for the purpose of taking minnows for bait.

"Sec. 2. Any person using any seine or net for the purpose of taking fish from any of the waters of Lamar County, except such seine or net as is permitted by the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00).

"Sec. 3. All laws or parts of laws in conflict with this Act are hereby repealed."

Acts 1933, 43rd Leg., Spec. L., p. 45, ch. 37 reads as follows: "Sec. 1. It shall be unlawful to use any seine or net for the purpose of taking fish in Cherokee County except a seine or net, the meshes of which are not less than three inches square; providing, however, that no such seine or net shall be used in Cherokee County during the months of February, March, April or May, and providing that nothing contained in this Act shall prohibit the use of a minnow seine that is not more than twenty (20) feet in length and when used for the purpose of taking minnows for bait.

"Sec. 2. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten Dollars (\$10.00), nor more than Fifty Dollars (\$50.00)."

Acts 1933, 43rd Leg., Spec. L., p. 46, ch. 38 reads as follows: "Sec. 1. It shall be unlawful for any person to use a steel trap for the purpose of taking any fur-bearing animal in Anderson and Cherokee Counties or to set any steel trap in these Counties, unless same is set within two hundred (200) yards of some person's residence.

"Sec. 2. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00).

"Sec. 3. All laws or parts of laws in conflict with this Act are hereby specifically repealed."

Acts 1933, 43rd Leg., Spec. L., p. 46, ch. 39 reads as follows: "Sec. 1. That for three (3) years from and after the passage of this Act it shall be unlawful for any person to shoot at or kill any wild deer or wild turkey in that portion of Burnet County, north of the Colorado River, and all of Lampasas County.

"Sec. 2. That whosoever shall violate the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hun-

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dred Dollars (\$200.00); provided each deer or turkey so shot shall constitute a separate offense."

Acts 1933, 43rd Leg., Spec. L., p. 47, ch. 40 reads as follows: "Sec. 1. That from and after the passage of this Act it shall be unlawful for any person to take or catch or attempt to take or catch catfish of less length than nine (9) inches from the fresh waters, rivers, creeks, bayous, lagoons, or the lakes or sloughs subject to overflow from the rivers or streams, of Burnet County.

"Sec. 2. That whosoever shall violate the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00)."

Acts 1933, 43rd Leg., Spec. L., p. 48, ch. 41 reads as follows: "Sec. 1. It shall be unlawful to take, kill or have in possession, or to attempt to take, kill or have in possession wild mourning doves in the Counties of Smith and Wood, except during the open season for quail in the Counties of Smith and Wood, the same being from December 1st to January 16th, both dates inclusive, and the same bag limit shall be allowed as is provided by the General Laws on bag limits on doves in Texas; provided further, that it shall be unlawful for any person or persons to be caught in any field, pasture, or enclosure, over which he has no control, with gun and bird dog during the closed season herein provided for in this bill."

Acts 1933, 43rd Leg., Spec. L., p. 37, ch. 30 reads as follows: "Sec. 1. It shall be unlawful to take or kill any wild quail of any species in the County of Andrews for a period of five (5) years from and after the passage of this Act.

"Sec. 2. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and shall be punished by fine not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00).

"Sec. 3. The possession of any quail by any person in said County during said five (5) year period, or the possession of any dead wild quail in said County during said period, shall be prima facie evidence of the unlawful taking or killing of such quail."

Acts 1933, 43rd Leg., Spec. L., p. 15, ch. 14 reads as follows: "Sec. 1. It shall be lawful to take crappie or bass of legal size from the waters of Caddo Lake during any period of the year.

"Sec. 2. All laws and parts of laws in so far as they may be in conflict with this Act be and the same are hereby expressly repealed."

From and after the passage of this Act, it shall be lawful for a person to take or catch catfish, perch, buffalo, and drum, from the waters of Delta, Hopkins, Franklin, and Grayson Counties by hand or with a seine, having meshes one (1) inch square, during open season only. [Acts 1931, 42nd Leg., Spec. L. p. 157, ch. 69, as amended Acts 1933, 43rd Leg., Spec. L., p. 42, ch. 34.]

Acts 1933, 43rd Leg., Spec. L., p. 36, ch. 29 reads as follows: "Sec. 1. It shall be un-

lawful to use a seine, net or trawl or to have in possession a seine, net or trawl in or on any of the tidal waters of Willacy County west of Padre Island; provided, however, that nothing contained in this Act shall prohibit the use of a cast net for taking bait.

"Sec. 2. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00).

"Sec. 3. All laws or parts of laws, in so far as they may conflict with the provisions of this Act, be and the same are hereby repealed."

Acts 1933, 43rd Leg., Spec. L., p. 51, ch. 43 reads as follows: "Sec. 1. That hereafter, for a period of three (3) years from and after the passage of this act, it shall be unlawful to kill or capture or take possession of any quail in Archer County, Texas.

"Sec. 2. Anyone violating the provisions of this Act shall upon conviction in a court of competent jurisdiction be fined not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00)."

Acts 1933, 43rd Leg., Spec. L., p. 74, ch. 59 reads as follows: "Sec. 1. It shall be unlawful for any person to hunt, take, shoot or kill any game bird or game animal, as defined in the laws of the State of Texas, in that part of Wichita County included within the following described area:

"Beginning at the center of the intersection of Tenth and Holliday Streets in the City of Wichita Falls, Wichita County, Texas; thence in a Southerly direction down the center of said Holliday Street to the corporate limits of the City of Wichita Falls; thence along the center of what is known as the Jacksboro-Wichita Falls Highway, being State Highway No. 66, to the center of the public road intersecting said Highway No. 66 on the North line of the J. R. McDowell Survey, Abstract No. 194; thence West with the center of said public road along the North line of the said McDowell Survey and North line of the G. Reynolds Survey, Abstract No. 251, to the Northwest corner of said G. Reynolds Survey and a corner of the Wichita Falls State Hospital lands; thence South along the center of said public road to the South line of said State Hospital lands; thence West with the center of said public road to where the same intersects the Wichita Falls and Archer City paved road, being State Highway No. 79, just South of the Spillway of Lake Wichita; thence in a Northerly direction along the center of said Highway No. 79, passing Lake Wichita Pavillion grounds, to the corporate limits of the City of Wichita Falls, where said Highway No. 79 meets and enters Grant Street in said city; thence in a Northerly direction along the center of said Grant Street to the intersection of the same with Tenth Street in the City of Wichita Falls; thence in an Easterly direction along the center of said Tenth Street to the place of beginning, being the intersection of Tenth Street and Holliday Street in the City of Wichita Falls.

"Sec. 2. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars, and each bird or animal taken, hunted, shot or killed in violation of this Act shall constitute a separate offense.

"Sec. 3. This Act is and shall be construed as cumulative of all other Acts protecting such game birds and game animals in said territory."

Acts 1933, 43rd Leg., Spec. L., p. 98, ch. 75 reads as follows: "Sec. 1. It shall be unlawful for anyone to hunt, take, or kill any squirrel in Angelina and Tyler Counties, except during the months of July, October, November and December in each year.

"Sec. 2. Anyone who shall hunt, take, or kill any squirrel in the Counties named in this Act at any time except during the months of July, October, November and December shall be deemed guilty of a misdemeanor, and upon conviction shall be fined a sum not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00), and his hunting license shall be automatically cancelled, and he shall not be entitled to receive another such license for a period of one year from the date of his conviction, provided that each squirrel taken or killed in violation of this Act shall constitute a separate offense."

Sec. 1. It is hereby declared unlawful for any person to take, kill or have in possession for the purpose of barter or sale, any wild fox or the pelt thereof, for a period of ten (10) years from and after the passage of this Act in the Counties of Hill, Johnson, Bosque, and Navarro.

Sec. 2. It shall be unlawful for any person to set a steel trap, snare or dead fall for the purpose of taking any fur-bearing animal in the Counties of Hill, Johnson, Bosque, and Navarro.

Sec. 3. Any person who violates any provision of this Act shall be deemed guilty of a misdemeanor and shall be fined in a sum not less than Ten Dollars (\$10.00), nor more than One Hundred Dollars (\$100.00), and each pelt sold in violation of this Act shall constitute a separate offense. [Acts 1933, 43rd Leg., Spec. L., p. 140, ch. 101 as amended Acts 1933, 43rd Leg., 1st C. S., p. 156, ch. 54.]

Acts 1933, 43rd Leg., Spec. L., p. 101, ch. 77, reads as follows: "Sec. 1. It shall be unlawful to take the pelt of any fur-bearing animal in Nacogdoches and Angelina Counties except during the month of December or January of any year. During the month of December or January of any year it shall be lawful to take such animals by a trap or any other device, upon one's own property, or upon property upon which a written permit has been given by the owner for trapping purposes, but at any other time it shall be unlawful to use a trap or any other mechanical device for taking any fur-bearing animal in Nacogdoches and Angelina Counties. The pelts of any fur-bearing animals taken by the authority granted in this Act may be sold or offered for sale in conformity to the laws of this State.

"Sec. 2. Any person violating any pro-

vision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten Dollars (\$10.00) nor more than Two Hundred Dollars (\$200.00).

"Sec. 3. All laws or parts of laws in conflict with this Act are hereby repealed."

Acts 1933, 43rd Leg., Spec. L., p. 87, ch. 66 reads as follows: "Sec. 1. That from and after the passage of this Act, it shall be unlawful for any person to hunt, take, kill, or have in his possession for barter or sale, any wild foxes or the pelts thereof in the County of Upshur.

"Sec. 2. Any person who shall hunt, take, or kill any foxes in the county of Upshur or have such pelts in possession for barter or sale shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten Dollars (\$10.00) and not more than Fifty Dollars (\$50.00).

"Sec. 3. All laws or parts of laws in conflict with this Act be and the same are hereby expressly repealed."

Acts 1933, 43rd Leg., Spec. L., p. 115, ch. 88 reads as follows: "Sec. 1. It shall be unlawful to kill, take or have in possession for any purpose any wild fox or the pelt thereof in Wood County for a period of five (5) years from and after the passage of this Act.

"Sec. 2. It shall be lawful to take by trap or other device or with the aid of dogs during the open season provided for the taking of fur-bearing animals, any fur-bearing animal or its pelt, other than fox, in Wood County.

"Sec. 3. Any person violating any provision of this Act by taking any fox or possessing such fox or pelt of same in Wood County for a period of five (5) years from and after the passage of this Act; and any person taking the pelt of any other fur-bearing animal at any time other than the open season provided for taking same shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00).

"Sec. 4. All laws or parts of laws, in so far as they may be in conflict with any provision of this Act, are hereby repealed."

Acts 1933, 43rd Leg., p. 329, ch. 129 reads as follows: "Sec. 1. All the fur-bearing animals of this State are hereby declared to be the property of the people of this State for the purposes of this Act. Wild beaver, wild otter, wild mink, wild ringtail cat, wild badger, wild pole-cat or skunk, wild raccoon, wild muskrat, wild opossum, wild fox and wild civet cat are hereby declared to be fur-bearing animals.

"Sec. 2. It shall be unlawful for any person to kill, take, or have in his possession for barter or sale after the passage of this Act, any wild fox or the pelts thereof, providing that this section shall apply to Liberty and Hardin Counties, providing, however, that it shall not be unlawful to kill wild fox in the act of destroying or about to destroy domestic fowls or other domestic stocks. This law shall be in force and effect for a period of five (5) years.

"Sec. 3. Every person violating any provision of this Act, shall, upon conviction, be

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punished by a fine of not less than Ten (\$10.00) Dollars, nor more than One Hundred (\$100.00) Dollars."

Acts 1933, 43rd Leg., Spec. L., p. 73, ch. 58 reads as follows: "Sec. 1. It shall be unlawful for any person to take or kill any squirrel or squirrels in Kaufman County, Texas, during the months of January, February, March, April, May, June, July, August, and September, and shall be lawful to take or kill squirrels in Kaufman County during the months of October, November, and December of each year.

"Sec. 2. Any person violating this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Ten Dollars (\$10.00), nor more than Fifty Dollars (\$50.00).

"Sec. 3. Any provision of any law in conflict with this Act, whether enacted this session or some other session of the Legislature, is hereby repealed in so far as Kaufman County is concerned."

Acts 1933, 43rd Leg., Spec. L., p. 116, ch. 89 reads as follows: "Sec. 1. It shall be unlawful to take from any of the fresh waters of Cooke County, Texas, any fish other than by ordinary hook and line, set line, or throw line, or by ordinary cord line, seine or net, the square meshes of which are less than one and one-half (1½) inches; provided that any such seine or net may be used only during the month of August of any year; provided further that when using said seine in the month of August, it shall be used only to seine fish for propagation purposes, and such seining shall be done under the supervision of a Game Warden. Provided further that nothing in this Act shall be construed to prohibit the use of a seine not to exceed twenty (20) feet in length to seine for bait.

"Sec. 2. It shall be unlawful for any person to take any fish from such waters for the purpose of sale or to possess the same for the purpose of sale.

"Sec. 3. Any person violating any provision of this Act shall be guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed One Hundred Dollars (\$100.00). Every act of taking any fish in violation of the provisions hereof shall constitute a separate offense, and each fish taken or possessed for the purpose of sale shall constitute a separate offense."

Acts 1933, 43rd Leg., Spec. L., p. 117, ch. 90 reads as follows: "Sec. 1. It shall be unlawful for any person to hunt, trap, ensnare, kill, or attempt to kill by any means whatsoever any wild turkey in the Counties of Guádalupe and Comal for a period of Five (5) years, from and after the passage of this Act.

"Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined in any sum not less than Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars.

"Sec. 3. All laws or parts of laws in so far as they may be in conflict with this Act be and the same are hereby expressly repealed."

Acts 1933, 43rd Leg., Spec. L., p. 118, ch. 91 reads as follows: "Sec. 1. All the fur-

bearing animals of this State or hereby declared to be the property of the people of this State for the purposes of this Act. Wild beaver, wild otter, wild mink, wild ringtail cat, wild badger, wild polecat or skunk, wild raccoon, wild muskrat, wild opossum, wild fox and wild civet cat are hereby declared to be fur-bearing animals.

"Sec. 2. It shall be unlawful for any person to kill, take or have in his possession for barter or sale after the passage of this Act, any wild fox or the pelts thereof, provided that this Section shall apply to Van Zandt County; provided, however, that it shall not be unlawful to kill wild fox in the act of destroying or about to destroy domestic fowls or other domestic stock. This law shall be in force and effect for a period of five (5) years.

"Sec. 3. Every person violating any provision of this Act, shall, upon conviction, be punished by a fine of not less than Ten Dollars (\$10.00), nor more than One Hundred Dollars (\$100.00).

"Sec. 4. That all laws and parts of laws in conflict herewith be and the same are hereby repealed."

Acts 1933, 43rd Leg., Spec. L., p. 149, ch. 106 reads as follows: "Sec. 1. It shall be unlawful for any person to use a steel trap for the purpose of taking any fur-bearing animal in San Augustine and Sabine Counties or to set any steel trap in those Counties, unless same is set within two hundred (200) yards of some person's residence.

"Sec. 2. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00)."

Acts 1933, 43rd Leg., Spec. L., p. 102, ch. 78 reads as follows: "Sec. 1. It shall be unlawful for any person to take or kill any squirrel or squirrels in Kaufman County, Texas during the months of January, February, March, April, August and September, and shall be lawful to take or kill squirrels in Kaufman County during the months of May, June, July, October, November and December of each year.

"Sec. 2. Any person violating this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Ten (\$10.00) Dollars, nor more than Fifty (\$50.00) Dollars.

"Sec. 3. Any provision of any law in conflict with this Act, whether enacted this session or some other session of the Legislature, is hereby repealed in so far as Kaufman County is concerned."

Acts 1933, 43rd Leg., Spec. L., p. 137, ch. 98 reads as follows: "Sec. 1. That all local or special laws pertaining to the taking or sale of fish in so far as they apply to Anderson County be and the same are hereby expressly repealed."

Acts 1933, 43rd Leg., Spec. L., p. 54, ch. 46 repeals a Special Act of 1931, 42nd Leg., 1st C. S., ch. 16.

Acts 1933, 43rd Leg., Spec. L., p. 75, ch. 60 reads as follows:

"Sec. 1. It shall be unlawful for any person to fish for, take, or attempt to catch any fish in the fresh waters of Kendall

County by any means or device other than by ordinary pole and line, set line, throw line, casting rod and reel, or dowagiac, or other artificial bait or minnow seine of not more than twenty (20) feet in length for catching bait. Possession of any tackle not authorized by this Act within two hundred (200) yards of any stream, lake, or other fresh waters in Kendall County shall be prima facie evidence of violation of this Act.

"Sec. 2. No person, firm, or corporation, or their agent, shall take, catch, seine, entrap by any means, or have in their possession any bass, perch, crappie, or catfish taken from any fresh waters of Kendall County during the months of February, March, and April of any year.

"Sec. 3. It shall be unlawful for any person, firm, or corporation, or their agent, to take, catch, seine, entrap by any means, or to have in their possession any bass of less length than eleven (11) inches; any catfish of less length than twelve (12) inches; any crappie or white perch of less length than seven (7) inches; taken from any fresh waters of the County of Kendall.

"Sec. 4. It shall be unlawful for anyone to catch and retain in any one day, or have in his or her possession, caught in any one day in the County of Kendall more than ten (10) bass or catfish.

"Sec. 5. That Acts, 1931, 42nd Legislature, 1st Called Session, Page 5, Chapter 3, Sections 1, 3, and 4 are hereby in all things amended in so far as Sections 1, 3, and 4 affect Kendall County only."

Acts 1933, 43rd Leg., Spec. L., p. 62, ch. 51 reads as follows:

"Sec. 1. It shall be unlawful for any person to hunt, take or kill wild quail, except during the months of December and January of any year in the following named counties: Panola, Rusk, and Harrison.

"Sec. 2. Any person who shall hunt, take or kill any wild quail in violation of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars.

"Sec. 3. All laws and parts of laws and all Special Acts of the Legislature in conflict herewith are expressly repealed."

Acts 1933, 43rd Leg., Spec. L., p. 72, ch. 57 reads as follows:

"Sec. 1. It shall be unlawful for anyone to hunt, take, or kill any squirrel in Liberty and Hardin Counties, except during the month of June and from November 16th to January 16th in each year.

"Sec. 2. Anyone who shall hunt, take, or kill any squirrel in the Counties named in this Act at any time except during the month of June and from November 16th to January 16th shall be deemed guilty of a misdemeanor, and upon conviction shall be fined a sum not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00), and his hunting license shall be automatically cancelled, and he shall not be entitled to receive another such license for a period of one year from the date of his conviction, provided that each squirrel tak-

en or killed in violation of this Act shall constitute a separate offense."

Acts 1933, 43rd Leg., 1st C. S., p. 42, ch. 11 reads as follows:

"Sec. 1. It shall be unlawful to take, hunt, trap, shoot or kill any wild quail of any species in the County of Gaines for a period of five (5) years from and after the passage of this Act.

"Sec. 2. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and shall be punished by fine not less than five dollars (\$5.00) nor more than Twenty-five Dollars (\$25.00).

"Sec. 3. The possession of any quail by any person in said County during said five (5) year period, or the possession of any dead wild quail in said County during said period, shall be prima facie evidence of the unlawful taking or killing of such quail."

Acts 1933, 43rd Leg., 1st C. S., p. 83, ch. 28 reads as follows:

"Sec. 1. It shall be unlawful to take the pelts of any fur-bearing animal in Jasper and Newton Counties, except during the month of December or January of any year. During the month of December or January of any year, it shall be lawful to take such animals by a trap or any other device, upon one's own property, or upon property upon which a written permit has been given by the owner for trapping purposes, but at any other time it shall be unlawful to use a trap or any other mechanical device for taking any fur-bearing animal in Jasper and Newton Counties. The pelts of any fur-bearing animals taken by the authority granted in this Act may be sold or offered for sale in conformity to the laws of this State.

"Sec. 2. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten Dollars (\$10.00) nor more than Two Hundred Dollars (\$200.00).

"Sec. 3. All laws or parts of laws in conflict with this Act are hereby repealed."

Acts 1933, 43rd Leg., 1st C. S., p. 138, ch. 42, reads as follows:

"Sec. 1. That from and after the passage of this Act, it shall be unlawful for any person to trap or hunt with guns or have in his possession for barter or sale, any wild foxes or the pelts thereof in the County of Upshur.

"Sec. 2. Any person who shall trap or hunt with guns any foxes in the County of Upshur or have such pelts in possession for barter or sale shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten Dollars (\$10.00), and not more than Fifty Dollars (\$50.00), provided, however, that no farmer or other poultry raiser shall be guilty of any offense when killing any fox while in the act of actually destroying chickens or other poultry or farm animals.

"Sec. 3. All laws or parts of laws in conflict with this Act be and the same are hereby expressly repealed."

Acts 1933, 43rd Leg., 1st C. S., p. 139, ch. 43 reads as follows:

"Sec. 1. It shall be unlawful for any person to hunt, trap, ensnare, kill, or attempt

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to kill by any means whatsoever any wild turkey, Chachalaca or wild Mexican pheasant in the Counties of Comal, Guadalupe, Gonzales and Wilson for a period of five (5) years, from and after the passage of this Act.

"Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined in any sum not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

"Sec. 3. All laws or parts of laws in so far as they may be in conflict with this Act be and the same are hereby expressly repealed."

Acts 1933, 43rd Leg., 1st C. S., p. 264, ch. 92 reads as follows:

"Sec. 1. It shall be unlawful for any person to hunt, trap, ensnare, kill or attempt to kill, by any means whatsoever, any wild deer, buck, doe, fawn, wild turkey or pheasant in the County of Erath, in the State of Texas, for a period of five (5) years from and after the passage of this Act.

"Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined in any sum of not less than Fifty Dollars, (\$50.00) and shall forfeit his right and license to hunt with a gun in this State for a period of one (1) year following the time of his conviction."

Acts 1933, 43rd Leg., 1st C. S., p. 141, ch. 45 reads as follows:

"Sec. 1. It shall be unlawful to use any seine or net for taking any fish in any of the waters of Bastrop County except a minnow seine of not more than twenty feet in length, and used only for the purpose of taking minnows for bait.

"Sec. 2. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in the sum of not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00)."

Acts 1933, 43rd Leg., 1st C. S., p. 142, ch. 47 reads as follows:

"Sec. 1. It shall be unlawful to use any seine or net for taking any fish in any of the waters of Red River County, except a seine or net of not less than two inch square mesh; further providing that no seine or net shall be used in any of the waters of Red River County during the months of March or April, and provided that nothing contained in this Act shall prohibit the use of a minnow seine not more than twenty (20) feet in length used for the purpose of taking minnows for bait.

"Sec. 2. Any person using any seine or net for the purpose of taking fish from any of the waters of Red River County, except such seine or net as is permitted by the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction shall

be fined in a sum of not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00).

"Sec. 3. All laws or parts of laws in conflict with this Act are hereby repealed."

Acts 1933, 43rd Leg., 1st C. S., p. 265, ch. 93 reads as follows:

"Sec. 1. It shall be unlawful for any person to hunt, trap, ensnare, kill or attempt to kill, by any means whatsoever, any wild turkey in the Counties of Liberty and Hardin, in the State of Texas for a period of five (5) years from and after the passage of this Act.

"Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined in any sum of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and shall forfeit his right and license to hunt with a gun in this State for a period of one (1) year following the time of his conviction."

Acts 1933, 43rd Leg., 1st C. S., p. 227, ch. 88 reads as follows:

"Sec. 1. It shall be lawful to take or kill squirrels at any time in Coleman and Palo Pinto Counties.

"Sec. 2. All laws or parts of laws, in so far as they may conflict with any provision of this Act, be and the same are hereby repealed."

Sec. 1. It shall be unlawful for any one to hunt, take or kill any squirrel except from November 10th to January 10th of each year, in the Counties of Jasper, Newton and Young. [Acts 1932, 42nd Leg., 3rd C. S., p. 13, ch. 12, as amended Acts 1933, 43rd Leg., 1st C. S., p. 269, ch. 96, § 1.]

"Sec. 2. Anyone who shall hunt, take or kill any squirrel in the counties named in this Act at any time except between December 1st and January 15th, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00), and his hunting license shall be automatically cancelled and he shall not be entitled to receive another such license for a period of one (1) year from the date of his conviction." [Acts 1932, 42nd Leg., 3rd C. S., p. 13, ch. 12.]

Acts 1933, 43rd Leg., 1st C. S., p. 162, ch. 59 reads as follows:

"Sec. 1. That the waters of Lavaca Bay in Calhoun County, Texas be, and the same are now hereby opened for the purpose of trawling for shrimp during the months of September, October, November, and December of each year; and that the waters of Powder Horn Lake, in Calhoun County, Texas are hereby opened for the purpose of seining during the months of January, December and February of each year.

"Sec. 2. All laws and/or parts of laws in conflict with this Act are hereby expressly repealed."

[Art. 978k. Game breeder's license]

Sec. 1. Any person, firm or corporation, before engaging in the business of propagating any of the game birds or game animals of this State for the purpose of sale, barter, exchange or offering for sale, barter or exchange, or before placing in captivity any game bird or game animal for

such purpose, shall obtain from the Game, Fish and Oyster Commission at Austin, Texas, a game breeder's license upon payment of the sum of Two Dollars (\$2.00), and which license shall be valid until August 31st, following date of issuance, and any person, firm or corporation holding such license is hereby defined as a game breeder.

Sec. 2. A game breeder's license shall entitle the holder to engage in the business of game breeding in the immediate locality for which such license was issued, and such license shall entitle the holder to only those privileges which are hereby specified. To hold in captivity only for the purpose of propagation or sale and to sell, under regulations herein provided, wild deer of all species, wild antelope, wild squirrels of all varieties, wild turkey, wild prairie chickens, wild quail of all varieties, wild Chachalacas, commonly called Mexican Pheasants, wild pheasants of all varieties, any wild migratory bird or water fowl when permit has been obtained from the Department or Bureau of the United States Government authorized to issue such permit. To sell the eggs of any fowl or bird held in captivity under a game breeder's license.

Sec. 3. Except in so far as specified privileges are conferred by this Act, all game birds or game animals held under a game breeder's license shall remain under the full force of any or all laws or regulations of this State pertaining to wild game birds or wild game animals in order that these necessary police regulations for the preservation of native game species may be enforced to the benefit of this State.

Sec. 4. For the purpose of this Act "captivity" is defined as an inclosure suitable for retaining, and that will retain at all times under reasonable and ordinary circumstances the bird, fowl or animal so inclosed, and so far as animals are concerned, will prevent the entry into the said inclosure of any other such animal. Any single inclosure for any game bird or game animal shall not contain more than forty (40) acres, except for deer, antelope, turkey and any wild migratory bird or water fowl for which any such inclosure shall not exceed three hundred twenty (320) acres.

Sec. 5. Each pen, coop or enclosure of any kind in which any game bird or game animal is held shall be subject to inspection by any Game and Fish Warden at any time and no warrant shall be required therefor.

Sec. 6. To each person, firm or corporation obtaining a game breeder's license there shall be issued by the Game, Fish and Oyster Commission, at the time of first issuance of license to such breeder, a serial number, which shall remain the number of said game breeder whenever he may hold a game breeder's license. Said game breeder shall obtain suitable metal bands bearing his serial number, and one of such bands shall be placed on a leg of each game bird or fowl which he is holding in captivity and shall remain on same. And a suitable metal tag, bearing the serial number of the game breeder holding same, shall be attached to and remain attached to an ear of each antelope or deer held or sold by a game breeder.

Sec. 7. It shall be unlawful for any game breeder to sell, barter or exchange or offer for sale, barter or exchange any game bird or game animal, except when same is alive and in a healthy condition. And it shall be unlawful for any person to purchase in this State or to accept from any person any live game bird or game animal that has been held in this State, except from a licensed game breeder and when such bird or animal bears a band or tag as herein required to be placed on game birds or game animals by game breeders, except when same is delivered by a common carrier from outside this State. No game bird or game animal shall be purchased or received by any person in this State except for the purpose of liberation for stocking purposes, or for the purpose of holding same for propagation purposes, and with the understanding that all such game and increase therefrom shall remain under the full force of all the necessary police regulations of this State pertaining to wild game, and that such game may be held in captivity for such propagation purposes in this State only after permit has been obtained from the Game, Fish and Oyster Com-

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mission. Provided that nothing contained in this Act shall prohibit the holding, taking or receiving of game birds or game animals for scientific or zoological purposes, under permit issued by the Game, Fish and Oyster Commission, under the provisions of Article 913, Penal Code 1925.

Sec. 8. Provided that nothing contained in this Act shall prohibit licensed game breeders from selling or offering for sale pheasants of any or all kinds for any or all purposes, and that they are given this specific privilege and purchase of said birds may be made by any person from any game breeder for any or all purposes.

Sec. 9. It shall be unlawful for any game breeder to sell in this State, or to ship to any person in this State or for any citizen of this State to purchase from any game breeder, any deer, turkey or quail during any open season for taking such game birds or game animals or for a period of ten (10) days before and after such open season.

Sec. 10. Any common carrier is hereby authorized to accept for shipment any of the game birds or game animals named in this Act, from any licensed game breeder, but it shall be unlawful for any agent of a common carrier to accept for shipment any live game bird or game animal other than from a licensed game breeder; or for any person other than a licensed game breeder or his authorized agent to ship or transport any live game bird or animal, except when permit for such shipment or transportation has been granted by the Game, Fish and Oyster Commission or one of its agents authorized to grant such permit.

Sec. 11. Provided that nothing contained in this Act shall prohibit the Game, Fish and Oyster Commission, or any agent of such Commission, acting upon its authority, from taking, possessing, holding, transporting or propagating any of the game birds or game animals of this State for public purposes.

Sec. 12. Each person, firm or corporation holding a game breeder's license in a suitably bound book shall keep a written record which shall show the number of each kind of game bird and game animal on hand at time license was issued and source from which they were obtained; the number of each kind of game birds and game animals on hand at any time after license is obtained and number of each kind and source of any birds or animals received and date of receiving; the name and address of any and all persons to whom shipments or deliveries are made and number of each kind shipped or delivered to each such person and date of shipment and/or delivery. Each such report shall be for the period of time from date of license until September 1st following such date. Copy of such record, with affidavit made before a Notary Public or other officer qualified to administer oath, that same is true and correct, shall be filed in the office of the Game, Fish and Oyster Commission at Austin, Texas, before another game breeder's license shall be issued to a person, firm or corporation who has heretofore held such a license.

Sec. 13. Provided that any game breeder's license issued after the effective date of this measure and before September 1, 1933, shall remain in effect until August 31, 1934.

Sec. 14. All laws or parts of laws in conflict with this Act are hereby repealed and Senate Bill 36, 3rd Called Session, 42nd Legislature, is specifically repealed.

Sec. 15. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Fifty Dollars (\$50.00) nor more than two Hundred Dollars (\$200.00), and each bird or animal sold or purchased or held in violation of this Act shall constitute a separate offense, and any game breeder convicted, under any provision of this Act, shall automatically forfeit his license and shall not be entitled to engage in the business of game breeding for a period of one year following date of conviction. [Acts 1933, 43rd Leg., p. 212, ch. 96.]

[Art. 978I. Sale of certain fish in San Saba and other counties]

Sec. 1. It shall be unlawful for any person, firm, or corporation or their agent, to barter or sell or offer for barter or sale, or to buy any bass, crappie, perch, catfish, or any other fish taken from the fresh waters in the Counties of San Saba, Gillespie, Kerr, Comal, Llano, Mason, Kimble, Edwards, Sutton and Real.

Sec. 2. It shall be unlawful for any person to take from the fresh waters of the above named counties any of the fish above enumerated by any means or device other than by ordinary pole and line or throw line equipped with not more than two hooks, provided, however, that it shall be lawful to fish with a dowagiac, or other artificial bait equipped with more than two hooks, and provided further, that a person may use a minnow seine which is not more than twenty (20) feet in length for the purpose of catching minnows for bait. No person shall use the minnow seine herein permitted for the purpose of taking any fish other than minnows for bait.

Sec. 3. It shall be unlawful for any person to catch, take or have in his possession any catfish less than twelve (12) inches in length; any crappie or white perch less than seven (7) inches in length and any bass less than eleven (11) inches in length.

Sec. 4. It shall be unlawful for any person in the above named counties to catch or have in his possession in any one day more than ten (10) fish of any one kind or variety, except perch, and it shall be unlawful to catch or have in his possession more than twenty (20) perch in any one day, and it shall be unlawful to catch or have in his possession more than sixty (60) perch in any one week, and it shall be unlawful to catch or have in his possession more than thirty (30) of any one variety, with the exception of perch in any one week. The taking of any such fish in excess of the number herein allowed, shall be a separate offense.

Any person found guilty of the violation of any provisions of this Act shall be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00).

Sec. 5. All laws or parts of laws in conflict herewith are hereby expressly repealed. [Acts 1933, 43rd Leg., Spec. L., p. 77, ch. 61.]

TITLE 14—TRADE AND COMMERCE**[Art. 1066a. Branding "rebuilt" electric storage batteries]**

Whoever assembles or rebuilds an electric storage battery for use on automobiles, in whole or in part, out of second hand or used material, such as containers, separators, plates, groups or other battery parts, and sells same or offers same for sale within this State without the word "rebuilt" branded into the side of the containers in letters which are at least one inch high and one-half inch wide, each, shall be guilty of a misdemeanor, and upon conviction therefor, shall be punished by a fine not exceeding One Hundred (\$100.00) Dollars or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment. [Acts 1933, 43rd Leg., p. 767, ch. 226, § 1.]

Art. 1103. To give name of manufacturer

No person, firm, association of persons, corporation or carrier selling or transporting any gasoline, benzine, naphtha or other similar product of petroleum, shall fail to truly label in large letters showing the name of the manufacturer or distributor on any tank car, barrel, cask, tank wagon, truck, receptacle or reservoir in which any petroleum product shall be shipped or stored within this State or from which sales or delivery of the same are to be made. [As amended Acts 1933, 43rd Leg., p. 94, ch. 46, § 1.]

Art. 1105. Sale of inferior product

No person, firm, association of persons, or corporation shall sell as gasoline or motor fuel any substance, liquid or product of petroleum, which falls below the standard of gasoline or motor fuel, as provided in this Chapter, except when the same is referred to as "Inferior Motor Fuel," as provided in Article 1106 hereof. [As amended Acts 1933, 43rd Leg., p. 94, ch. 46, § 2.]

Art. 1106. "Gasoline"

(a) For the purpose of this Chapter, the word "gasoline" or "motor fuel," whether used alone or in connection with other words, shall apply only to petroleum products, complying with the following minimum specifications:

(A) Motor gasoline shall be volatile hydro-carbon fuel, free from water and suspended matter, and shall be practicable and/or suitable for use as fuel in internal combustion engines.

(B) It shall have the following distillation range:

1. When the thermometer reads 167 degrees Fahrenheit not less than ten (10) per cent shall be evaporated.
2. When the thermometer reads 284 degrees Fahrenheit not less than fifty (50) per cent shall be evaporated.
3. When the thermometer reads 392 degrees Fahrenheit not less than ninety (90) per cent shall be evaporated.
4. The residue shall not exceed two (2) per cent.
5. Sulphur shall not exceed ten one hundredths (0.10) per cent.
6. The end or dry point of distillation must not be higher than 437 degrees Fahrenheit.

(b) All liquids intended for use as gasoline or motor fuel not meeting the minimum requirements and specifications prescribed herein for gasoline or motor fuel shall be labeled "Inferior Motor Fuel." All pumps, receptacles or containers from which such "Inferior Motor Fuel" is sold, to consumer, shall be labeled, on all sides of such pump, receptacle or container accessible for service to motor vehicles, with signs, the lettering not less than two (2) inches in height of black oil paint in white oil paint background bearing the words "Inferior Motor Fuel."

(c) No person, firm, association of persons or corporation shall sell or offer for sale as lubricating oil, any oil that has been rerun, refiltered, reclaimed or refined from crank case drainings or any other oil that has been theretofore used for purposes of lubrication unless the said oil is sold as and labeled "Reconditioned Motor Oil." [As amended Acts 1933, 43rd Leg., p. 94, ch. 46, § 3.]

Art. 1110. Hindering inspector

The Director of the Food and Drug Division of the State Board of Health, his inspectors, or any duly authorized representative appointed by the State Comptroller for that purpose or any highway patrolman, or sheriff, or deputy sheriff, or any other peace officer shall have, in the performance of his duties under this law, the power to inspect any premises or place where petroleum products are made, prepared, stored, transported, sold or offered for sale or exchange, take samples of same, and test measuring devices. It shall be unlawful for any person to hinder or obstruct or refuse to permit said inspectors or any other persons duly authorized to perform said duties in the exercise of such powers. [As amended Acts 1933, 43rd Leg., p. 94, ch. 46, § 4.]

[Art. 1111a. Penalty for violation]

Sec. 8. Whoever, as producer, purchaser, or carrier, or whoever, as the agent, employee, or representative of a producer, purchaser, or carrier, fails or refuses to comply with the provisions of this Act to keep

records herein required to be kept, or whoever wilfully makes erroneous reports, as herein required to be made, or refuses to submit to examination of records by any authorized representative of the Comptroller or Attorney General shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty-Five Dollars (\$25.00), nor more than Five Thousand Dollars (\$5,000.00), or confined in the county jail for not less than one month, nor more than six (6) months, or by both such fine and imprisonment.

[Interfering with inspector]

Sec. 9a. Each and every person appointed by the Commission and holding the certificate of the Commission authorizing such appointee to inspect oil wells, oil leases, pipe lines, railroad cars or tanks shall have the right of free access to such leases, premises, wells, pipe lines, railroad cars, or tanks, and to motor truck tanks, at any and all times for the purpose of inspection with respect to the production and transportation of oil. Any person or owner producing oil in this State who shall by objection, interference, or otherwise prevent any such person so appointed by the Commission from the free right of access to any leases or premises or wells where oil is produced, or who shall in any manner interfere with such representative's examination of any such leases, premises, or wells to ascertain the quantity and time of production of oil, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the county jail not exceeding six (6) months or by both such fine and imprisonment.

[Measuring oil or gas]

Sec. 9b. It shall be unlawful for any person owning, leasing, operating, or controlling any oil property within the State of Texas to permit the oil or gas so produced to pass beyond the possession or control of such person into the possession or control of any other person without first accurately measuring the amount of such oil or such gas, and making and preserving an accurate record thereof. It shall also be unlawful for any person to use any method or device to evade such accurate measurement. Upon conviction for a wilful violation of any provision hereof, such person shall be deemed guilty of a felony and, upon such conviction, shall be punished by confinement in the State penitentiary for a term of not less than two (2) nor more than four (4) years. [Acts 1933, 43rd Leg., p. 409, ch. 162.]

Sections 1-7, 9, 13 of said Acts 1933, 43rd Leg., p. 409, ch. 162 are published as Rev. Civ. Stat. art. 7057a.

[Art. 1111b. Tapping pipe line]

Sec. 1. Tapping. The term "Tapping" as used in this Act, is the making of any connection with a pipe line, conduit, or storage tank constructed for the purpose of transporting or storing crude oil, gasoline, naphtha, natural gas, casinghead gas, or any petroleum product whereby such crude oil, gasoline, naphtha, natural gas, casinghead gas, or any petroleum product is permitted or caused to escape from such pipe line, conduit, or storage tank, whether such connection be made by opening a valve therein, removing any plug or other apparatus therefrom, or by drilling or making a hole therein, or by adopting any other means whereby any such contents of such pipe line, conduit, or tank, is permitted to escape.

Sec. 2. Any person who shall unlawfully tap any pipe line, conduit, or storage tank, constructed for the purpose of transporting or storing crude oil, gasoline, naphtha, natural gas, casinghead gas, or any petroleum product without the consent of the owner, and with intent to injure such

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pipe line, conduit, or storage tank, or to permit the contents thereof to escape, or with intent to appropriate any portion of the contents of such pipe line, conduit, or storage tank to the use and benefit of the person tapping the same, shall be guilty of a felony and upon conviction shall be punished by confinement in the state penitentiary for a term of not less than one nor more than five years. [Acts 1933, 43rd Leg., p. 732, ch. 219.]

[Art. 1112b. Definitions]

Sec. 1. The term "person" as used in this Act shall be construed to mean and include a person and persons, firm and firms, association and associations, corporation and corporations, and the agents, servants, employees and representatives thereof.

By "Governmental Agent" or "Governmental Agency" as used in this Act shall be meant the Railroad Commission of Texas and any other administrative governmental board, and Governmental Agent to which the Legislature of the State of Texas has heretofore or may hereafter delegate the duty of supervising the production of oil and gas within the State of Texas.

The term "oil property" as used herein shall be construed to include any well producing either oil, gas, or oil and gas, and any group of such contiguous wells of any number owned, operated or controlled as a producing unit by the same person in the same locality and any leasehold estate to the extent that it is owned, operated and controlled by the same person.

[Measuring oil or gas sold; record]

Sec. 2. It shall be unlawful for any person owning, leasing, operating or controlling any oil property within the State of Texas to permit the oil or gas so produced to pass beyond the possession or control of such person into the possession or control of any other person without first accurately measuring the amount of such oil or such gas, and making and preserving an accurate record thereof.

[Preventing accurate measurement]

Sec. 3. It shall be unlawful for any such person mentioned in Section 2 of this Act to use any method or device to evade the accurate measurement provided for in Section 2 hereof and it shall be unlawful for any such person to use any method or device to prevent obtaining an accurate measurement of such production.

[Sale from tanks under control of producer]

Sec. 4. It shall be unlawful for any such person mentioned in Section 2 of this Act to permit oil produced by him in this State to pass out of his possession or control into the possession or control of any other person, except from tank or tanks under the control of such person producing said oil.

[Inspection of properties and records]

Sec. 5. The Governmental Agency of the State of Texas shall at all times have access to the oil property of all persons for inspection and examination and to the records of all such persons for inspection, examination and audit, and it shall be unlawful for any person to refuse to permit such Governmental Agency or any agent, servant, representative or employee thereof to have access to such oil property for inspection and examination; or for any person to interfere with such inspection and examination; or to remove, tamper with, mutilate or destroy any device, seal or meter on said property placed thereon or used in such inspection and examination.

[Refusing to permit inspection of records]

Sec. 5a. It shall be unlawful for any person to refuse to permit such Governmental Agency or any agent, servant, representative or employee thereof, access, for inspection, examination and audit to the books, documents and records pertaining to, used in connection with, or required to be used in connection with, such oil properties.

[Preventing inspection of property by enclosure or equipment]

Sec. 5b. It shall be unlawful for any such person mentioned in Section 2 hereof so to equip or enclose his oil property, or any part thereof, in such manner as to prevent such inspection and examination, or so to equip or enclose such property in any manner as to prevent such an inspection and examination from revealing the true facts with respect to the amount of oil or oil and gas being produced from such oil property, or the manner in which such oil property is being operated or the manner and method by which the production from such oil property is produced or stored or delivered from the possession or control of such person.

[Posting sign with names of owner and operator, stating acreage, etc.]

Sec. 6. Every oil property within this State shall at all times be posted with a sign written in the English Language, which sign shall state the name of the owner of said property, the operator of said property, the number of acres contained in said property and the name by which such property is commonly known and identified. Each tank, owned or controlled by such person and to which such property is connected, shall be similarly identified by a sign containing the same information, and each flare to which such property is connected shall be likewise similarly identified. All lettering on all of such signs shall be not less than one inch in height.

[Flares]

Sec. 7. Whenever the gas from any well producing both oil and gas is not trapped and utilized and where such gas is capable of being burned in a flare, it shall be unlawful for any person mentioned in Section 2 of this Act to produce oil from said well at any time without simultaneously continuously burning a flare to consume all gas that would otherwise be permitted to escape into the open air.

[Limit on daily production]

Sec. 7a. It shall be unlawful for any person, as defined in this Act, owning, leasing, operating, producing, or controlling any oil property or oil well within this State to produce or cause to be produced on any day from any such oil property or oil well any oil in excess of the amount allowed to be produced per day from any such oil property or oil well under any order or orders of the Governmental Agency, theretofore promulgated and in force at the time.

[Bribing officers]

Sec. 7b. It shall be unlawful for any person to corruptly give, offer or promise to give any member of the Governmental Agency, Chief Supervisor, Deputy Supervisor, or any agent or employee thereof, any gift or gratuity with intent to influence any such officer or person in his acts or conduct with respect to:

(a) Enforcing any provision of the law applicable to oil and gas in force at the time within the State of Texas;

(b) Enforcing any order, rule, or regulation of the Governmental Agency made under the power and authority given to it;

(c) Or the discharge of any duty by any such officer or person imposed

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upon him by the oil and gas laws, orders, rules and regulations duly promulgated and in force at such time with the State of Texas.

[Rules and regulations]

Sec. 8. The Governmental Agency is hereby authorized to adopt and promulgate, in the manner provided by law for the adoption of rules and regulations of the Railroad Commission, rules and regulations:

(a) To provide for the method of measuring oil and gas produced from any well within this State and to provide for the type of measuring devices to be used in obtaining such measurement;

(b) For the inspection of all oil properties to ascertain that the prescribed measuring devices are installed and are in accurate working condition and are being accurately used;

(c) That no oil or gas is being permitted to leave the possession of the producer thereof without first being accurately measured and an accurate record thereof made and preserved;

(d) That no oil is being produced from any well producing both oil and gas without burning a flare or flares where the installation and use of a flare or flares are required by the terms of this Act;

(e) For the keeping of complete and accurate records correctly reflecting the amount of oil and gas or oil or gas produced from each oil property each calendar day, and the disposition and method of disposition of all such oil and gas so produced, and for the filing monthly with said Governmental Agency of monthly reports accurately reflecting the true facts with respect to all such matters;

(f) For the inspection and examination by such Governmental Agency, its agents, servants and employees of all such oil properties, and for the inspection and examination of the records hereinbefore provided for.

[Publication of new rules and regulations]

Sec. 8a. Whenever the Governmental Agency shall have adopted any rule or regulation under the power conferred by this Act, such Governmental Agency shall publish in three (3) newspapers of general circulation in the State of Texas (such newspapers to be selected by said Governmental Agency), once each day for three (3) consecutive days a complete copy of such rule and regulation and on and after the 7th calendar day after the date of the last publication, such rule, regulation or order shall become effective and enforceable. Notice of any amendment, repeal, alteration or modification of such order may be similarly promulgated and will become similarly effective after similar notice.

[Certificate of adoption and publication of rule prima facie evidence]

Sec. 8b. A certificate under the seal of the Governmental Agency executed by any member of such Governmental Agency, setting forth the terms of any rule, order or regulation and that it has been adopted, promulgated and published and was in effect at any date specified in such certificate, shall be prima facie evidence of all such facts, and such certificate shall be admitted in evidence in any cause involving such order, rule or regulation and the publication thereof without further proof of such promulgation, adoption or publication and without further proof of its contents.

[Form of records]

Sec. 8c. The rules, regulations and orders of said Governmental Agency with respect to records and reports shall prescribe the form in which the same shall be made and kept, but said records and reports shall contain the data and information as provided for in this Act.

[Penalty]

Sec. 9. Any person who shall violate any of the terms of this Act, or any person who shall fail to comply with either of the terms of this Act, or any person who shall fail to comply with the terms of any rule, regulation or order adopted and promulgated by the Governmental Agency under the terms of this Act, or any person who shall violate either of the rules, regulations or orders of such Governmental Agency adopted under the provisions of this Act, shall, upon conviction of the first offense, be deemed guilty of a misdemeanor, and upon such conviction shall be fined not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), and shall be confined in the county jail not less than thirty (30) days nor more than one year. Upon conviction of any subsequent offense under the terms of this Act, such person shall be deemed guilty of a felony and upon such subsequent conviction shall be punished by confinement in the State Penitentiary for a term of not less than two (2) nor more than four (4) years.

[Jurisdiction]

Sec. 10. For all prosecutions for violations of either of the terms of this Act, jurisdiction is hereby conferred upon the Courts of the county in which the oil property or any part thereof is situated and with respect to which a violation of any of the terms of this Act is charged.

[Persons authorized to serve process, citation, notice, subpoena, or writ]

Sec. 10a. In all suits or actions involving the enforcement of the conservation laws of this State or of the orders of the Railroad Commission affecting the conservation of the natural resources of this State, all Texas Rangers and all agents of the Railroad Commission of Texas shall have the power and authority to serve any civil or judicial process, citation, notice, warrant, subpoena or writ (including process of every character in contempt proceedings) just the same and as fully so as any sheriff or constable of a county to whom the process, writ, notice, citation, subpoena or warrant might be directed could within the limits of his own county. Such Rangers and such agents of the Commission may serve such process anywhere within the State of Texas although it may be directed to "any sheriff or constable" of a particular county. They shall make the same return as any other officer, sign their name and add thereunder (in the case of a State Ranger) the title of "State Ranger" and (in the case of an agent of the Commission) the words, "Agent, Railroad Commission of Texas," which shall be sufficient to make it valid if the writ is otherwise properly made out. No fees of any kind shall be allowed such State Rangers or agents of the Railroad Commission, other than their regular salary or compensation.

[Provisions cumulative]

Sec. 11. The provisions of this Act shall be cumulative of all other provisions of the Civil Statutes, the Penal Code and the Code of Criminal Procedure, and the remedies herein provided shall be cumulative of all other remedies provided in the Civil Statutes, the Penal Code and the Code of Criminal Procedure.

[Partial unconstitutionality]

Sec. 12. It is hereby declared to be the legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any clause, sentence or part of this Act shall be declared unconstitutional shall in no event affect any other clause, sentence or part hereof.

[Emergency clause]

Sec. 13. The fact that the laws of this State are now inadequate to provide for an accurate check of the amount of oil and gas being produced within this State, and the fact that a great many landowners of this State are being defrauded of their proper royalty interest in oil and gas being produced, and the fact that by reason of the inadequacy of existing laws, the State of Texas is being defrauded of a vast amount of revenue being derived under the gross production tax laws of the State of Texas, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days be suspended, and the same is hereby suspended, and it is so enacted. [Acts 1933, 43rd Leg., p. 422, ch. 165.]

Laws 1933, 43rd Leg., H. B. # 950 was similar in all respects to H. B. # 844 cited to the text and was enacted to correct the defect in the emergency clause. It was vetoed by the Governor and H. B. # 844 cited to the text was approved as enacted.

Art. 1136a—9. Disclosures of examiners—Penalty

The Banking Commissioner and any examiner, inspector, deputy, assistant or clerk, appointed or acting under the provisions of this Act, failing to keep secret any facts or information regarding an association obtained in the course of an examination or by reason of his official position, except when the public duty of such officer required him to report upon or take official action regarding the affairs of the association so examined, or who wilfully makes a false official report as to the condition of such association, shall be removed from his position or office and shall be fined not more than five hundred dollars, or imprisoned in the county jail for not more than one year, or both. Reports of examinations made to the Banking Commissioner of Texas shall be regarded as confidential and not for public record or inspection, except that for good reason same may be made public by the Commissioner, but copies thereof may, upon request of the Association, be furnished to the Federal Home Loan Bank Board and/or to the Federal Home Loan Bank for the purpose of meeting the requirements of the Federal Home Loan Bank Act. Nothing herein shall prevent the proper exchange of information relating to building and loan associations and the business thereof with the representatives of building and loan departments of other states, but in no case shall the private business or affairs of any individual association or company be disclosed. Any official violating any provision of this Section, in addition to the penalties herein provided, shall be liable, with his bondsmen, to the person or corporation injured by the disclosure of such secrets. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 20, as amended Acts 1932, 42nd Leg., 3rd C. S., p. 34, ch. 18, § 1.]

TITLE 15—OFFENSES AGAINST THE PERSON**[Art. 1177a. Kidnapping for extortion]**

Sec. 1. That every person who forcibly detains, or forcibly takes, or forcibly confines, or forcibly conceals, or fraudulently entices away any other person for the purpose or with the intent of taking or receiving or demanding or extorting from the person so restrained, or his relatives or from any other person, any money or valuable thing, or every person who by force, threats, fraud, duress, or enticement takes, confines, kidnaps, conceals or entices away any other person for the purpose or with the intent of taking or receiving, or demanding, or extorting from the person so restrained or kidnapped, or his relatives, or from any other person, any money or valuable things, is guilty of a capital felony and upon conviction shall be punished by death or confinement in the penitentiary for

any term of years not less than five. [Acts 1931, 42nd Leg., p. 12, ch. 12, as amended Acts 1933, 43rd Leg., 1st C. S., p. 51, ch. 17, § 1.]

TITLE 17—OFFENSES AGAINST PROPERTY

Art. 1316. [1212] [768] [663] Attempt at arson

Any person who wilfully attempts to set fire to or attempts to burn, or who shall aid or counsel in such attempt, or who shall attempt to procure the burning of buildings or property, such as are mentioned elsewhere in Chapter 1, Title 17 of the Penal Code of 1925, or any person who shall place or distribute any inflammable, or explosive, or combustible material, or any substance of whatsoever kind or character, or any article or device in any building or property mentioned in the said Chapter 1, Title 17 of the Penal Code of 1925, in an arrangement or in preparation with wilful intent to eventually set fire to or burn said building or property, or to cause said property or building to be burned, shall be guilty of an attempt to commit the offense of arson, and shall upon conviction be sentenced and confined in the penitentiary for not less than one year nor more than seven years. [As amended Acts 1931, 42nd Leg., p. 124, ch. 82; Acts 1933, 43rd Leg., p. 65, ch. 35.]

[Art. 1339a. Repealed by Acts 1932, 42nd Leg., 3rd C. S., p. 111, ch. 43, § 6]

See Art. 1339b post.
Prior to its repeal, this art. was Acts 1931,
42nd Leg., p. 236, ch. 167.

[Art. 1339b. Stench bombs; explosion]

Sec. 1. It shall be unlawful to break, open, or explode, or to abet in the breaking, opening, or exploding of any stink bomb or any stinking, offensive smelling, or injurious bomb or substance with a malicious intent wrongfully to injure, molest or coerce another, or to injure the property or business of another, or to molest another in the use, management, conduct or control of his business or property.

Sec. 2. It shall be unlawful for any person to have in his possession or to sell or manufacture in this State any stink bomb or any stinking, offensive smelling, or injurious substance, which are contained in any bomb or container, and which are so devised as to be designed to be broken or exploded for the purpose of emanating an unpleasant or injurious odor or gas for the purpose of injuring or being unpleasant to another or injuring the property of another.

Sec. 3. The provisions hereof shall not apply to any duly constituted police or military authorities or peace officers in the discharge of their duties.

Sec. 4. The provisions of Section 2, hereof shall not apply to licensed physicians, nurses and pharmacutists.

Sec. 5. Any person who violates any of the provisions of this Act shall, upon conviction, be guilty of a felony, and shall be confined in the penitentiary for not less than one (1) year, nor more than twenty-five (25) years or shall be fined not less than Twenty-five (\$25.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars, or be punished by both such fine and imprisonment. [Acts 1932, 42nd Leg., 3rd C. S., p. 111, ch. 43.]

[Art. 1388a. Injuring or destroying trees, shrubs or flowers on private land or in parks]

Sec. 1. That it shall be unlawful for any person wilfully to pick, pull, pull up, tear up, dig up, cut, break, injure, burn or destroy any tree, shrub, vine, flower or moss growing upon the enclosed land of another, or upon any land reserved, set aside, or maintained by this State as a public park, or as a preserve, or sanctuary for trees, plants, wild animals,

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birds, or fish, without having previously obtained the permission of such other or his representative or of the superintendent or custodian of such park, refuge, or sanctuary, so to do.

Sec. 2. That it shall be unlawful for any person to transport, carry, or convey, on any public highway, or to sell or expose for sale in any place any holly, youpon, smilax, dogwood, redbud, (Judas Tree) grey beard (fringe tree), jessamine, bluebonnets, Indian blankets (Indian paint brushes), cactus, gallardias, gentians (Texas Blue Bells), gay feathers (blazing star of listris), wild or native, or evergreen or decorative trees, shrubs, vines, flowers, ferns, or moss which has been gathered, picked, cut, or dug in violation of this Act.

Provided, however, that in any prosecution under this Section it shall be a defense, that the plants, or the flowers, roots, bulbs, or other parts thereof transported, carried, or conveyed or sold, or offered for sale by him were grown under cultivation, or were taken from his own land or land under lease by him or were taken from the land of another with such other's, or his representative's permission.

Sec. 3. That any person who shall wilfully do any act made unlawful by this Act shall be punished by a fine of not less than One Dollar (\$1.00) nor more than Ten Dollars (\$10.00); provided that the provisions of this Act shall not apply to persons, firms or corporations while in the act of clearing and maintaining rights of way and poles, wires and other construction by or for Public Utilities; nor shall this Act apply to any person under seventeen years of age.

Sec. 4. That as used in this Act the words "person" and "another" shall be construed to embrace any firm, partnership, corporation, association, society, or organization, as well as a natural person. [Acts 1933, 43rd Leg., p. 772, ch. 230.]

Art. 1456. [1372] [899] Counties exempt

The counties exempt from the provisions of the five (5) preceding Articles shall be the counties now or hereafter exempted by the Statutes of this State; provided that the Counties of Angelina, Tyler, Jasper and Newton shall not be exempt from the provisions of Articles 1445 to 1455, both inclusive. [As amended Acts 1933, 43rd Leg., Spec. L., p. 121, ch. 93.]

[Art. 1544a. Conversion of oil and gas]

Any lessee, assignee, owner or holder, or any agent, employee or representative of any lessee, assignee, owner or holder of any oil and/or gas lease, or interest therein, or any person or persons or any agents, employee or representative of such person or persons, producing any oil and/or gas under any oil and gas lease, who shall, without the consent of any person or persons or any agents, employee or representative of such person or persons, entitled to any part of the oil produced from said lease or the proceeds realized from the sale thereof, fraudulently convert any part of the oil and/or gas or the proceeds realized from the sale thereof, to his own use and benefit with intent to deprive the owner of the value of same, shall be guilty of a criminal offense and shall be punished as prescribed in the penal code for theft. [Acts 1932, 42nd Leg., 3rd C. S., p. 60, ch. 25, § 1.]

[Art. 1544b. Misapplication by official of funds received from another than employer in official capacity]

Sec. 1. If any director, officer, agent or attorney at law or in fact, of any incorporated company or institution, joint stock company, or voluntary association, shall fraudulently misapply or convert to his own use, without the consent of the owner thereof, any money or property belonging to any person, firm or corporation, other than his principal or employer, which said money or property has come into his possession or is in his

care or under his control by virtue of his being such director, officer, agent, attorney at law or in fact, of such incorporated company or institution, joint stock company or voluntary association, and which said money or property has come into the possession or is in the care or in the custody of such incorporated company or institution, joint stock company or voluntary association, as agent for any purpose of the owner thereof, shall be guilty of embezzlement, and upon conviction shall be punished in the same manner as if he had committed a theft of such money or property. "Convert to his own use", as used in this Act, shall mean the application or use of such money or property in any manner or for any purpose not authorized by the owner thereof, and proof that such director, officer, agent or attorney at law or in fact, applied or used such money or property in any manner or for any purpose not authorized by the owner thereof, or that he advised, authorized, directed, aided or knowingly consented to such use or application, shall be prima facie evidence that such money or property was fraudulently misapplied and converted to the use of such director, officer, agent or attorney at law or in fact.

Sec. 2. This Act shall not be construed to repeal any existing laws defining or relating to the offense of embezzlement or of conversion of bailee, but shall be cumulative thereof. [Acts 1933, 43rd Leg., p. 771, ch. 229.]

TITLE 18—LABOR

Article 1569. Hours of work

No female shall be employed:

1. In any factory, mine, mill, workshop, mechanical or mercantile establishment, hotel, restaurant, rooming house, theater, moving picture show, barber shop, beauty shop, road side drink and/or food vending establishment, telegraph, telephone or other office, express or transportation company, or any State institution, or any other establishment, institution or enterprise where females are employed, for more than nine (9) hours in any one (1) calendar day nor more than fifty-four (54) hours in any one (1) calendar week.

2. In any laundry or cleaning and pressing establishment for more than fifty-four (54) hours in one (1) calendar week; the hours of work to be so arranged as to permit the employment of such female at any time so that she shall not work more than a maximum of eleven (11) hours during the twenty-four (24) hour period of one (1) day.

3. In any factory engaged in the manufacture of cotton, woolen or worsted goods or articles of merchandise manufactured out of cotton goods, for more than ten (10) hours in any one (1) calendar day nor more than sixty (60) hours in any one calendar week. [As amended Acts 1933, 43rd Leg., p. 285, ch. 114.]

Art. 1572. Punishment

Any employer, overseer, superintendent, foreman or other agent of any such employer who shall permit any female to work in any place mentioned in the first Article of this Chapter more than the number of hours provided therein in any one (1) day of twenty-four (24) hours or in any one (1) week, or who shall violate any of the other provisions or requirements of this Chapter in any respect, or who having furnished and provided suitable seats as provided for in the second Article of this Chapter, shall by intimidation, instruction, threats, or in any manner prevent such female from sitting thereon, when not attending the duties of her position, shall be fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00). Each day of such violation and each calendar week of such violation, and each such employee permitted

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to work in said places more than the hours so specified in this Chapter, and every other violation of the provisions of this Chapter shall be considered a separate offense. [As amended Acts 1933, 43rd Leg., p. 285, ch. 114.]

[Art. 1581a. Public works; failure to comply with regulations as to wages and records]

Sec. 5. Any officer, agent or representative of the State, or any political subdivision, district or municipality thereof, who wilfully shall violate, or omit to comply with, any of the provisions of this Act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him in connection with the said public work, or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this Act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding Five Hundred Dollars (\$500.00), or by imprisonment for not exceeding six (6) months, or by both such fine and imprisonment, in the discretion of the Court.

Sec. 6. If any section, sentence, clause or part of this Act is for any reason held to be unconstitutional such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act, and each section, sentence, clause or part thereof, irrespective of the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional. [Acts 1933, 43rd Leg., p. 91, ch. 45.]

Sections 1-4 of said Acts 1933, 43rd Leg., p. 91, ch. 45 are published as Revised Civil Statutes art. 5159a.

[Art. 1583a.] Fire Department; Hours of Labor

Sec. 1. In all cities containing more than One Hundred Thousand (100,000) inhabitants and less than One Hundred Twenty Thousand (120,000) inhabitants, in this State, according to the last preceding Federal Census, in counties containing more than Nine Hundred (900) square miles, and in all cities of Two Hundred Sixty-five Thousand (265,000) inhabitants, or more, in this State, according to the last preceding Federal Census, in counties containing more than Fifteen Hundred (1500) square miles, which maintain an organized, paid fire department, there shall be established and maintained two platoon fire system, and no employee of such department shall be compelled to be on duty more than ten (10) consecutive hours during the day time, nor more than fourteen (14) consecutive hours during the night time; provided, that in no event shall employees of such fire departments be required to be on duty more than fourteen (14) hours in any period of twenty-four (24) consecutive hours, except as provided in Section 2 of this Act.

Chief of Fire Department—Duty of

Sec. 2. The head or chief officer of such fire department or companies in such cities shall so arrange the working hours of the employees of such fire department or companies so that each employee shall work, as near as practicable, an equal number of hours per month; provided the two platoons may be so arranged as to work twenty-four (24) hours each on duty and twenty-four (24) hours off duty; provided, that the head or chief officer of such department, his aids or assistants may, in their discretion, in cases of emergency or great conflagrations require such employee, or employees to continue on duty during such conflagration or emergency, for a greater period than specified in Section 1 hereof.

[Penalty]

Sec. 3. That any chief of such fire department or companies or any other officer or person who violates or causes to be violated any provision of this Act shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not less than ten and No/100 (\$10.00) Dollars, nor more than One Hundred and No/100 (\$100.00) Dollars; each employee required or permitted to work in violation of the provisions hereof and each and every day of such violation shall constitute a separate offense. [Acts 1933, 43rd Leg., p. 526, ch. 170.]

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SUPPLEMENT
TO THE
CODE OF
CRIMINAL PROCEDURE

TITLE 1—INTRODUCTORY

Art. 26. [32] [33] Duties of county attorneys

The county attorneys shall attend the terms of all courts in his county below the grade of district court, and shall represent the State in all criminal cases under examination or prosecution in said county; and in the absence of the district attorney he shall represent the State alone, or when requested, shall aid the district attorney in the prosecution of any case in behalf of the State in the district court, and in such cases he shall receive all or one-half of the fees allowed by law to district attorneys, according as he acted alone or jointly. In such cases he shall receive all or one-half of the fees allowed by law to the district attorney whose duties he performs, or assists in performing, but shall receive no part of the constitutional salary allowed to such district attorney, according as he acted alone or jointly; provided that fees collected by the county attorney from the state for such services shall be deducted by the Comptroller of Public Accounts from the fees which otherwise would have been paid to the district attorney had he represented the State alone; provided further this article shall not be construed as inhibiting any county attorney from voluntarily, with the consent of the district attorney, assisting the district attorney in the performance of his respective duties, without compensation. [As amended Acts 1933, 43rd Leg., p. 177, ch. 83.]

Art. 47. [57] [58] Report to Attorney General

The clerks of the district and county courts shall, when required by the Attorney General, report to him at such times, and in accordance with such forms as he may direct, such information in relation to criminal matters as may be shown by their records.

When any district clerk has failed, neglected or refused to make any such report after being requested in writing by the Attorney General to make such report, the Attorney General shall notify in writing the Comptroller of Public Accounts of such failure, neglect, or refusal, and said Comptroller shall not thereafter draw any warrant in favor of said clerk until said report has been filed with the Attorney General. [As amended Acts 1933, 43rd Leg., p. 152, ch. 75.]

TITLE 2—COURTS AND CRIMINAL JURISDICTION

Art. 52—47. Clerk, how elected; term; fee; salary, powers and duties; deputies

Acts 1933, 43rd Leg., Spec. L., p. 78, ch. 62 reads as follows:

"Sec. 1. The office of the Clerk of the Criminal District Court of Harris County is hereby abolished and the duties heretofore performed by said Clerk shall here-

after be performed by the Clerk of the District Court of Harris County.

"Sec. 2. This Act shall become effective January 1, 1935, at which time it shall be the duty of the retiring Clerk of the Criminal District Court of Harris County to

Immediately deliver to the Clerk of the District Court of Harris County all records, office supplies, furniture and fixtures, typewriters, adding machines, stationery, blank books, blank forms, and every article of any kind or character which belonged to said

office at the time it was abolished and for which he shall take the receipt of the Clerk of the District Court of Harris County, and immediately file the same with the County Auditor of Harris County."

Arts. 52—146 to 52—156. Repealed by Acts 1933, 43rd Leg., Spec. L., p. 64, ch. 53

Section 2 of Acts 1933, 43rd Leg., Spec. L., p. 64, ch. 53 reads as follows: "That the jurisdiction of the 'County Court of Galveston County at Law' be hereby vested in the District Court of the Tenth Judicial Dis-

trict of Texas, and all writs and process heretofore issued by said 'County Court of Galveston County at Law' be and the same is made returnable to the District Court of the Tenth Judicial District of Texas."

[Art. 52—161. Criminal Judicial District of Bexar County; creation, jurisdiction, officers, etc.]

Sec. 1. There is hereby created and established a Criminal Judicial District of Bexar County, Texas, to be composed of the County of Bexar, State of Texas, alone, and which district shall be co-extensive with the territorial boundaries and limits of Bexar County, Texas.

Sec. 2. There is hereby created and established at the City of San Antonio a Criminal District Court to be known as "Criminal District Court of Bexar County," which Court shall have and exercise, from and after the taking effect of this Act, original jurisdiction over criminal cases, only, of the grade of felony in the County of Bexar, of which District Courts, under the Constitution and laws of this State, have original and exclusive jurisdiction. All appeals from the judgment of said Court shall be to the Court of Criminal Appeals of the State of Texas under the same regulations as are now or may hereafter be provided by law for appeals in criminal cases from District Courts.

Sec. 3. Immediately upon the taking effect of this Act, it shall be the duty of the District Clerk of Bexar County, Texas, to transfer all the criminal cases pending in the 94th Judicial District Court and the 37th District Court of Texas to the Criminal District Court of Bexar County. Said Clerk shall transfer all of the civil cases then pending in said 94th District Court to the respective dockets of the 37th, 45th, 57th and 73rd District Courts by placing upon the docket of each of said Courts every fourth case until all of said cases have been transferred.

Sec. 4. The Judge of said Criminal District Court of Bexar County shall be elected by the qualified voters of Bexar County at the regular election to be held in November, 1934, and at the regular November election each four (4) years thereafter for a term of four (4) years, who 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 Criminal District 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 case of District Judges.

Sec. 5. 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 Bexar 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. 6. The Sheriff and the Clerk of the District Court of Bexar County, as heretofore provided for by law, shall be the Sheriff 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 Sheriffs and Clerks of the District Courts of the State of Texas; and said Sheriff and Clerk shall, respectively, receive such fees as are now or may hereafter be prescribed by law for such officers of the District Courts of the State of Texas and to be paid in the same manner.

Sec. 7. Said Criminal District Court shall hold five (5) terms each year for the trial of causes, and the disposition of business coming before it; one term beginning the 1st Monday in January; one term beginning the 1st Monday in March; one term beginning the 1st Monday in May; one term beginning the 1st Monday in October and one term beginning the 1st Monday in November; and each term shall continue until the business of the Court is disposed of. A Grand Jury shall be empaneled in said Court for each term thereof, and Jury Commissioners shall be appointed for drawing Grand Jurors for said Court as is now or may hereafter be required by law in District Courts and under like rules and regulations; provided, it shall be the duty of the Judge of said Criminal District Court, at the first term of said Court, to appoint a Jury Commission for the purpose of selecting a Grand Jury for said term, and said Jury Commission, when so selected, shall also select the Grand Jury for the March term, 1935, and the Petit Juries for said Criminal District Court of Bexar County shall be selected in the same manner as is now or may hereafter be provided by law for District Courts in Bexar County.

Sec. 8. 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 Court.

Sec. 9. All process upon the taking effect of this Act heretofore issued or served in criminal cases pending in the District Court of the 94th and 37th Judicial Districts of Texas shall be considered as returnable at the time as hereinafter prescribed, and all such process is hereby legalized and validated as if the same had been made returnable to said Criminal District Court of Bexar County, and at the time herein prescribed, and all bail bonds and recognizances in criminal cases pending in the 94th and 37th Judicial Districts of Texas when this Act shall take effect, binding any person or persons to appear in said District Courts, shall have the effect to require such person or persons to appear at the first term of the Criminal District Court of Bexar County to be held in accordance with the provisions of this Act, and there to remain from day to day, and from term to term, until finally discharged under the same penalty as may be provided in such bail bonds or recognizances.

Sec. 10. Whenever the Criminal District Court of Bexar County shall be engaged in the trial of any cause when the time for expiration of the terms of said Court as fixed by said Court 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; and in such case the extension of such term shall be shown on the minutes of the Court before they are signed.

Sec. 11. The 94th Judicial District of Texas and the office of District Judge of said 94th Judicial District of Texas, and the office of District Attorney of the 37th Judicial District of Texas, and the office of County Attorney of Bexar County are hereby abolished from and after effective date hereof.

Sec. 12. There shall be elected by the qualified electors of the Criminal Judicial District of Bexar County, Texas, at the regular election in November, 1934, and at the regular November election each two (2) years

thereafter, an attorney for said district who shall be styled the "Criminal District Attorney of Bexar County" and who shall hold his office for a period of two (2) years and until his successor is elected and qualified. The said Criminal District Attorney of Bexar 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. 13. It shall be the duty of said Criminal District Attorney of Bexar County, or his assistant as herein provided, to be in attendance upon each term and all sessions of the Criminal District Court of Bexar County and of all sessions and terms of all the inferior Courts of Bexar County held for the transaction of criminal business, and to exclusively represent the State of Texas in all matters pending before said Courts and to represent Bexar County in all matters pending before such Courts and any other Court where Bexar County has pending business of any kind, matter or interest. The Criminal District Attorney of Bexar County shall have and exercise, in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within such Criminal Judicial District of Bexar 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 is now or may hereafter be provided by law for similar services rendered by District and County Attorneys of this State.

Sec. 14. The Criminal District Attorney of Bexar County shall be commissioned by the Governor and shall receive as salary and compensation the following and no more: A salary of Five Hundred Dollars (\$500.00) from the State of Texas, as provided in the Constitution of the State of Texas for the salary of District Attorneys, and so much of the fees, commissions and perquisites earned by said office to make up the total compensation to the sum of Five Thousand Dollars (\$5,000.00); provided that the amount of such salary, fees and perquisites, including the Five Hundred Dollars (\$500.00) received from the State of Texas, to be received and retained by him shall never exceed the sum of Five Thousand Dollars (\$5,000.00) in any one year; and, provided further, that all salaries, fees, commissions and perquisites so earned and received by such office in excess of Five Thousand Dollars (\$5,000.00) during each and every fiscal year shall be paid into the County Treasury of Bexar County in accordance with the terms and provision of the maximum fee bill, except as to such portion of said excess as shall be used and expended in the payment of salaries to assistants, investigators, stenographers and bailiffs and as provided herein, and such other expenses incident to the office as authorized under the maximum fee bill.

Sec. 15. The Criminal District Attorney of Bexar County, for the purpose of conducting the affairs of his office, shall be and is hereby authorized to appoint seven assistants, one of whom shall receive a salary not to exceed Three Thousand Six Hundred Dollars (\$3,600.00) per annum; one of whom shall receive a salary of not to exceed Three Thousand Dollars (\$3,000.00) per annum; one of whom shall receive a salary of not to exceed Two Thousand Four Hundred Dollars (\$2,400.00) per annum; two of whom shall receive a salary of not to exceed Two Thousand Dollars (\$2,000.00) per annum each, and two of whom shall receive a salary of not to exceed One Thousand Eight Hundred Dollars (\$1,800.00) per annum each.

The Criminal District Attorney of Bexar County may employ two stenographers who shall each receive a salary of not to exceed One Thousand Five Hundred Dollars (\$1,500.00) per annum each. He may employ three investigators, who shall be peace officers, and who shall receive a salary not to exceed One Thousand Eight Hundred Dollars (\$1,800.00) per annum each.

The Judge of the Criminal District Court of Bexar County may appoint Grand Jury Bailiffs, not exceeding five (5), whose compensation shall

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

not exceed Five Dollars (\$5.00) per day each, for a period not to exceed ten (10) months during each year. Bailiffs thus appointed are subject to removal at the will of the Judge of the Criminal District Court of Bexar County.

The Criminal District Attorney of Bexar County may also appoint two (2) Assistant Criminal District Attorneys whose duty it shall be to attend upon the trial of misdemeanor cases in the County and Justice Courts of Bexar County, whose salary shall not exceed Two Thousand Dollars (\$2,000.00) per annum each. He may also appoint one assistant who shall have charge of the collection of delinquent State and County taxes in Bexar County, whose salary shall not exceed Two Thousand Four Hundred Dollars (\$2,400.00) per annum.

The Criminal District Attorney of Bexar County may appoint a stenographer to assist said Assistant District Attorney in charge of the collection of such delinquent taxes due the State and County, whose salary shall not exceed One Thousand Five Hundred Dollars (\$1,500.00) per annum. Any assistant, stenographer or investigator provided for herein shall be subject to removal at the will of said Criminal District Attorney of Bexar County.

Sec. 16. The Assistant Criminal District Attorney of Bexar County, investigators, and bailiffs, when so appointed, shall take the Constitutional oath of office and the said Criminal District Attorney of Bexar County and his assistants shall have the exclusive right, and it shall be their duty, to represent the State of Texas in all criminal cases pending in any and all of the Courts of Bexar County, Texas, except in the City Court of the City of San Antonio. Said Assistant Criminal District Attorneys of Bexar County are hereby authorized to administer oaths, file information, examine witnesses before the Grand Jury and generally perform any duty devolving upon the Criminal District Attorney of Bexar County and exercise any power, and to perform any duty conferred by law upon said Criminal District Attorney of Bexar County.

Sec. 17. This Act shall become effective and be operative from and after January 1, 1935, but it is specially provided that the Judge of the Criminal District Court of Bexar County and the Criminal District Attorney of Bexar County shall be elected at the general election to be held in November, 1934, and when so elected they shall not qualify to the respective offices to which they were elected until January 1, 1935.

Sec. 18. If any part or section of this Act shall be held unconstitutional or invalid, for any reason, the remainder of the Act shall, nevertheless, be in full force and effect.

Sec. 19. All laws and parts of laws heretofore enacted which are in conflict herewith are hereby repealed. [Acts 1933, 43rd Leg., p. 867, ch. 247; Acts 1933, 43rd Leg., Spec. L., p. 20, ch. 19.]

Art. 58. [106] [95] Appeal from inferior court

This article is from Vernon's Code Cr. Proc. 1916 (Code Cr. Proc. 1911), art. 105 which read as follows: "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."

TITLE 5—ARREST, COMMITMENT AND BAIL

Art. 273. [321] [309] Requisites of a bail bond

A bail bond shall be sufficient if it contains the following requisites:

1. That it be made payable to the State of Texas.
2. That the obligors thereto bind themselves that the defendant will appear before the proper court or magistrate to answer the accusation against him.

3. If the defendant is charged with a felony, that it state that he is charged with a felony. If the defendant is charged with a misdemeanor, that it state that he is charged with a misdemeanor.

4. That the bond be signed by name or mark by the principal and sureties.

5. That the bond state the time and place, when and where the accused binds himself to appear, and the court or magistrate before whom he is to appear. In stating the time, it is sufficient to specify the term of the court; and in stating the place, it is sufficient to specify the name of the court or magistrate, and the county.

6. The bond shall also be conditioned that the principal and sureties will pay all necessary and reasonable expenses incurred by any and all sheriffs or other peace officers in re-arresting the principal in the event he fails to appear before the court or magistrate named in the bond at the time stated therein. The amount of such expense shall be in addition to the principal amount specified in the bond. The failure of any bail bond to contain the conditions specified in this paragraph shall in no manner affect the legality of any such bond, but it is intended that the sheriff or other peace officer shall look to the bondsmen of the accused for expenses incurred by him, and not to the State for any fees earned by him in connection with the re-arresting of an accused who has violated the conditions of his bond. [As amended Acts 1933, 43rd Leg., p. 176, ch. 82.]

TITLE 7—AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

Art. 348. [399] [387] Failure to select

If there should be a failure from any cause to select and summon a Grand Jury, as herein directed, or, when none of those summoned shall attend, the District Court shall, on the first day or at any time thereafter at the discretion of said court, direct a writ to be issued to the Sheriff commanding him to summon a Jury Commission, selected by the court, which commission shall select not less than twelve nor more than sixteen persons, as provided by law, who shall serve as Grand Jurors. [As amended Acts 1933, 43rd Leg., p. 56, ch. 27.]

Art. 451. [513] [503] Sheriff may take bail in felony

In cases of arrest for felony less than capital, made during vacation or made in another county than the one in which the prosecution is pending, the Sheriff may take bail; in such cases the amount of the bail shall be the same as is endorsed upon the *capias*; and if no amount be endorsed on the *capias*, the Sheriff shall require a reasonable amount of bail. If it be made to appear by affidavit, made by any District Attorney, County Attorney, or the Sheriff approving said bail bond, to a Judge of the Court of Criminal Appeals, District or County Court, that the bail taken in any case after indictment is insufficient in amount, or that the sureties are not good for the amount, or that the bond is for any reason defective or insufficient, such Judge shall issue a warrant of arrest and require of the defendant sufficient bond and security, according to the nature of the case. [As amended Acts 1933, 43rd Leg., p. 381, ch. 152.]

TITLE 10—APPEAL AND WRIT OF ERROR

Art. 824. [912] [880] Escape pending appeal

If the defendant, pending an appeal in a felony case, makes his escape from custody, the jurisdiction of the Court of Criminal Appeals shall no longer attach in the case. Upon the fact of such escape being made to appear, the court shall, on motion of the State's attorney, dismiss the appeal; but the order dismissing the appeal shall be set aside if it is made to ap-

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

pear that the defendant has voluntarily returned within ten days to the custody of the officer from whom he escaped; and in cases where the punishment inflicted by the jury is death or confinement in the penitentiary for life, the court may in its discretion reinstate the appeal if the defendant is recaptured or voluntarily surrenders within thirty days after such escape. [As amended Acts 1933, 43rd Leg., p. 64, ch. 34.]

Art. 841. [929] [895] Clerk to prepare transcript

The Clerk of a Court from which an appeal is taken shall prepare as soon as practicable, a transcript in duplicate, in every case in which an appeal has been taken, which shall contain all the proceedings had in the case and conform to the rules governing transcripts in civil cases, the copy of such transcript to be filed in the trial court with the original papers in the case, and the original to be forwarded to the Clerk of the Court of Criminal Appeals as provided in Article 843 of the Code of Criminal Procedure of the State of Texas, 1925. Provided the Clerk shall not charge for the extra copy. [As amended Acts 1933, 43rd Leg., p. 408, ch. 161.]

TITLE 15—COSTS IN CRIMINAL ACTIONS

Art. 1020. [1119-1137] Fees in examining court

In each case where a County Judge or a Justice of the Peace shall sit as an examining court in a felony case, they shall be entitled to the same fees allowed by law for similar services in misdemeanor cases to Justices of the Peace, and ten cents for each one hundred words for writing down the testimony, to be paid by the State, not to exceed Three and No/100 (\$3.00) Dollars, for all his services in any one case.

Sheriffs and Constables serving process and attending any examining court in the examination of any felony case, shall be entitled to such fees as are fixed by law for similar services in misdemeanor cases in County Court to be paid by the State, not to exceed Four and No/100 (\$4.00) Dollars in any one case, and mileage actually and necessarily traveled in going to the place of arrest, and for conveying the prisoner or prisoners to jail as provided in Articles 1029 and 1030, Code of Criminal Procedure, as the facts may be, but no mileage whatever shall be paid for summoning or attaching witnesses in the county where case is pending. Provided no sheriff or constable shall receive from the State any additional mileage for any subsequent arrest of a defendant in the same case, or in any other case in an examining court or in any district court based upon the same charge or upon the same criminal act, or growing out of the same criminal transaction, whether the arrest is made with or without a warrant, or before or after indictment, and in no event shall he be allowed to duplicate his fees for mileage for making arrests, with or without warrant, or when two or more warrants of arrest or capiases are served or could have been served on the same defendant on any one day.

District and County Attorneys, for attending and prosecuting any felony case before an examining court, shall be entitled to a fee of Five and no/100 (\$5.00) Dollars, to be paid by the State for each case prosecuted by him before such court. Such fee shall not be paid except in cases where the testimony of the material witnesses to the transaction shall be reduced to writing, subscribed and sworn to by said witnesses; and provided further that such written testimony of all material witnesses to the transaction shall be delivered to the District Clerk under seal, who shall deliver the same to the foreman of the grand jury and take his receipt therefor. Such foreman shall, on or before the adjournment of the grand jury, return the same to the clerk who shall receipt him and shall keep said testimony in the files of his office for a period of five years.

The fees mentioned in this Article shall become due and payable only after the indictment of the defendant for an offense based upon or growing out of the charge filed in the examining court and upon an itemized account,

sworn to by the officers claiming such fees, approved by the Judge of the District Court, and said County or District Attorney shall present to the District Judge the testimony transcribed in the examining trial, who shall examine the same and certify that he has done so and that he finds the testimony of one or more witnesses to be material; and provided further that a certificate from the District Clerk, showing that the written testimony of the material witnesses has been filed with said District Clerk, in accordance with the preceding paragraph, shall be attached to said account before such District or County Attorney shall be entitled to a fee in any felony case for services performed before an examining court.

Only one fee shall be allowed to any officer mentioned herein for services rendered in an examining trial, though more than one defendant is joined in the complaint, or a severance is had. When defendants are proceeded against separately, who could have been proceeded against jointly, but one fee shall be allowed in all cases that could have been so joined. No more than one fee shall be allowed to any officer where more than one case is filed against the same defendant for offenses growing out of the same criminal act or transaction. The account of the officer and the approval of the District Judge must affirmatively show that the provisions of this Article have been complied with. [As amended Acts 1933, 43rd Leg., p. 219, ch. 99.]

Art. 1027. [Officers not to be paid fees until case finally disposed of]

In all cases where a defendant is indicted for a felony but under the indictment he may be convicted of a misdemeanor or a felony, and the punishment which may be assessed is a fine, jail sentence or both such fine and imprisonment in jail, the State shall pay no fees to any officer, except where the defendant is indicted for the offense of murder, until the case has been finally disposed of in the trial court. Provided the provisions of this Article shall not be construed as affecting in any way the provisions of Article 1019, Code of Criminal Procedure, as amended by Chapter 205, General Laws, Regular Session, Forty-second Legislature; Provided this shall not apply to examining trial fees to County Attorneys and/or Criminal District Attorneys. [As amended Acts 1931, 42nd Leg., p. 338, ch. 205; Acts 1933, 43rd Leg., p. 308, ch. 119.]

Art. 1029. [1122] Fees to sheriff or constable

For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, five cents; provided that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case or series of cases against the same defendant, or in companion cases, or otherwise; when it is possible to serve process on them in the same neighborhood or vicinity during the same trip, he shall not charge mileage for serving such witnesses to or from the County seat, but shall charge only one mileage and for such additional miles only as are actually and necessarily travelled in summoning each additional witness. [As amended Acts 1933, 43rd Leg., p. 144, ch. 69.]

Art. 1041a. [Chief jailer or turnkey]

In all counties in this State having a population of one hundred thousand and one (100,001) inhabitants and not more than one hundred fifty thousand (150,000) inhabitants, and containing two cities of fifty thousand (50,000) population or more each according to the last preceding Federal Census the Commissioners Court shall allow the chief jailer and/or turnkey who has the care and custody of persons in the County Jail, Six Dollars (\$6.00) per day, and shall allow each assistant jailer, and/or turnkey who has the care and custody of prisoners in the County Jail Five Dollars and Fifty Cents (\$5.50) per day. [Acts 1933, 43rd Leg., 1st C. S., p. 151, ch. 51, § 1.]

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